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KANT'S CONCEPT OF DIGNITY

*Edited by Yasushi Kato and
Gerhard Schönrich*

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Kant's Concept of Dignity

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Yasushi Kato

Gerhard Schönrich

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All references are to *Kants gesammelte Schriften*, Deutsche Akademie der Wissenschaften (formerly: Königlich Preußische Akademie der Wissenschaften), Berlin: Walter De Gruyter (1920 ff). Only references to the *KrV* list the "A" and "B" page numbers of the first and second editions, all other references list volume, page number and sometimes the line number of the Prussian Academy edition of Kant's works, e.g. *GMS* 4:420.17. All translations are taken—unless otherwise stated—from *The Cambridge Edition of the Works of Immanuel Kant*, Cambridge: Cambridge University Press.

Anth	Anthropologie in pragmatischer Hinsicht. Anthropology from a Pragmatic Point of View.
BBS	Bemerkungen zu den Beobachtungen über das Gefühl des Schönen und Erhabenen. Notes on the Observations on the Feeling of the Beautiful and Sublime.
Collins	Moralphilosophie Collins. Lecture on Ethics Collins.
DO	Was heißt: Sich im Denken orientieren. What Does It Mean to Orient Oneself in Thinking?
EAD	Das Ende aller Dinge. The End of All Things.
ECA	Entwürfe zu dem Colleg- über Anthropologie aus den 70er und 80er Jahren. Drafts of the Lectures on Anthropology from the 70s and 80s.
GMS	Grundlegung zur Metaphysik der Sitten. Groundwork of the Metaphysics of Morals.
GSE	Beobachtungen über das Gefühl des Schönen und Erhabenen. Observations on the Feeling of the Beautiful and Sublime.
GTP	Über den Gebrauch teleologischer Principien in der Philosophie. On the Use of Teleological Principles in Philosophy.
laG	Idee zu einer allgemeinen Geschichte in weltbürgerlicher Absicht. Idea for a Universal History with a Cosmopolitan Aim.
KpV	Kritik der praktischen Vernunft. Critique of Practical Reason.
KrV	Kritik der reinen Vernunft. Critique of Pure Reason.
KU	Kritik der Urteilskraft. Critique of the Powers of Judgement.
MAM	Mutmaßlicher Anfang der Menschengeschichte. Conjectural Beginning of Human History.
MK	Menschenkunde. Lectures on Anthropology Menschenkunde.
Mron	Moral Mrongovius. Lectures on Ethics Mrongovius.
NF	Kants Naturrecht Feyerabend. Lectures on Natural Law Feyerabend.
NS	Nachschrift zu Christian Gottlieb Mielckes Littauisch-deutschem und deutsch-littauischem Wörterbuch. Postscript to Christian Gottlieb Mielcke's Lithuanian-German and German-Lithuanian Dictionary.
PD	Pädagogik. Lectures on Pedagogy.
Pillau	Anthropologie nach Pillau. Lectures on Anthropology Pillau.
Poelitz	Metaphysik L1, Kosmologie, Psychologie, Theologie nach Pölitz. Lectures on Metaphysics L1, Cosmology, Psychology, Theology Pölitz.
Refl	Reflexionen zur Anthropologie. Reflections on Anthropology.
ReflM	Reflexionen zur Moralphilosophie. Reflections on Moral Philosophy.
ReflMe	Reflexionen zur Metaphysik. Reflections on Metaphysics.

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RGV	Die Religion innerhalb der Grenzen der bloßen Vernunft. Religion Within the Boundaries of Mere Reason.
RL	Metaphysische Anfangsgründe der Rechtslehre. Doctrine of Right
SF	Der Streit der Facultäten. The Conflict of the Faculties.
TL	Metaphysische Anfangsgründe der Tugendlehre. Doctrine of Virtue.
TP	Über den Gemeinspruch: Das mag in der Theorie richtig sein, taugt aber nicht für die Praxis. On the Common Saying: That May Be True in Theory, but It Is of No Use in Practice.
VARL	Vorarbeiten zu Die Metaphysik der Sitten, erster Teil: Metaphysische Anfangsgründe der Rechtslehre. Drafts for the Doctrine of Right.
VATL	Vorarbeiten zu Die Metaphysik der Sitten, zweiter Teil: Metaphysische Anfangsgründe der Tugendlehre. Drafts for the Doctrine of Virtue.
Vigil	Die Metaphysik der Sitten Vigilantius. Lectures on the Metaphysics of Morals Vigilantius.
VML	Über ein vermeintes Recht aus Menschenliebe zu lügen. On the Supposed Right to Lie from Philanthropy.
V-NR	Friedländer. Lectures on Anthropology Friedländer.
WA	Beantwortung der Frage: Was ist Aufklärung? An Answer to the Question: What is Enlightenment?
ZeF	Zum ewigen Frieden. Toward Perpetual Peace.

Yasushi Kato, Gerhard Schönrich
Introduction

It is questionable whether Kant's concept of dignity is identical with the concept as we use it today. The Universal Declaration of Human Rights (1948) claims: 'All human beings are born free and equal in dignity and rights'. If dignity were a property bestowed on human beings by birth, dignity could never be lost. But in the case of dangerous criminals, Kant seems to have doubts about dignity as an inalienable property. Are human rights grounded in dignity so that they can be derived directly from the concept of dignity? Or does dignity in and of itself provide reasons for human rights? Is there a connecting tie between dignity and the legal sphere of human rights at all?

A second nagging doubt arises when it comes to fixing the bearers of dignity. Kant's conception of dignity is not limited to human beings; it extends to all rational beings. Kant is far away from narrowing the extension of the notion 'dignity' to the species *homo sapiens*. There is no anthropocentric focus on a specific innate human dignity. Any being which meets certain criteria of rational autonomy may be a bearer of dignity. Kant goes even further: There may be super-personal bearers of dignity like the state.

Unquestionably, our modern understanding of dignity is rooted in Kantian considerations. Nearly all philosophers refer to Kant when debating on dignity, and many approve of Kant's conception unaware or regardless of the tensions between Kant's conception and the modern idea of an innate, human-specific dignity intimately connected to the idea of human rights. Therefore, the pressing questions remain: Taking his place and time in history into consideration and separating that from our own present-day notions of dignity, what exactly is Kant's original conception of dignity? And does this concept still have relevancy today?"

When trying to settle this question the formula 'mankind in one's own person' (*Menschheit in seiner Person*, TL 6:435) is most commonly used as a starting point. It aims at humanity as an end in itself, attributing an 'inner' (GMS 4:434) or, better still, an 'absolute value' to certain beings (GMS 4:428). Contrary to all appearances, the term *Menschheit in seiner Person* is not restricted to properties owned only by a certain biological species; it refers to a cluster of properties and abilities like autonomy which may also be owned by non-human beings like angels, aliens or intelligent animals. Let us call this wider extension 'rational being'. Of course Kant focusses his considerations on the paradigmatic case of a human being. However, this cluster of properties and abilities gives rational beings (especially human beings) priority over other non-rational beings.

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After clarifying the extension of the term, how is Kant's conception of dignity to be interpreted? What exactly is the content of this idea? And what are the consequences for the status of such a being when we attribute dignity to it? Many scholars conceive of Kant's conception of dignity as a moral status. Only beings which determine their will in a way that qualifies them as morally autonomous agents can achieve this status. As a consequence, only those beings acting not only according to the moral law (*pfllichtgemäß*) but for the sake of the moral law (*aus Pflicht*) would deserve the attribute 'dignity'.

But what about agents violating moral duties? Does an agent doing morally wrong things lose autonomy? Of course he is no longer acting morally autonomously, but if we challenge his underlying moral autonomy, we get into trouble when regarding him as a free and responsible agent. In order to blame an agent for his deeds, it seems to us that we have to presuppose contradictorily his moral autonomy.

Moral dignity seems to have a sister: *honestas iuridica* (*rechtliche Ehrbarkeit*) (RL 6:236). Persons considered as legal subjects (as bearers of rights and legal duties) have *honestas iuridica*. But identifying *honestas iuridica* with 'legal' dignity raises the same trouble: What about agents violating legal duties? Does a criminal lose his dignity? Unquestionably, he loses his *honestas iuridica*, but Kant seems to presume that even in this case, the agent retains dignity in a more general sense of the term (cf. TL 6:463 in contrast to RL 6:329).

So what is this more general sense of the term 'dignity'? Is it the nucleus that remains after subtracting the moral and the legal dimension? Perhaps the best strategy to deal with these qualms consists in anchoring dignity in a moral-neutral rational autonomy understood as the nucleus of moral, legal, political, and epistemic autonomy. This move raises novel questions: How can we explain the superior status rational autonomous beings seem to own in comparison to non-rational beings? Isn't the notion of a status misleading in suggesting a natural or supernatural ranking of competitive beings? Why is rational autonomy the property which guarantees the owner top-ranking?

Kant's use of the notion of dignity as a value is helpful because it allows one to differentiate between final and instrumental, absolute (unconditioned) and conditioned values. Is there a value which can be considered final, absolute, and fundamental in order to never be overtrumped? A rational autonomous being regarding itself as an end in itself seems to be the best candidate for such a value. One of the main tasks of this volume then is to clarify the connections of the concepts of autonomy, end-in-itself, and value. An excellent team of collaborating scholars strive to settle the issues that have been raised. The contributions are organised in five broader topics.

I. Tensions Within the Concept of Dignity

In the first section of this volume, tensions within the Kantian conception of dignity are discussed.

Christoph Horn tries to narrow the scope of the Kantian conception of dignity. In his contribution *Absoluteness and Contingency. Kant's Use of the Concept of Dignity* Horn examines two different ways in which dignity can be understood: The so-called absoluteness model, according to which each human being possesses a maximal value which cannot be acquired and can never be lost, and the so-called contingency model, which emphasises the social embeddedness of ascribing dignity to an individual which reduces dignity to a social status that is always in danger of being lost. Both conceptions are supported by Kant's writings. In trying to reconcile these conceptions, Horn formulates two major challenges for an absolute reading of Kant. First of all, according to Christoph Horn, Kant does not derive the idea of human rights from the idea of dignity quite simply because Kant does not defend the idea of human rights at all. Secondly, Horn states that Kant does not consider human dignity to be immediately inherent and persistently owned by human beings. According to Horn, Kant ascribes dignity only under certain conditions. Yet after presenting these two challenges, Horn does not dismiss the possibility for an absolute reading of Kant's conception of dignity. After examining the fundamentals of both models in Kant's theory of value, Horn manages to analyse what sort of absoluteness Kant might attribute to dignity—and in which respects he should be understood as a contingency theorist.

In his contribution *From Würde to Würde der Kreatur. Dignity in nature ethics and its Kantian roots*, **Dieter Birnbacher** takes a closer look at the multiple facets of Kant's conception of dignity. According to Birnbacher, Kant's concept contains at least three interdependent aspects: an axiological aspect, an ontological aspect, and an aspect of transcendence. After discussing the interrelations between these three aspects Birnbacher moves on to an examination of the various post-Kantian attempts of transferring the Kantian concept of dignity to non-human entities. Here his focus lies on Kantians such as Leonard Nelson, Tom Regan and Christine Korsgaard who ascribe dignity (or its equivalents) to non-human animals. Birnbacher argues that these extensions could be interpreted as an impoverishment of the Kantian concept of dignity as well as a plausible criticism of the rigidity of Kant's ethical anthropocentrism.

In his contribution *Kant's Theory of Dignity: A Fitting-Attitude Analysis of a Value*, **Gerhard Schönrich** examines the meta-ethical foundations of Kant's conception. Dignity is neither a natural nor a supernatural property of rational be-

ings (Simple Property View), but rather it has an underlying property: rational autonomy. Nor is dignity a social status constituted by contingent acts of acknowledgement (Simple Status View); rather it is the object of fitting pro-attitudes which we necessarily adopt when we face rational autonomy. Schönrich shows that Kant's theory of value is based on the moral-neutral concept of rational autonomy as a second-order ability of an agent to set ends out of free will. We differentiate between an ability, which needs not to be acquired, and performances of this ability, which have to meet abstract autonomy as a norm. This differentiation facilitates the distinction between a robust dignity bound to the end-setting ability of a rational being and a fragile dignity bound to the performances of this ability which might not be achieved. According to Schönrich, the analysing scheme of a fitting attitude account puts us in a position to reconstruct the transcendental argument justifying Kant's strong claim: We (as rational beings) necessarily represent our own existence as an end in itself.

II. Dignity and Human Rights

The second group of articles illuminates the intimate connections between dignity and human rights.

Reza Mosayebi argues in *A Semi-Kantian Account of Dignity: Passing the Buck whilst Regulating Reasons for Human Rights* that dignity in and of itself does not provide normative reason(s) for human rights. Drawing on the functional role of certain Kantian ideas relating to dignity, Mosayebi shows that dignity might instead fulfil a regulative role for the normative reasons that count in favour of human rights. From this starting point, he develops a formal account of dignity which could be endorsed by a plurality of substantive conceptions of dignity in the context of human rights.

According to **Matthias Kettner's** contribution *Kantian Dignity Semantics. An unreliable Resource for Human Rights Culture*, one of the most important normative ties of contemporary human rights culture is the reference to human dignity. Instead of delving into the details of such an account right away, Kettner starts his contribution by proposing four conditions of adequacy which a rationally convincing generally accepted account of dignity would need to satisfy if it were to benefit contemporary human rights culture in its search for its transpolitical normative foundations. After elaborating this critical compass, he starts to analyse Kant's semantics of dignity and tries to reconstruct the meaning of the Kantian phrase 'dignity of humanity'. Considering three different premises within Kant's ethics, Kettner formulates three possible variants of Kant's 'dignity of humanity': 'elevation-, pricelessness-, and end-in-itself-dignity'. After applying

his conditions of adequacy to these variants, he comes to the sober conclusion that none of the three can satisfy them. Kettner believes that Kant's attempt to understand rational common morality as centred on self-legislating pure reason is the key feature that made Kant's conception revisionist and therefore incompatible with the modern human rights culture. This leads Matthias Kettner to the conclusion that reference to Kantian dignity semantics is more of a liability than an asset if one wants to vindicate contemporary human rights culture.

III. Moral Implications of the Concept of Dignity

The third group of contributions discusses the prevailing moral conception of dignity.

In *The Moralization of Human Dignity in Kant's Ethics* **Saneyuki Yamatsuta** points out that it is widely acknowledged that Kant's practical philosophy provides the philosophical foundation for the concept of human dignity in our era. Yet this seems to have been contested in several recent publications, as for example in Oliver Sensen's work *Kant on Human Dignity* in which Sensen claims that Kant's concept of dignity could be understood in the 'traditional paradigm' and should therefore be separated from contemporary usage. While Yamatsuta confirms that Kant's conception of dignity is closely connected to the traditional paradigm, he disagrees with the conclusion that one should defer from the Kantian concept of dignity in contemporary discussions. According to Saneyuki Yamatsuta, Kant enables the possibilities of the traditional understanding by 'moralising' the concept of dignity. Yamatsuta believes that this 'moralisation' of dignity is not only of historical but also of systematic importance for our modern understanding of dignity. In order to prove this systematic importance of the Kantian concept of dignity, Yamatsuta refers to Alain Badiou's critique of the 'Human Right Discourse', in which the negative aspects of human dignity are brought up.

In her contribution *Kant's Idea of Dignity. Value and Moral Elevation in the Groundlaying* **Susan Shell** traces the use of the term 'dignity' in the *Groundlaying*, especially in those passages leading up to Kant's announcement of the principle of autonomy as 'the supreme principle of morality'. Referring to Oliver Sensen, she argues that dignity in the *Groundlaying* would in one instance apply to a state of elevation associated with the moral law as the primary object of respect. At the same time, Kant seems to also use the term 'dignity' as a label for what he calls unconditional or inner value. Yet Susan Shell argues that we do not need to choose between the two different readings of the term. According to her, Kant thinks of moral dignity as being both elevation and unconditional

value, i.e. an inner worth. Shell argues that this conceptual complexity is what makes the Kantian conception well suited for responding to the ‘natural dialectic’ (*GMS* 4:392) which makes a philosophic ‘groundlaying’ necessary in the first place. At the same time, she hopes that her reconstruction of the term might help to resolve the ongoing conflict between those Kant readers who locate ultimate value in the moral law and those who associate it with an ‘objective’ end such as freedom or humanity.

In *How to Respect Someone’s Dignity* **Oliver Sensen** considers what exactly one has to do in order to respect someone’s dignity. After analysing what Kant means by ‘dignity’, Sensen argues that respect should have a wider notion than the two most common explanations, which are: literally not treating someone as mere means and securing their consent. While these requirements might capture some of our deepest moral intuitions, they would not cover all the cases that Kant’s requirement is meant to capture. Sensen then introduces his own interpretation of Kant’s respect requirement, according to which respect would demand not to exalt oneself above others. By pointing out that one would exalt oneself if one made exceptions for oneself in regards to objectively necessary laws, Sensen elegantly manages to link Kant’s Formula of Humanity to his categorical imperative. Finally, Sensen argues that this conception of respect would have two distinct advantages over its rival interpretations: First of all, it would determine more specifically what exactly one should do. Secondly, it would allow more beings to be included as proper recipients of respect.

IV. Dignity and End in Itself

The fourth group of contributions focusses on the relation of dignity and end in itself as a central theme.

As **Thomas Hill** sees it in his contribution *The Kingdom of Ends as an Ideal and a Constraint on Moral Legislation*, human Dignity and derivative ideals have a central role in Kantian normative ethical theory, but they don’t establish a metaphysical ground for the norms that we associate with it. Rather human dignity should be seen as a comprehensive status that encapsulates principles and values that are ultimately supported by more basic principles, such as the Categorical Imperative. Hill tries to show how, assuming this framework, respect for human dignity is not simply a matter of negative duties but calls for a range of positive attitudes that ideally we should strive to maintain as well. The negative duties that prohibit various kinds of gross violation of human dignity are what we need to insist on, but the fullest respect and appreciation of human dig-

nity calls for positive changes in attitudes, policies, and practices beyond refraining from these obvious and urgent violations.

According to **Dieter Sturma** *In the Realm of Ends—Kant on Autonomy and Dignity*, the term ‘dignity’ refers to a dense concept with a long history in culture and philosophy. Sturma believes that Kant’s ethical works were directly connected to the development of the modern conception of human rights. According to Dieter Sturma, it is especially Kant’s ethics of autonomy that allows a modern approach to the concept of dignity without the need for recourses such as intrinsic, ideological or speciesist values.

In his contribution Sturma investigates the connections between dignity and other important concepts of Kant’s ethical works like autonomy, the end in itself formula, and the realm of ends. At the end of this investigation, Sturma comes to the conclusion that the semantic and normative field of the Kantian conception of dignity is constituted by two elements: First by moral recognition according to the formula of persons as ends in themselves, and secondly, by a corresponding ban on instrumentalisation. According to Sturma both elements should be understood as normative standards that help persons to identify and reject moral violations in the social sphere.

In *End in Itself and Dignity* **Allen Wood** takes a closer look at two fundamental concepts within Kant’s ethical theory, namely: ‘end in itself’ and ‘dignity’. In order to clarify both concepts, Wood analyses how they relate to their source and their justification as given in *Groundwork*, but also how they relate to each other as fundamental value conceptions within the Kantian ethics.

In the end Wood offers the following clarifications: Wood points out that Kant uses ‘end in itself’ to refer to the motives rational beings can have for obeying a categorical imperative as well as to the ground of specific moral duties. According to Wood, while Kant uses the term ‘dignity’ to refer to an incomparable worth that cannot be sacrificed or exchanged for anything else, he apparently identifies dignity with the authority of the moral law and the autonomy of the rational will at the same time. Combining these clarifications, Wood concludes that it is the dignity of rational nature which makes humanity an end in itself.

V. The Social, Political, and Cultural Dimensions of Dignity

The central theme of the fifth group of contributions are the social, political, and cultural dimensions of dignity.

In his contribution *The Heuristic Use of the Concept of Dignity in Kantian Philosophy* **Yasushi Kato** tries to pinpoint the relevance of Kant's concept of dignity not only for the moral world but also for the legal and political realm. According to Kato, the notion of dignity as a legally protected interest was historically not incorporated into legal systems until the end of the Second World War. Structurally, Kato perceives Kant's dignity as a moral concept which ever since has been based on autonomy and 'absolute inherent value'. As a moral term dignity would therefore imply that autonomy fulfilled a constitutive function in the creation of the moral world; and it would, at the same time, command the subject which constitutes and preserves the moral world that lies at the foundation of the legal system. Thus, Kato locates Kant's concept of dignity within a multi-layered structure of law and morality. Based on these assumptions, Yasushi Kato speculates that Pufendorf's concept of dignity was the forerunner to Kant's own understanding of dignity, and Kato therefore attempts to show that Kant fundamentally adopts Pufendorf's concept of dignity. According to Kato, Kant considers violations of dignity to be of particular significance because he presumes that such violations are usually caused by grave social problems. Therefore, the concept of dignity could be perceived as a helpful tool for disclosing and pointing out distortions in the legal system. Yasushi Kato shows that one could call this the heuristic use of the concept of dignity. In the conclusion of his contribution, Kato reinterprets the example of the 'child murderer' on the basis of Pestalozzi's treatise on the topic in order to exhibit that the concept of dignity should not be conceived as a residue of honour ethics. Instead, according to Kato, dignity should be better understood as a concept that fulfils a political function in the 'public sphere'.

Karl Ameriks notes that Kant's conception of dignity has not only earned praise, but in recent years, several authors from and outside of philosophy have criticised Kant's remarks for being accessible to racist and anti-Semitic interpretation and thought. In his contribution *The Fate of Dignity: How Words Matter* Ameriks compares and contrasts two recent critiques along this line—one by Michael Lackey, on how Kant's terms were used later by H. S. Chamberlain and the fascists, and one by Paul Franks, who puts several of Kant's distressing comments in the context of German idealism and anti-Judaism in general. Karl Ameriks also discusses insights from Charles W. Mills and Lucy Allais, which point toward the diagnosis of a 'cognitive blindness' that Kant and others might have exhibited on these issues. All in all, Ameriks argues that Kant's errors are not simply a matter of racism but may also be rooted in a broader blindness about other cultures outside of Kant's Northern European Protestant background.

In her contribution *The Dignity of the State in Kant's Doctrine of Right* **Katrin Flikschuh** examines Kant's often neglected denomination of the state as a bearer of dignity in his *Doctrine of Right*. Flikschuh starts her examination with a preliminary specification of state dignity and subsequently discusses the differences between the dignity of the citizen and the dignity of the person. After these clarifications, she answers the question of how, according to Kant, the dignity of the citizen relates to the dignity of the state. Katrin Flikschuh concludes her contribution with some reflections on the applicability of Kant's conception of state dignity compared to contemporary, liberal democratic states.

In *Kant on Patriotism: "Civic Dignity" and "Way of Thinking"* **Takuya Saito** examines Kant's thoughts on patriotism from the perspective of a 'way of thinking' (*Denkungsart*). In his contribution Saito discusses the line of arguments that lead Kant to criticise despotism and the hereditary order ('dignity of the nobility') for betraying the principles of civil freedom and civil equality ('dignity of a citizen'). According to Saito, Kant's envisioned way out of these political grievances is a form of patriotism that provides the practical reasoning leading to the development of a republican constitution which protects the rights of man through a legislation of the common will in the form of a representative democracy.

Christoph Horn

Absoluteness and Contingency. Kant's Use of the Concept of Dignity

Abstract: The paper considers the question of human dignity in Kant by distinguishing an 'absoluteness reading' from a 'contingency reading'. It formulates two major challenges for an absoluteness reading of Kant: First, Kant does not derive the idea of human rights from the idea of dignity. The reason for this, it is argued, is that he does not defend the idea of human rights at all. And secondly, as is emphasized, Kant considers human dignity not to be immediately, inherently and persistently owned by human beings, but only under certain conditions. But as then turns out, these two challenges do not completely exclude an interpretation of Kant according to the absolute reading. The paper makes this plausible by pointing out that one has to reconsider the fundamentals of the two models in Kant's theory of value. Finally, it is analyzed what sort of absoluteness Kant attributes to human dignity—and in which respect he should be seen as contingency theorist.

1 Introduction

The idea of human dignity can principally be understood in two different ways: either according to an *absoluteness model* or according to a *contingency model*. Whereas the absoluteness model rests upon the idea that each human being possesses a maximal value which cannot be acquired and can never be lost and which makes him or her a legitimate and inviolable bearer of human rights, the contingency model emphasizes the social embeddedness of ascribing dignity to an individual, taking dignity as a sort of social status that is always in danger of being lost. The absoluteness model is implicitly present especially in the U.N. declaration of human rights (1948) and in several further fundamental political documents (e.g. in the first article of the German constitution from 1949). The contingency model is typically held by recognition theorists, e.g. in the Hegelian tradition of political philosophy (parts of the Frankfurt school); its focus is on phenomena of social appreciation and humiliation respectively.

Which of these two concepts of dignity (or maybe which further model) do we find in Kant? As many scholars believe, Kant should be regarded as defending the absoluteness model—perhaps even as its historical inventor. But it was the monograph of Oliver Sensen, *Kant on Human Dignity* (Sensen 2011) which

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shed serious doubt upon this assessment. Sensen pointed out that Kant, in many passages particularly in the *Doctrine of Virtue*, followed the Stoic and Ciceronian idea which amounts to some sort of contingency model. Dignity seen from this perspective is a level of excellence of somebody's prestige or social status such as the dignity of a Roman senator. It can be gained and lost, it can be attributed to someone or denied, and it is merit-based and can hence be forfeited. On the other hand, we have several passages in which Kant quite unambiguously maintains the absoluteness of human dignity by contrast with a relative value or a contingent price something might have. How (if at all) can we reconcile these two views of the Kantian account of dignity?

In what follows, I will first formulate two major challenges for an absoluteness reading of Kant: First, Kant does not derive the idea of human rights from the idea of dignity. The reason for this is simply that he does not defend the idea of human rights at all. And secondly, Kant considers human dignity not to be immediately, inherently and persistently owned by human beings, but only under certain conditions (section 1). But as it will turn out, these two challenges do not completely exclude an interpretation of Kant according to the absolute reading. To make this plausible, we will have to reconsider the fundamentals of the two models in Kant's theory of value (section 2). Finally, I will analyze what sort of absoluteness Kant attributes to human dignity—and in which respect he should be seen as contingency theorist (section 3).

2 Two challenges for an absoluteness reading

Let us start with the two challenges I announced. The first is that Kant does not use the idea of a persistent absolute dignity to formulate a fundament for human rights. Although many scholars in the last two or three decades tried hard to identify a Kantian version of a human rights theory, these attempts remained ultimately unsuccessful. Since I have discussed this intricate problem elsewhere at length (Horn 2014, 67–130 and Horn 2018), I can confine myself to a brief summary of my main observations.¹ The crucial point is that Kant never formulates materially contentful lists or catalogues of human rights: we find in his writings no right to life, physical and psychic integrity, the freedom of opinion, religion, assembly and the like. Even the most promising candidates for human rights discussed in recent Kantian literature—e.g. the freedom of pen in the treatise *Ge-meinspruch* (TP 8:304) or the right of hospitality (the *ius cosmopolitanicum*) in *On*

¹ Strong additional evidence for this reading has been collected by Gosepath 2018.

Perpetual Peace (Zef 8:358) and in the *Doctrine of Right* (RL 6:352f.)—are far from offering full equivalents for what Kant's contemporaries considered as human rights and for what we usually consider as such rights. Apparently, he even rejects the idea of individual, subjective, moral rights that should universally be guaranteed to all human beings. Being a republican rather than a liberal, Kant does not accept the idea of human rights—and so he does not make such a use of the concept of human dignity. A strong additional evidence against a Kantian human rights theory lies in the way in which he deals with basic moral issues of social life: the 'state of nature', slavery, the problem of infanticide in the case of illegitimate children, many details of family right and so on. The fact that he does not acknowledge human rights excludes *a limine* that he employs dignity as the founding idea or justification for basic claims which every human being possesses.

I come now to the second challenge for an absoluteness reading. One of the most neglected, though crucial passages on human dignity in Kant—and at the same time one of the most difficult to understand—is to be found in section 49-D of the chapter on the 'right of state' (*ius civitatis*) in the *Doctrine of Right*. The text is irritating since it apparently implies that a criminal completely loses his or her dignity. Or might there be a certain rest of dignity, according to Kant, that can never be forfeited? The enigmatic passage [1] runs as follows (*Doctrine of Right* §49-D: RL 6:329–330):²

[1] No individual in the state can indeed be entirely without dignity; for he has at least that of being a citizen, except when he has lost his civil status by a *crime*. As a criminal he is still maintained in life, but he is made the mere instrument of the will of another (whether it be the state or a particular citizen). In the latter position (in which he could only be placed by a juridical judgment), he would practically become a *slave* (*servus in sensu stricto*), and would belong as property (*dominium*) to another, who would be not merely his master (*herus*) but his *owner* (*dominus*). Such an owner would be entitled to exchange or alienate him as a thing, to use him at will except for shameful purposes, and to *dispose of his powers*, but not of his life and members.

2 Compare the German original text: "Ohne alle Würde kann nun wohl kein Mensch im Staate sein, denn er hat wenigstens die des Staatsbürgers; außer, wenn er sich durch sein eigenes *Verbrechen* darum gebracht hat, da er dann zwar im Leben erhalten, aber zum bloßen Werkzeuge der Willkür eines anderen (entweder des Staats, oder eines anderen Staatsbürgers) gemacht wird. Wer nun das letztere ist (was er aber nur durch Urteil und Recht werden kann), ist ein *Leibeigener* (*servus in sensu stricto*) und gehört zum *Eigentum* (*dominium*) eines anderen, der daher nicht bloß sein Herr (*herus*), sondern auch sein *Eigentümer* (*dominus*) ist, der ihn als eine Sache veräußern und nach Belieben (nur nicht zu schandbaren Zwecken) brauchen, und *über seine Kräfte*, wenn gleich nicht über sein Leben und Gliedmaßen *verfügen* (disponieren) kann."

The quotation starts out with the remark that no individual can completely lose his or her dignity. But then the next clause formulates an exception: a criminal in fact forfeits his or her dignity entirely. This however is not the only surprising element in the text. The second irritating point is that it is not *human dignity* that is maintained or lost, but ‘that of the citizen’ (*die des Staatsbürgers*). Let us call it *civic dignity*. For Kant in this passage, civic dignity is apparently the fundamental point of reference. This becomes clear from the fact that an individual ‘at least’ maintains the dignity of being a citizen. After having also lost his or her civic dignity, we are told, the criminal can be used as a mere instrument—a remark that seems to violate the humanity formula of the Categorical Imperative which says that humanity must *never* be used as a mere means.³ Even if it sounds odd, Kant explicitly claims that the criminal fully forfeits his or her independence and becomes a ‘slave in the strict sense’ (*servus in sensu stricto*) who belongs to his or her owner. On the other hand, two limiting remarks appear in the text: Kant says that the social status of slavery can rightfully be imposed only by a legal judgment, and he emphasizes that the owner is not entitled to use his or her slave for ‘shameful purposes’ and must not damage ‘his life and members’.

Let us retain the five relevant points of the quoted passage: (1) Following text [1], the dignity of an individual can completely be lost, even if only by his or her own criminal deeds. (2) The sort of dignity which is minimally possessed by the individual is the dignity of the citizen; civic dignity is the relevant normative concept here, whereas human dignity is not explicitly mentioned. (3) The criminal becomes a mere instrument, a slave that can be used for (almost) any purposes. (4) This social status of full dependence can rightfully be declared only by a legal judgment. And (5) there is a borderline of a possible instrumentalization (or exploitation) of someone which lies in the use of him or her for ‘shameful purposes’ and in damaging his or her life and body.

In the lines immediately following our first citation, Kant describes the limits of an enslavement of the criminal in more detail (*RL* 6:330):⁴

3 *GMS* 4:429 (transl. A. Wood): Act so that you use humanity, as much in your person as in the person of every other, always at the same time as end and never merely as means.

4 The original text: “Durch einen Vertrag kann sich niemand zu einer solchen Abhängigkeit verbinden, dadurch er aufhört, eine Person zu sein; denn nur als Person kann er einen Vertrag machen. Nun scheint es zwar, ein Mensch könne sich zu gewissen, der Qualität nach erlaubten, dem Grad nach aber *unbestimmten* Diensten gegen einen andern (für Lohn, Kost, oder Schutz) verpflichten, durch einen Verdingungsvertrag (*locatio conductio*), und er werde dadurch bloß Untertan (*subiectus*), nicht Leibeigener (*servus*); allein das ist nur ein falscher Schein. Denn, wenn sein Herr befugt ist, die Kräfte seines Untertans nach Belieben zu benutzen, so kann er sie auch (wie es mit den Negern auf den Zuckerinseln der Fall ist) erschöpfen, bis zum Tode oder der Verzweiflung, und jener hat sich seinem Herrn wirklich als Eigentum weggegeben;

[2] No one can bind himself to such a condition of dependence, as he would thereby cease to be a person, and it is only as a person that he can make a contract. It may, however, appear that one man may bind himself to another by a contract of hire, to discharge a certain service that is permissible in its kind, but is left entirely *undetermined* as regards its measure or amount; and that as receiving wages or board or protection in return, he thus becomes only a servant subject to the will of a master (*subiectus*) and not a slave (*servus*). But this is an illusion. For if masters are entitled to use the powers of such subjects at will, they may exhaust these powers,—as has been done in the case of negroes in the Sugar Islands,—and they may thus reduce their servants to despair and death. But this would imply that they had actually given themselves away to their masters as property; which, in the case of persons is impossible. A person can therefore only contract to perform work that is defined both in quality and quantity, either as a day-labourer or as a domiciled subject.

The second quotation formulates limiting conditions of a rightful enslavement of individuals. The crucial point here is that no one, by a legal contract, can fully give up his or her personality or independence. Kant's argument sounds legalistic: it would be paradoxical to assume, he claims, that a person could willingly agree to cease to be a person. As the text continues, it is also excluded that someone agrees to a contract which commits him or her to serve as a slave. Kant emphasizes that a labour contract, even if it obligates the employee, never implies such a far-reaching loss of freedom as enslavement is. On the contrary, it would be illegal to exhaust someone's powers to an extent that he or she comes into a state of despair and death—as it happened “in the case of the negroes in the Sugar Islands”. The last remark is hence not a racist one, but it describes, in Kant's eyes, an unacceptable case of extreme exploitation.

The important point of [2] is the implicit comparison offered by Kant between the criminal and the normal employee. The legitimate complete instrumentalization of the criminal stands in sharp contrast to the illegitimate use of ordinary persons who must never be used, even willingly, for indeterminate purposes that undermine their living conditions. As we can conclude from this, the Kantian view actually is that a criminal completely forfeits his or her dignity and should therefore be treated as ‘a slave in a strict sense’—a loss of personality which is otherwise impossible.

Among the numerous problems caused by this text, the following critical points of interpretation seem crucial to me: Why does Kant discuss the issue of legal punishment not of the basis of *human* dignity? How are the civic dignity and human dignity here related to one another? Which one is more fundamen-

welches unmöglich ist.—Er kann sich also nur zu, der Qualität und dem Grade nach bestimmen, Arbeiten verdingen: entweder als Tagelöhner, oder ansässiger Untertan.”

tal? Which of them can be lost, either completely or to a certain degree? Aren't there, in the text, some indications that there exists a certain rest of dignity which cannot be forfeited? At which level the alleged loss of dignity is ultimately stopped? And what are the 'shameful purposes' for which even a criminal must not be used? In what sense or by which actions a perpetrator, according to Kant, can diminish or lose his or her dignity? Is this loss meant to be an irreversible one? Can it be regained? It would be empirically wrong to say that the criminal loses, e.g., his or her rational autonomy, moral faculty or capacity to set ends.

Some answers to these questions can be found in appendix 5 to the *Doctrine of Right* (RL 6:362–364). Kant distinguishes there between two sorts of legal punishments: in less serious cases, we are told, the legislator “must also take into account respect for the humanity in the person of the wrongdoer”; here the *ius talionis* should be applied, which means that the criminal should be harmed to an equal extent as the crime he himself committed (cf. RL 6:332). In more serious cases, like that of “rape as well as pederasty or bestiality”, the punishment should be castration or expulsion since he “has made himself unworthy of human society”. In the footnote of (RL 6:363) we additionally learn that in this case “his dignity as a citizen is suspended”. Apparently, human dignity, expressed here by the humanity formula of the Categorical Imperative, is valid only in minor cases, whereas even civic dignity is cancelled in grave cases.

The position developed in passages [1] and [2] is mirrored e.g. in his *Notes*. As Kant there claims again, nobody can even willingly give up his status as a bearer of rights, since he would then be a mere thing; but exactly this happens to the criminal involuntarily.⁵ All of this seems to be incompatible with an absoluteness theory. The fundamental question that arises from this if Kant subscribes to a contingency model of human dignity.

In order to answer this question, let us now confront the difficult passages we investigated so far with the classical formulation of dignity as an absolute value in *Groundwork* II. The crucial passage, shortly after the humanity formula of the Categorical Imperative (GMS 4:429–431), comes in two parts, and the first of these runs as follows (GMS 4:434–435):⁶

5 See, e.g. TP 23:129–130: “Diese Freyheit kann keiner weggeben weil er dann aufhören würde ein Recht zu haben und eine Sache seyn würde obzwar wohl verwirren. Sie findet selbst bei Dienstboten statt welche bestimmte mit ihrem möglichen Wunsche der Selbsterhaltung zusammen bestehende Arbeiten für andere übernehmen können.”

6 The original text: “Was sich auf die allgemeinen menschlichen Neigungen und Bedürfnisse bezieht, hat einen *Marktpreis*; das, was, auch ohne ein Bedürfnis vorauszusetzen, einem gewissen Geschmacke, d.i. einem Wohlgefallen am | bloßen zwecklosen Spiel unserer Gemüthskräfte, gemäß ist, einen *Affectionspreis*; das aber, was die Bedingung ausmacht, unter der allein *etwas*

[3] What refers to general human inclinations and needs has a *market price*; that which, even without presupposing a need, conforms to a certain taste, i.e. to a delight in the mere purposeless play of our powers of mind, a *fancy price*; that, however, which constitutes the condition under which alone *something can be an end in itself has not merely a relative worth, i.e. a price, but an inner worth, i.e. dignity.*

In [3], we are confronted with a condensed theory of value and prize: Kant discriminates between values based on “general human inclinations and needs” and values based on “a certain taste”. While the first sort of values is expressed by a “market prize” which has to be paid in order to satisfy the inclinations and needs, the second has a “fancy prize”. Both sorts of values are relative ones; they are correlated with the objective or subjective desire of someone who strives for certain objects. That, however, which is constitutive for something being an end in itself “has not merely a relative worth”. Even if Kant does not say it explicitly (he only speaks about an “inner worth”), there can be no doubt that what he has in mind is dignity as an *absolute* value. This is obvious from the fact the antonym in our text is that of “relative worth” (*relativer Werth*). Dignity is used here in the sense of an absolute value.

But does that immediately imply that Kant supports an absoluteness model of human dignity in the sense of the U.N. declaration? Let us look at a passage which follows shortly after [3] (GMS 4:435–436):⁷

[4] *And now, then, what is it that justifies the morally good disposition or virtue in making such lofty claims? What justifies it is nothing less than the share that the disposition provides to the rational being in universal lawgiving. By providing this share in universal lawgiving, the disposition makes the rational being fit to be a member in a possible empire of ends. The rational being was already destined by its own nature as an end in itself and therefore as a lawgiver in an empire of ends to be fit to be such a member and to be free with regard*

Zweck an sich selbst sein kann, hat nicht bloß einen relativen Werth, d. i. einen Preis, sondern einen innern Werth, d. i. Würde.”

7 The original text: “*Und was ist es denn nun, was die sittlich gute Gesinnung oder die Tugend berechtigt, so hohe Ansprüche zu machen? Es ist nichts Geringeres als der Antheil, den sie dem vernünftigen Wesen an der allgemeinen Gesetzgebung verschafft und es hiedurch zum Gliede in einem möglichen Reiche der Zwecke tauglich macht, wozu es durch seine eigene Natur schon bestimmt war, als Zweck an sich selbst und eben darum als gesetzgebend im Reiche der Zwecke, in Ansehung aller Naturgesetze als frei, nur denjenigen allein gehorchend, die es selbst giebt und nach welchen seine Maximen zu einer allgemeinen Gesetzgebung (der es sich zugleich selbst | unterwirft) gehören können. Denn es hat nichts einen Werth als den, welchen ihm das Gesetz bestimmt. Die Gesetzgebung selbst aber, die allen Werth bestimmt, muß eben darum eine Würde, d. i. unbedingten, unvergleichbaren Werth, haben, für welchen das Wort Achtung allein den geziemenden Ausdruck der Schätzung abgiebt, die ein vernünftiges Wesen über sie anzustellen hat. Autonomie ist also der Grund der Würde der menschlichen und jeder vernünftigen Natur.”*

to all natural laws, obeying only those laws that the rational being itself gives and only those laws according to which the rational being's maxims can belong in a universal lawgiving (to which the rational being at the same time subjects itself). For nothing has a worth except that worth which the law determines for it. *But lawgiving itself, which determines all worth, must for just that reason have a dignity, that is, have unconditional, incomparable worth. Only the word 'respect' provides the appropriate expression of the valuation that a rational being must assign to dignity. Autonomy is thus the ground of the dignity of the human and every rational nature.*

The text is extremely dense and necessitates some close reading. The point from which it starts is the question of how the morality of a person can be the fundament of his or her absolute value or dignity. In the first section of [4] which I italicized, Kant emphasizes that someone's moral attitude ("the morally good disposition or virtue") provides him or her with a "share in universal lawgiving". In the second highlighted part of the text he says that it is nothing else but law that gives everything its value. Taken together, these two remarks make clear that the absolute value which Kant ascribes to 'humanity in the person' of a human being and on which he bases the humanity formula of the Categorical Imperative is not simply something innate and invariant. On the contrary, it can be gained and lost by someone's moral attitude. Whereas full virtue gives its bearer full worth, a defective degree of morality leads to some sort of diminished personal value. The evaluative absoluteness of dignity should hence not be taken as a stable possession of a human being as such. It is a value that is generated or constituted, not a permanently existing one. Following this theory every entity has its value from the moral law (we will discuss this point in section 2). It is the process of lawgiving which generates invariant value; hence, its realization in human beings is only a possibility.

If one takes this last observation seriously, then all the passages [1] to [4] are compatible with one another. Dignity is an absolute value, although it is also true that it must be individually gained by my moral behaviour and can be lost by immoral deeds. Another important point should be added. In [3] and [4], Kant does not verbally speak of 'human dignity'; here as elsewhere, he uses the formulations like 'dignity of human nature' or 'dignity of humanity'. As this indicates, the dignity discussed here is that of a rational being who realizes moral lawgiving within himself or herself, but this is not explicitly equated with the expression 'human dignity'. In fact, we will see in section 2 (text [12] below) that Kant uses 'human dignity' (*menschliche Würde*) in a considerably weaker sense. Nevertheless, the appeal to dignity in [3] and [4] is immediately connected to the humanity formula of the Categorical Imperative. The Categorical Imperative is formulated on the basis of beings who have absolute value, i.e. dignity. Apparently, the Kantian concept of dignity remains some sort of an absoluteness

model. Also in *Groundwork* (GMS 4:439), in the context of the *Kingdom of Ends* formula, Kant finds his concept of a Categorical Imperative on the idea of dignity of humanity.

Let us briefly sum up. As we saw so far, Kant does not use the idea of dignity in order to formulate a fundament for human rights. He nowhere derives human rights from the idea of dignity. Then we recognized something which threatened even the ascription of an absoluteness model to Kant: in [1] and [2], we are confronted with a theory that describes dignity as an attribute which can be lost by criminal deeds. Apparently Kant does not support the idea that the bearer of absolute dignity is in a constant and persistent possession of this maximal value. But does that imply that Kant rejects the absoluteness model? Not at all. It seems more adequate to assume that Kant adopts an intermediate position, i. e. he partially defends an absoluteness reading, partially a contingency model. That he shares the idea of absoluteness becomes clear when we have a look at *Groundwork* II where he ascribes this absoluteness to the moral law, or more precisely, to the process of lawgiving. We can, in our thought, encounter something infinite that transcends our self-love when we understand that a certain maxim is insufficient due to its non-universalizability.

We found in [3] and [4] is a brief sketch of Kant's value theory. Of course, a bundle of questions arises from these remarks. Probably the most important is that we want to know what sort of value theory is at stake here. What might it mean that worth is completely determined by the law? Another relevant question concerns the value-generating process of lawgiving. How should we understand the idea of value-constitution by this process? And how should we conceive of the status of the human being that receives dignity from the value-constitutive process? I will address these questions in the next section.

3 Observations on Kant's theory of value

It is a well-known fact about the Kantian theory of value that it has a Humean as well as an anti-Humean part: Kant maintains, especially in the *Critique of Practical Reason*, that the human will (*Wille*) in its normal or default state is always 'contaminated' by material ends and hence always directed towards happiness in the sense of desire fulfillment: We immediately judge on the value of something according to the scale of pleasure and pain an object seems to provide. In this doctrine, Kant is, to a certain extent, a Humean.⁸ But when the moral

⁸ See especially *KpV* 5:58.

law emerges and ‘formally’ determines the will, then the goal-directedness of the will is not simply interrupted or limited, but re-oriented. The will, i. e. the human striving for an ultimate end, is then vectored towards the genuine value of human beings, the ‘highest good’—which is described, in the second *Critique*, as happiness in the sense of desire fulfillment according to one’s moral dignity. As this consideration shows, it is not the case that only a material determination of the will leaves its goal-directedness intact; also the formal one preserves the purposiveness of the will. But after a formal re-orientation of our basic inclination, the will has a new, morally appropriate final end. The will has then become a pure one, even if not a holy one.⁹ This second aspect is the anti-Humean part of Kant’s theory.

In our context, the interesting aspect of Kant’s value theory is of course the second one. Its decisive point is this: although the will is determined by a formal principle, the procedure of determination in a sense *ex post* generates a material value towards which the will is directed, namely the highest good. In the second *Critique*, Kant describes this generation of value under the title of a ‘paradox of method’ (*Paradoxon der Methode*).¹⁰ In this sense there is a constitution of value that Kant describes, in texts [3] and [4], as “lawgiving itself, which determines all worth”. The moral law constitutes the overriding value (a value that outweighs sensible Humean value) by redirecting the will of the agent. Dignity understood as a value which has no prize means exactly this: it is a value originating from the categorically binding sphere of morality, not a value arising from our expectation of pleasure and pain.¹¹

The Kantian request for a formal determination of the will shows why the *rational agency*-interpretation is mistaken (as defended by O’Neill 1989, Hill 1992, Herman 1993, Korsgaard 1996, Guyer 2000 and others). According to the *rational agency*-reading, Kant should not be seen as a pure formalist whose approach to ethics is primarily based on an abstract universalization procedure. Following this reading, the Categorical Imperative is not (or not primarily) an algorithmic test of the logical consistency of maxims. Instead, Kant is seen as taking the rational agency of an individual, i. e. his (or her) capacity of setting ends, to be the decisive intrinsic, even absolute value. Under this premise, the maxims of someone’s will must be, following the interpreters, apt to foster the good of rational and self-determined freedom. The basic good thus has the rank of a higher-order good; it has a ‘value-conferring status’ (Korsgaard 1996, 122 and

⁹ For the details of this theory see Horn 2015.

¹⁰ *KpV* 5:62; see Horn 2015 and Kain 2018.

¹¹ E. g. Schmidt/Schönecker 2018 (against Sensen 2011) mistakenly read the Kantian concept of dignity as if it implied a stable, persistent possession.

128). If this were correct, the foundation which underlies Kantian ethics would be a teleological or axiological one. But this reading contorts the factual relationship that exists between goods and the Categorical Imperative. For Kant, true value has its origin in the formal determination of the will which then constitutes a highest good; from this all value is derived.

We can see now how dignity can have an absolute, though generated value. The inner worth which Kant calls 'dignity' is caused by the absoluteness of the commandment expressed by the Categorical Imperative. The moral law commands strictly and unconditionally; and if a human being follows its orders, it receives a new sort of value by the redirection of his or her will. Note that dignity which is under consideration here is not *human dignity* in the first place, but the dignity of the Categorical Imperative. Kant's point is: The Categorical Imperative has maximal value since it establishes an overriding worth. Human beings possess value then *only insofar as* they realize the moral law in their own character and behavior. Dignity is therefore not an innate or inherent quality of human beings, but a feature that can be gained and lost. In the lecture notes *Moralphilosophie Collins* we read accordingly (*Collins 27:1.344, 1–14*):¹²

[5] The duties towards oneself are the supreme condition and the *principium* of all morality, for the worth of a person constitutes the moral worth; the worth of the dexterousness is related only to her state. Socrates was in an evil state which had no worth at all, his person, however, was in this state of the biggest worth. Even if all the commodities of life are sacrificed, *the preservation of the dignity of humanity compensates the loss of all of these commodities*, and receives the acclamation; if all gets lost, one still has one's inner worth. *Under this dignity of humanity we only can practice the other duties. Who has no inner worth, has thrown away his person and cannot fulfil any other duty.*

Note first that, according to Kant, all morality starts with the duties that one has towards oneself. By fulfilling these duties someone constitutes his or her moral value, while the worth of dexterousness (*Geschicklichkeit*) depends on someone's contingent external situation. Socrates in the prison e.g. was in a bad external state, but he possessed the biggest inner value; this compensates the possible

12 "Die Pflichten gegen sich selbst sind die oberste Bedingung und das *principium* aller Sittlichkeit, denn der Werth der Person macht den moralischen Werth aus; der Werth der Geschicklichkeit beziehet sich nur auf seinen Zustand. Socrates war in einem elenden Zustande, der gar keinen Werth hatte, seine Person aber war in diesem Zustande von dem größten Werth. Wenn auch alle Annehmlichkeiten des Lebens aufgeopfert werden, *so ersetzt die Erhaltung der Würde der Menschheit den Verlust aller dieser Annehmlichkeiten*, und erhält den Beyfall, wenn alles verlohren gehet, so hat man doch einen innern Werth. *Unter dieser Würde der Menschheit können wir nur die andern Pflichten ausüben. Das ist die Basis aller übrigen Pflichten. Wer keinen innern Werth hat, der hat seine Person weggeworfen und kann keine andre Pflicht mehr ausüben.*"

loss of all other values. As we saw in [3] and [4], the moral value of inner dignity overrides all non-moral values. The passage [5] ends with two important remarks: self-given dignity is the precondition of adequately acting morally, and without inner value, someone has no absolute worth and cannot fulfil his or her duties. Kantian examples for giving up one's dignity are, according to the *Doctrine of Virtue*, "lying, avarice, and false humility (servility)" (TL 4:420).

In the same vein, Kant says according to the lecture notes *Metaphysik der Sitten Vigilantius* (Vigil 27:1.604, 14 – 26):¹³

[6] Briefly, supposed that there exist duties towards oneself, then the *legal duties towards oneself the highest duties among all*. They concern the corresponding right of humanity in one's own person, are therefore perfect duties, and every obligatory action is therefore irremissibly demanded by the right of humanity, and is duty in and for itself. Every infringement is hence violation of the right of humanity within one's own person, he makes himself unworthy of the value of his person which is entrusted to himself and becomes ignoble since the preservation of his own worth consists only in the observation of the rights of his humanity: he loses all inner worth and can at best be seen as an instrument for others whose object he became.

As the text emphasizes, the legal duties towards oneself are the starting point of all duties. Whenever an agent violates them, he or she incurs a loss of dignity. The perpetrator ultimately, i.e. having completely lost his or her dignity, becomes worthless and can be used as a mere instrument. We see again from quotation [6] how closely the idea of dignity is related to the humanity formula of the Categorical Imperative.

Additionally, in the lecture notes *Moralphilosophie Collins* we read (Collins 27:1.347):¹⁴

13 "Kurz, angenommen, es giebt Pflichten gegen sich selbst, so sind die *Rechtspflichten gegen sich selbst die höchsten Pflichten unter allen*. Sie betreffen das correspondirende Recht der Menschheit in seiner eigenen Person, sind daher vollkommene Pflichten, und jede Pflichthandlung wird vom Recht der Menschheit unerlässlich gefordert, und ist an und für sich selbst Pflicht. Eine jede Uebertretung ist also Verletzung des Rechts der Menschheit in seiner eigenen Person, er macht sich also des ihm anvertrauten Besitzes seiner Person unwürdig, und wird nichtswürdig, da die Erhaltung seines eigenen Wertes nur in der Beobachtung der Rechte seiner Menschheit besteht: er verliert allen inneren Werth, und kann höchstens als ein Instrument für andere, deren Sache er geworden, angesehen werden."

14 "Das principium der Pflichten gegen sich selbst besteht nicht in der Selbstgunst, sondern in der Selbstschätzung, das heißt unsere Handlungen müssen mit der Würde der Menschheit übereinstimmen. Man könnte auch hier sagen, so wie es beim Recht heißt: *neminem laede, also noli naturam humanam in te ipso laedere.*"

[7] The *principium* of the duties towards oneself does not consist in the self-grace, but in the self-estimation, that is our actions must be in conformity with the dignity of humanity. One could also say here, as it is said in the law: *neminem laede*, hence *noli naturam humanam in te ipso laedere*.

As text [7] corroborates, the dignity of someone depends completely on the agent who defends or violates the duties towards himself or herself.¹⁵ In the *Anthropology from a Pragmatic Point of View*, Kant develops this view in some more detail (*Anth* 7:295):¹⁶

[8] In a word: the only proof within a human being's consciousness that he has character is that he has made truthfulness his supreme maxim, in the heart of his confessions to himself as well as in his behavior toward everyone else; and since to have this is the minimum that one can demand of a reasonable human being, *but at the same time also the maximum of inner worth (of human dignity), then to be a man of principles (to have a determinate character) must be possible for the most common human reason and yet, according to its dignity, be superior to the greatest talent.*

Also in this quotation, human dignity appears under the description of an 'inner value'. As we are told in [8], it is the maximal and superior inner value someone can possess, superior in comparison to the value of the 'greatest talent'. The value of dignity is a self-given one in the sense that it is constituted by someone's personal veracity. An individual who takes inner truthfulness to be his or her supreme maxim gains this highest value. We see here what Kant wants to say, in quotation [4], by his formulation that autonomy is "the ground of the dignity of the human and every rational nature". It is not meant that every rational being in fact *possesses* dignity; what is meant is that it *has access to* dignity by having the chance of being determined by the moral law.

But doesn't Kant speak of a dignity which cannot be lost? There is one passage which seems to support this reading, namely in the *Doctrine of Virtue* §11 (*TL* 6:436):¹⁷

15 Cf. additionally the *Lecture Notes Collins* (*Collins* 27:1.344).

16 "Mit einem Worte: Wahrhaftigkeit im Inneren des Geständnisses vor sich selbst und zugleich im Betragen gegen jeden Anderen, sich zur obersten Maxime gemacht, ist der einzige Beweis des Bewußtseins eines Menschen, daß er einen Charakter hat; und da diesen zu haben das Minimum ist, was man von einem vernünftigen Menschen fordern kann, *zugleich aber auch das Maximum des inneren Werths (der Menschenwürde): so muß, ein Mann von Grundsätzen zu sein (einen bestimmten Charakter zu haben), der gemeinsten Menschenvernunft möglich und dadurch dem größten Talent der Würde nach überlegen sein.*"

17 "Aus unserer aufrichtigen und genauen Vergleichung mit dem moralischen Gesetz (dessen Heiligkeit und Strenge) muß unvermeidlich wahre Demut folgen: aber daraus, daß wir einer sol-

[9] True humility follows unavoidably from our sincere and exact comparison of ourselves with the moral law (its holiness and strictness). But from our capacity for internal lawgiving and from the natural human being's feeling himself compelled to revere the (moral) human being within his own person, at the same time there comes exaltation and the highest self-esteem, the feeling of his inner worth (*valor*), in terms of which he is above any price (*pretium*) and possesses an inalienable dignity (*dignitas interna*), which instills in himself respect for himself (*reverentia*).

It would be false to think that the absoluteness of dignity formulated here implies that the inner value is not an acquired one. Instead, text [9] clearly says that dignity is inalienable only insofar someone orientates oneself towards the moral law.

To conclude, Kant is not convinced that we have human dignity as an innate, inherent, or immediate sort of feature simply by the fact of being rational. Instead, he believes that we grant and forfeit dignity by our own behavior. A passage which shows this point conclusively is *Doctrine of Virtue* §9 (TL 6:429):¹⁸

[10] By a lie a human being throws away and, as it were, annihilates his dignity as a human being. A human being who does not himself believe what he tells another (even if the other is a merely ideal person) has even less worth than if he were a mere thing; for a thing, because it is something real and given, has the property of being serviceable so that another can put it to some use.

Kant apparently defends in this text an axiology in which absolute value is constituted by an entity (here: the individual agent) and is then conferred to other things. The idea of such an absolute, inner value, however, is not confined to morality. There is a passage which is illuminative for the Kantian use of the term of 'inner value': a remarkable text in which Kant speaks of an absolute, inner value, i.e. a dignity, of *philosophy* (SF 9:23):¹⁹

chen inneren Gesetzgebung fähig sind, daß der (physische) Mensch den (moralischen) Menschen in seiner eigenen Person zu verehren sich gedrungen fühlt, zugleich *Erhebung* und die höchste Selbstschätzung, als Gefühl seines inneren Werts (*valor*), nach welchem er für keinen Preis (*pretium*) feil ist, und eine unverlierbare Würde (*dignitas interna*) besitzt, die ihm Achtung (*reverentia*) gegen sich selbst einflößt."

18 "Die Lüge ist Wegwerfung und gleichsam Vernichtung seiner Menschenwürde. Ein Mensch, der selbst nicht glaubt, was er einem anderen (wenn es auch eine bloß idealische Person wäre) sagt, hat einen noch geringeren Wert, als wenn er bloß Sache wäre; denn von dieser ihrer Eigenschaft, etwas zu nutzen, kann ein anderer doch irgend einen Gebrauch machen, weil sie etwas Wirkliches und Gegebenes ist [...]."

19 "Philosophie ist also das System der philosophischen Erkenntnisse oder der Vernunftkenntnisse aus Begriffen. Das ist der Schulbegriff von dieser Wissenschaft. Nach dem Weltbegriffe ist sie die Wissenschaft von den letzten Zwecken der menschlichen Vernunft. Dieser

[11] Philosophy is hence the system of the philosophical cognitions or of the cognitions of reason out of notions. This is the schoolman's concept of this science. According to the mundane concept it is the science of the ultimate purposes of human reason. This high concept of philosophy gives dignity to it, i. e. an absolute worth. And in fact it (philosophy) is that which alone only has inner worth and in the first place gives a worth to all other cognitions.

Philosophy has a value-generating effect, pretty much like that of the lawgiving process of the Categorical Imperative. As we see from the quotation, philosophy gives its absolute value to "all other cognitions". The Kantian use of dignity, understood as an absolute value, is hence not restricted to the moral sphere.

4 In between an absoluteness reading and a contingency reading

Before we proceed, we should have a look at a surprising passage in which Kant discusses 'human dignity' (*Menschenwürde*). In this text, there clearly is also some external social allocation at play. Someone who has a quite inferior social status, e. g. a serf in a feudal system or a child, has no human dignity. In the *Anthropology* there is a passage in which Kant says this explicitly (*Anth* 7:131):²⁰

[12] All of this is probably a result of the feudal system, which took care that the degree of respect due to the nobility was not missing, from the royal dignity on through all gradations up to the point *where even human dignity stops and only the human being remains—that is, to the estate of the serf*, who alone is addressed by his superiors by means of thou, or of a child, who is not yet permitted to have his own way.

In [12], Kant alludes to the social practice of addressing someone of inferior rank by 'thou' (*Du*). It is important to note that he uses the concept of human dignity (*Menschenwürde*) here to attribute or deny someone an honourable status. Following Kant, there is a rank in society which is so inferior that even human dig-

hohe Begriff giebt der Philosophie Würde, d. i. einen absoluten Werth. Und wirklich ist sie es auch, die allein nur innern Werth hat, und allen andern Erkenntnissen erst einen Werth giebt."

20 "Alles vermuthlich durch das Feudalwesen, nach welchem dafür gesorgt wurde, vermuthlich durch das Feudalwesen, nach welchem dafür gesorgt wurde, daß von der königlichen Würde an durch alle Abstufungen bis dahin, *wo die Menschenwürde gar aufhört, und blos der Mensch bleibt, d. i. bis zu dem Stande des Leibeigenen*, der allein von seinem Oberen durch Du angeredet werden, oder eines Kindes, was noch nicht einen eigenen Willen haben darf,—der Grad der Achtung, der dem Vornehmeren gebührt, ja nicht verfehlt würde."

nity is lacking. Apparently, this social type of dignity is not identical to the inner dignity of texts [3]-[10]. At least here, Kant is defending a contingency reading.

It seems not so easy to characterize the Kantian model of inner and absolute dignity (the ‘dignity of humanity’ by contrast with ‘human dignity’) in terms of the dichotomy between absoluteness and contingency reading. The most difficult aspect is that Kant believes, as the ample evidence of section 2 has shown, that full inner dignity must always be actively constituted by the agent himself or herself. *If* someone completely follows that which Kant takes as duties towards oneself, *then* he or she gets in fact absolute value—a value that cannot be lost by any external misfortune or damage. If someone is morally defective, then we have to do with an insufficient bearer of dignity. Given that someone commits serious crimes, the wrongdoer loses his or her dignity completely or almost completely. Contingency is therefore certainly an inadequate term to describe Kant’s idea of how someone possesses dignity. It is up to us how much dignity we actually have. There seems to be a minimal degree of dignity even for the criminal, but Kant does not spell that out. By contrast with our modern discourse on dignity, Kant, as we saw, does not use the term in the context of human rights. And he is not discussing dignity from the standpoint of human beings who are needy, vulnerable, and endangered.

From these observations it follows, firstly, that it is not the *mere moral capacity* of human beings which suffices for ascribing human dignity to them. The simple fact that all members of the human family are *potentially moral* is insufficient for Kant. One wonders why Kant does not say so much about a second chance to regain moral worth after having lost it partially or completely.

Concerning the second point, Kant discusses the topic of someone’s loss of dignity again in the *Doctrine of Virtue*, §§ 37–39, under the heading of ‘duties toward other human beings arising from the respect due to them’. In § 37, he restates his idea of dignity from the *Groundwork* (texts [3] and [4]): the respect (*Achtung*) that we owe one another implies the recognition (*Anerkennung*) of someone’s dignity which is “a worth that has no prize no equivalent for which the object evaluated (*aestimii*) could be exchanged” (*TL* 6:462). Dignity is here again characterized as an absolute value which has no equivalent in the sphere of our (hedonic) evaluation of objects. In § 38, we find again a description of humanity (*Menschheit*) in terms of dignity: Kant here reformulates the humanity formula of the Categorical Imperative on the basis of dignity. Due to his or her dignity, a human being “cannot be used merely as a means by any human being (either by others or even by himself) but must always be used at the same time as an end” (*TL* 6:462). Everybody has the duty to acknowledge the dig-

nity of humanity of every other human being. In § 39, Kant emphasizes that even a morally bad person deserves some elementary respect (*TL* 6:463):²¹

[13] Nonetheless I cannot deny all respect to even a vicious man as a human being; I cannot withdraw at least the respect that belongs to him in his quality as a human being, even though by his deeds he makes himself unworthy of it. So there can be disgraceful punishments that dishonor humanity itself (such as quartering a man, having him torn by dogs, cutting off his nose and ears). Not only are such punishments more painful than loss of possessions and life to one who loves honor (who claims the respect of others, as everyone must); they also make a spectator blush with shame at belonging to a species that can be treated that way.

Quotation [13] sheds some light on the difficult passages from the *Doctrine of Right* (texts [1] and [2]). It provides an answer to the question which punishments Kant considered as appropriate and which he saw as unacceptable. Kant somewhat explicitly claims that we must not consider someone as absolutely bad since nobody can completely lose his or her capacity for moral action. There is even a little element of a potentiality theory in the text (*TL* 463–464):²²

[14] The same thing applies to the censure of vice, which must never break out into complete contempt and denial of any moral worth to a vicious human being; for on this supposition he could never be improved, and this not consistent with the idea of a *human being*, who as such (as a moral being) can never lose entirely his predisposition to the good.

A further point of some importance is that Kant does not only regard moral misbehavior as a possible danger for the dignity of humanity. Among the duties to-

21 “Nichts desto weniger kann ich selbst dem Lasterhaften als Menschen nicht alle Achtung versagen, die ihm wenigstens in der Qualität eines Menschen nicht entzogen werden kann; ob er zwar durch seine That sich derselben unwürdig macht. So kann es schimpfliche, die Menschheit selbst entehrende Strafen geben (wie das Viertheilen, von Hunden zerreißen lassen, Nasen und Ohren abschneiden), die nicht blos dem Ehrliebenden (der auf Achtung Anderer Anspruch macht, was ein jeder thun muß) schmerzhafter sind, als der Verlust der Güter und des Lebens, sondern auch dem Zuschauer Schamröthe abjagen, zu einer Gattung zu gehören, mit der man so verfahren darf.”

22 “Eben so ist es auch mit dem Vorwurf des Lasters bewandt, welcher nie zur völligen Verachtung und Absprechung alles moralischen Werths des Lasterhaften ausschlagen muß: weil er nach dieser Hypothese auch nie gebessert werden könnte; welches mit der Idee des Menschen, der als solcher (als moralisches Wesen) nie alle Anlagen zum Guten einbüßen kann, unvereinbar ist.”

wards oneself he also counts in his wirings on pedagogy we read about the duties towards oneself (*PD* 4:488):²³

[15] These do not consist in purchasing magnificent clothing, organizing splendid meals etc. although everything must be clean; not in satisfying one's desires and inclinations, for, on the contrary, one must be very moderate and abstinent; but, that man inwardly has a certain dignity which gentles him before all creatures, and his duty is not to deny this dignity of humanity in his own person.

As the last quotation shows, Kant's description of a dignity in terms of modesty and self-limitation is not so far away from what Cicero famously says in the *De officiis*. Dignity is about the realization of one's intelligible nature.

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23 "Diese bestehen nicht darin, da man sich eine herrliche Kleidung anschaffe, prächtige Mahlzeiten halte usw., obgleich Alles reinlich sein muß; nicht darin, daß man seine Begierden und Neigungen zu befriedigen suche, denn man muß im Gegentheile sehr mäßig und enthaltsam sein; sondern, daß der Mensch in seinem Innern eine gewisse Würde habe, die ihn vor allen Geschöpfen adelt, und seine Pflicht ist es, diese Würde der Menschheit in seiner eignen Person nicht zu verleugnen."

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Dieter Birnbacher

From Würde to Würde der Kreatur

Dignity in nature ethics and its Kantian roots

Abstract: The contribution starts by arguing that Kant's concept of dignity is complex and multi-faceted and contains at least three interdependent aspects: an *axiological* aspect, an *ontological* aspect, and an aspect of *transcendence*. Of these, the axiological aspect is the prominent one, but has its roots in ontology and, ultimately, in transcendence. It then proceeds to an examination of the various Post-Kantian attempts to transfer the Kantian concept of dignity to non-human entities, with special reference to the attempts of Kantians such as Leonard Nelson, Tom Regan and Christine Korsgaard to ascribe dignity (or its equivalents) to non-human animals. It is argued that these extensions can be interpreted, on the one hand, as an impoverishment of the Kantian concept of dignity, as well as, on the other, as a plausible criticism of the rigidity of Kant's ethical anthropocentrism.

1 Kant's concept of dignity

Kant's concept of dignity, as many fundamental concepts of Kant's philosophy, is complex, multi-faceted and multi-layered. It seems that it contains in itself at least three aspects: an *axiological* aspect, an *ontological* aspect, and an aspect of *transcendence*. These aspects stand in a relation of rational dependence. The axiological aspect is the prominent one, but it has its roots in ontology and, ultimately, in transcendence. According to the *ratio cognoscendi*, the value aspect has priority: dignity is, primarily, a special kind of value. Whenever Kant mentions *Würde*, he mostly refers to it as a value of an exceptional rank. The basis of this value, however, is rooted in Kant's metaphysical construction of the special status of rational man as a member of the realm of the thing in itself. According to the *ratio essendi*, priority belongs to the transcendent nature of its origin. Without this origin, it would, on Kant's premises, not be able to claim the special status it has in moral thinking and the special role it plays in the moral life of the individual and society. What manifests itself as dignity in the empirical world, has its source in the particular kind of existence exemplified by the existence of moral rationality in the empirical world (this is the ontological aspect of dignity), and, ultimately, in the transcendent reality of the *Ding an sich*. Only this transcendent origin can explain why dignity is, for

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Kant, an absolute value (if not even a value *sui generis*) set apart from all other values, or why, to iterate the dignity relation, it has, among values, the special dignity Kant's moral philosophy ascribes to dignity.

That dignity has an *axiological* dimension is a common assumption of all concepts of dignity and in no way a unique feature of Kantian dignity. In German, *Würde* is even linguistically a derivation of *Wert*, value. Obviously, respecting or honouring the dignity of someone or something means respecting or honouring the eminent value of the respective person or thing. "Eminence" refers to the distinction, inherent in the concept, between dignity and other kinds or degrees of value. Dignity is a contrasting concept. It sets apart what is dignified from what is not valued in the same way or to the same degree. Dignity necessarily is a privilege not shared by everyone or everything. This contrasting sense is even preserved if, as the UN Declaration of Human Rights does, a manifesto ascribes dignity to all members of the human species irrespective of merit and capacity, thus distinguishing sharply between members of humankind and members of other natural kinds. At the same time, the privileging function of dignity requires that dignity, on whatever properties it is based, goes together not only with a high degree of value but, in a hierarchy of values, with the highest or one of the highest ranks. In a lexicographic ordering of values, dignity necessarily comes somewhere at the top of the list.

Taken as a value concept, these general characteristics are further specified by Kant in two ways that have become something like the hallmarks of his moral philosophy: the *absoluteness* of dignity and the fact that there is, in this philosophy, *only one legitimate bearer of dignity*, the human capacity to think rationally in moral matters, summed up by Kant under the name *Praktische Vernunft*.

As to the first characteristic, Kant makes it clear that he regards dignity not only as a higher value than all other values in the hierarchy of values, but as an absolute value that takes precedence over all other values in all possible contexts. That means that whenever dignity is at stake, respecting dignity is obligatory no matter how many of the values down the ladder have to be sacrificed. In the *Grundlegung*, this privileged position is expressed by Kant by his well-known distinction between *Preis* and *Würde*:

Im Reich der Zwecke hat alles entweder einen *Preis*, oder eine *Würde*. Was einen Preis hat, an dessen Stelle kann auch etwas anderes als *Äquivalent* gesetzt werden; was dagegen über allen Preis erhaben ist, mithin kein *Äquivalent* verstatet, das hat eine *Würde*. (*GMS* 4:434)

Dignity admits of no equivalent because other kinds of value cannot even cumulatively equal the absolute value of dignity. Kant sometimes even goes so far as to say that the value of dignity is "incomparable":

Die Gesetzgebung selbst aber, die allen Wert bestimmt, muss eben darum eine Würde, d. i. unbedingten, unvergleichbaren Wert, haben, für welchen das Wort Achtung allein den geziemenden Ausdruck der Schätzung abgibt, die ein vernünftiges Wesen über sie anzustellen hat (*GMS* 4:436),

thereby suggesting that dignity is a value of a different *kind*, incommensurable with other kinds of value. This way of putting it invites the criticism (e.g. by Schopenhauer) that Kant cannot, on the price of consistency, uphold both the thesis that dignity is “incomparable” with other kinds of value, and the thesis that dignity is the highest value, after all, the superlative “highest” necessarily implies commensurability. But of course, “unvergleichlich” can be given an alternative interpretation that saves the consistency of Kant’s hierarchy, namely as an emphatic assertion of the peculiar rank of dignity. “Incomparability”, thus understood, does not imply incommensurability, but, in conformity with common German usage, rhetorically reaffirms the exceptionally high position of dignity in the order of values.

As to the second distinguishing mark of Kant’s concept of dignity, it is not so easy to elucidate Kant’s meaning. He indifferently assigns dignity to items which at first sight seem quite diverse, however closely they may be related in Kant’s moral philosophy: to *practical reason* as a specifically human capacity, to *man* as far as he possesses this capacity, and to the *moral law* as the central content of moral rationality. This is a complex of entities rather than one single item.

But Kant obviously thinks of dignity in what may be called a synecdochal manner. Practical reason understood as moral reason, man as a being capable of moral rationality, and the Categorical Imperative as the central principle of morality constitute one complex whole. The bearer of dignity is the complex in which all three aspects have a part. All three aspects, as it were, participate in the dignity of the whole, in analogy to the three *personae* that, according to the Christian doctrine of trinity, participate in the divine nature. This analogy, by the way, sheds light on the quasi-theological role the trinity of practical reason, man and moral law assumes in Kant’s scheme of things as a substitute for the Christian God.

Second, dignity, for Kant, has an *ontological* aspect. It is rooted in the very being of whatever it is that has dignity. There are at least two kinds of phrasing by which Kant makes this clear. First he sometimes paraphrases dignity as an absolute “inner value”, as in the following quotation from the *Metaphysics of Morals*:

Allein der Mensch als Person betrachtet, d. i. als Subjekt einer moralisch-praktischen Vernunft, ist über allen Preis erhaben; denn als ein solcher (*homo noumenon*) ist er nicht bloss als Mittel zu Anderer ihren, ja selbst seinen eigenen Zwecken, sondern als Zweck

an sich selbst zu schätzen, d. i. besitzt eine *Würde* (einen absoluten innern Werth), wodurch er allen andern vernünftigen Weltwesen *Achtung* für ihn abnöthigt, sich mit jedem Anderen dieser Art messen und auf den Fuß der Gleichheit schätzen kann. (*TL* 6:435)

“Inner” in this context can be taken to express two properties that are easily confused: that the value is intrinsic and that it is inherent. It is *intrinsic* as far as the value is not conferred on the valuable thing by its consequences or circumstances, such as its utility for others or its historical genesis. It is *inherent* as far as the value is objective. It is not the result of the recognition or ascription by human or other valuers but originates from whatever is valued itself. Another way to describe inherence is that the valuable thing would be no less valuable if it were not valued by anyone. Far from being the source of the value of the valued thing, the attitude of reverence (*Achtung*) due to the thing is the proper and adequate reaction to what is there independently. Part of the explanation why these two meanings of what it is to be an “inner value” are easily confused is the fact that both are often expressed by the same linguistic means, in German, for example, by “an sich” (“in itself”), as in Kant’s neologistic phrase “Zweck an sich”, which covers both meanings.

That Kant is keen to give dignity an ontological foundation, i.e. to find its roots in the very being of practical reason as a human capacity is further shown by the way he describes the relation of practical reason to the empirical nature of man. He repeatedly combines the characterization of man as a being capable of practical reason with a reference to existence, thus stressing that practical reason is an essential property of man, inseparable from his specific mode of existence:

Der Mensch und überhaupt jedes vernünftige Wesen, *existirt* als Zweck an sich selbst nicht bloss als Mittel zum beliebigen Gebrauche für diesen oder jenen Willen, sondern muss in allen seinen, sowohl auf sich selbst, als auch auf andere vernünftige Wesen gerichteten Handlungen jederzeit zugleich als Zweck betrachtet werden. (*GMS* 4:428)

This wording, again, has an air of paradox in that it constructs a link between existence and norm, between the realm of the descriptive and the realm of the prescriptive. However this may be, Kant’s intention is clear to anchor the moral law in the very nature of man. This presumed tie between Is and Ought is reaffirmed by quite a number of passages in the *Grundlegung*, such as:

Der Grund dieses Prinzips [des Kategorischen Imperativs] ist: die vernünftige Natur existirt als Zweck an sich selbst. (*GMS* 4:429),

or

Und was ist es denn nun, was die sittlich gute Gesinnung oder die Tugend berechtigt, so hohe Ansprüche zu machen? Es ist nichts Geringeres, als der Antheil, den sie dem vernünftigen Wesen an der allgemeinen Gesetzgebung verschafft, und es hierdurch zum Gliede in einem möglichen Reiche der Zwecke tauglich macht, wozu es *durch seine eigene Natur schon bestimmt* war, als Zweck an sich selbst... (GMS 4:435, emphasis added)

The “nature” or essence of man that not only enables him to think and act as a moral being, but, according to Kant, even “determines” him, i.e. requires him to do so, is, of course not the empirical nature of man, the subject matter of empirical anthropology, but an idealization:

Was [...] aus der besondern Naturanlage der Menschheit, was aus gewissen Gefühlen und Hange, ja sogar wo möglich aus einer besonderen Richtung, die der menschlichen Vernunft eigen wäre und nicht notwendig für den Willen eines jeden vernünftigen Wesens gelten müßte, abgeleitet wird, das kann zwar eine Maxime für uns, aber kein Gesetz abgeben, ein subjektiv Prinzip, nach welchem wir handeln zu dürfen Hang und Neigung haben, aber nicht ein Objektives, nach welchem wir angewiesen waren zu handeln, wenn gleich aller unser Hang, Neigung und Natureinrichtung dawider wäre, sogar, dass es um desto mehr die Erhabenheit und innere Würde des Gebots in einer Pflicht beweiset, je weniger die subjektiven Ursachen dafür, je mehr sie dagegen sind, ohne doch deswegen die Nötigung durchs Gesetz nur im mindesten zu schwächen und seiner Gültigkeit etwas zu benehmen. (GMS 4:425)

The ontological aspect of Kantian dignity is closely bound up with its *egalitarianism*. Dignity is a universal human property. It attaches to practical, i.e. moral rationality as a universal human potential and not to individual character. Taken by itself, it has no degrees but is present in all humans in its entirety. Its basis is neither social (office or rank) nor biological (species). Indeed, it is based not on any demonstrable empirical trait but on the fact—which Kant takes to be a fact—that all human beings, as potentially rational beings, participate equally in the transcendent world. Kant is, in this respect, an anthropological essentialist. The generic essence of man is unfalsifiable by empirical differences. In virtue of his rationality, man partakes of a “higher” world and reaches into the realm of the *Ding an sich*. Only this transcendent nature of man explains why man, among all beings, possesses a dignity of which all other natural beings are deprived. Man is, according to Kant, essentially an inhabitant of the transcendent world, of which all other natural beings are essentially excluded. Since dignity depends on transcendent origin, dignity is, among natural beings, an exclusively human distinction, with morality as the crucial capacity:

Nun ist Moralität die Bedingung, unter der allein ein vernünftiges Wesen Zweck an sich selbst sein kann, weil nur durch sie es möglich ist, ein gesetzgebend Glied im Reiche der

Zwecke zu sein. Also ist Sittlichkeit und die Menschheit, so fern sie derselben fähig ist, dasjenige, was allein Würde hat. (GMS 4:435)

For what follows it is important to keep in mind this quasi-theological function dignity assumes in Kant's philosophy. "Dignity" in Kant is the link between traditional theological attempts to anchor morality in the special relation man has as a communication partner (mainly passive) of a transcendent God and purely secular theories. In Kant, the light coming from transcendence has become, as Nietzsche expressed it, "pale" (Nietzsche 1980, 80). But the holy is still there, only brought down to earth by reducing it to the good will. God is no longer relevant for morality but there is still an object of veneration: the holy in man's metaphysical constitution and the holiness of the moral law in the famous invocation that concludes the second Critique (cf. *KrV* 5:161), a holiness that, as Kant's language subtly suggests, has become a residual "Als-ob"-holiness:

Diese Schätzung gibt also den Wert einer solchen Denkungsart als Würde zu erkennen und setzt sie über allen Preis unendlich weg, mit dem sie gar nicht in Anschlag und Vergleichung gebracht werden kann, ohne sich gleichsam an der Heiligkeit derselben zu vergreifen. (GMS 4:435)

2 Dignity of nature?

Again and again, and from different perspectives, Kant comes back to his central idea that man in virtue of being endowed with practical reason has a special status in the realm of nature which lies at the root of what, in moral philosophy, establishes his peculiar dignity and the absolute necessity to respect this dignity. Dignity, however, has its ultimate root in the metaphysical exclusiveness of man as part of the intelligible world, an analogue and reflection of the exclusiveness of man's relationship to God in traditional Christian theology. From this, it seems a long, and ultimately impossible way to argue, as Christine Korsgaard does, that the subhuman world, in the form of sentient non-human animals, can be counted among the entities to which human beings owe respect. In her Tanner Lecture *Fellow Creatures: Kantian Ethics and Our Duties to Animals* (Korsgaard 2004) Korsgaard argues for an interpretation of Kant's moral philosophy (without, however using the concept of dignity) that includes animals in the horizon of respect:

Human beings, for Kant, are not distinguished from the other animals by being in connection with some sort of transcendental, rational order beyond nature with which the other animals have nothing to do. Instead we are distinguished by our ability to construct a tran-

scendental, rational order out of the essential love of life and the goods of life that we share with the other animals. (Korsgaard 2004, 33)

This is a puzzling statement. Subhuman nature, including sentient non-human animals, fails to meet Kant's ambitious criteria for forming part of the moral world. If there is value in animals or plants or nature at large, this value fails to meet the strong criteria Kant postulates for dignity. This value is neither absolute nor inherent and it is not based on any ontological relation to transcendent reality. Differently from rational man, animals and other subhuman natural entities belong to the world of phenomena; their value, if they have value, is not based on their being or essence but on the relations in which they stand to human beings (Kant's favourite examples are domestic animals); and this value is never so high in the hierarchy of values that it overrides all other values.

The conclusion Kant draws from these deficiencies is that nature cannot be the object of direct moral obligation. Only persons can be direct objects of human duties because only they are inherently valuable. Even sentient animals, however intelligent, cannot be counted among persons because they do not partake of the intelligible world of the *Ding an sich*. For Kant, this implies that obligations to animals can only be indirect. They are not owed to them, and they are non-absolute but must be negotiated with other obligations, particularly with direct obligation against fellow humans. The curious result is that Kant constructs a *unctim* between the capacity to act on moral principles and the capacity to be a direct object of moral concern. Man is not only the only subject but also the only (direct) object of morality. He is, as Kant phrases it, not only the only "active" but also the only "passive" relatum in moral relations:

Nach der bloßen Vernunft zu urteilen hat der Mensch sonst keine Pflicht, als bloß gegen den Menschen (sich selbst oder einen anderen); denn seine Pflicht gegen irgend ein Subjekt ist die moralische Nötigung durch dieses seinen Willen. Das nütigende (verpflichtende) Subjekt muß also *erstlich* eine Person sein, *zweitens* muß diese Person als Gegenstand der Erfahrung gegeben sein; weil der Mensch auf den Zweck ihres Willens hinwirken soll, welches nur in dem Verhältnisse zweier existierender Wesen zu einander geschehen kann (denn ein bloßes Gedankending kann nicht *Ursache* von irgend einem Erfolg nach Zwecken werden). Nun kennen wir aber, mit aller unserer Erfahrung, kein anderes Wesen, was der Verpflichtung (der aktiven oder passiven) fähig wäre, als bloß den Menschen. Also kann der Mensch sonst keine Pflicht gegen irgend ein Wesen haben, als bloß gegen den Menschen, und, stellt er sich gleichwohl eine solche zu haben vor, so geschieht dieses durch eine *Amphibolie der Reflexionsbegriffe* und seine vermeinte Pflicht gegen andere Wesen ist bloß Pflicht gegen sich selbst; zu welchem Mißverstände er dadurch verleitet wird, daß er seine Pflicht in *Ansehung* anderer Wesen für Pflicht gegen diese Wesen verwechselt. (TL 6:442ff.)

For Kant dignity is inextricably bound to a rather rigid distinction between man and the rest of the natural world—dignity is a “prerogative” not shared by “all mere natural beings” (*GMS* 4:438) –, and this distinction is maintained in the extensive use that has been made, following Kant, of the concept of *Menschenwürde* in a rapidly growing number of declarations, constitutions and international treaties.

It must not be overlooked, however, that the career of the concept of dignity has gone far beyond the sphere of Kantian moral and political philosophy and has been taken over by a great diversity of moral philosophies that construct the concept in a way that is far from, and sometimes in direct opposition to the applications Kant had in mind. In fact, the main field of application of the concept in a non-human context has been in “biocentric” approaches to the ethics of nature that start from a more or less wholesale rejection of “anthropocentric” or, as it is sometimes expressed, “humanistic” traditions that restrict the direct objects of morality to the human sphere.

There are two avenues by which the concept of dignity came to be applied to parts or to the whole of the subhuman world in the history of the ethics of nature. One may be called “sentimental”, the other “legal”. Ascriptions of dignity to parts or to the whole of nature of the first kind are primarily based on *emotional* relations to nature in the tradition of romanticism. Dignity is ascribed to nature in virtue of its grandeur, its sublimity or its ultimate inscrutability. Ascriptions of dignity to nature as a whole or to natural individuals or collectives on this line have been frequent at the very beginning of the rise of ecological approaches in moral philosophy (cf. Künzli 1971, 93, Gruhl 1977, 109 or, with respect to animals, Lorz 1979, 79), sometimes with religious overtones but more often in a purely secular context.

The “legal” approach starts from the consideration that not only humans but also some non-human entities have moral *rights*, which implies that humans have strong moral duties towards these entities. The model is, in this case, the concept of human rights that has become by now a well-established reference point for normative debates in political philosophy. The culmination point of the application of dignity to nature on this line is the introduction of the concept of *Würde der Kreatur* into the Swiss federal constitution in 1992, preceded by relevant proposals by, among others, the Swiss legal scholars Saladin and Leimbacher (Saladin/Leimbacher 1986, 205). Whereas with Saladin and Leimbacher the ascription of dignity to natural entities was closely connected with the postulate that natural entities should be given legal standing so that representatives are enabled to initiate legal proceedings on their behalf, the concept of the “dignity of creatures” (i. e. subhuman living nature) is more open to interpretation

and not inherently tied to legal issues (cf. Balzer/Rippe/Schaber 1999, Baranzke 2002).

On the whole, it can be said that ecological philosophy has demonstrated the fruitfulness of extending the concept of dignity to the natural world. Obviously, the concept hits on something that is present in widespread intuitions of natural value: the feeling that nature and evolution are a proper object of wonder and awe, that nature as a whole has God-like qualities and that nature, or certain parts of it, are more deserving of protection than can be justified on the basis of a purely anthropocentric ethic. Seen from this perspective it is far from surprising that a substantial portion of nature ethics has given dignity a place in their conceptions of natural value and the rights of nature. It is even less of a surprise that all conceptions of dignity in nature that have been proposed take up two or three of the aspects of dignity mentioned above, even though they combine them in different ways and assign them different weights.

This holds, first, for the *axiological* aspect. Dignity, in all conceptions that appeal to it explicitly or implicitly, is either of supreme or at least of very high value. An ethic of nature that accords it supreme value is Albert Schweitzer's seminal ethic of reverence of life. In this case, the object of reverence or respect is life (Schweitzer 2003) in all its various forms: plants, animals, and human beings as far as they are conceived as part of the living world. Schweitzer's ethic is, in many respects, an analogue of Kantian transcendentalism. While Kant postulates rational morality as the only bearer of supreme value and the only proper object of respect, Schweitzer postulates life as the only bearer of supreme value and the only proper object of reverence. In Schweitzer's ethic, life is made something as holy and sacrosanct as morality is in Kant's moral philosophy. The consequence is that both Kant and Schweitzer are, in a way, ethical rigorists. With Kant, the moral potential of man must not be destroyed but preserved at all costs (see his verdicts on suicide and self-mutilation); for Schweitzer, life must not be destroyed, it must be preserved at all costs (even in plants) and it even must as far as possible be multiplied (see Schweitzer 1986, 60).

In another prominent text in the ethics of nature, Paul W. Taylor's *Ethics of Respect for Nature* (Taylor 1981), it is again life in all its diverse forms that is made the object of respect. Taylor does not use the concept of dignity but he, as Schweitzer, views the living world as an object not only of love or admiration but as an object of genuine respect. Living things have "inherent worth" as members of the community of living beings (Taylor 1981, 199; Taylor 1986, 71). Taylor goes even so far as to anthromorphize living beings to such an extent as to ascribe to living beings a "right to compensation" in case of destruction or violation. Humans are, according to this theory, under an obligation to practice restitutive justice towards the living world and to compensate living beings for

any harm done to them for anthropocentric reasons (cf. Taylor 1986, 183f.). However, the respect due to the living world is no longer absolute. Taylor's biocentrism is much less rigorist than Schweitzer's—as all recent theories of the dignity of natural objects (see, for example, Siegetsleitner 2016, 87; Gorke 2000, 111ff.). The dignity of nature or natural objects is throughout conceived as negotiable with other goods, particularly human dignity. The obligations following from the principle of respect for nature have to be balanced against the principles of respect for man. In this way, Taylor's ethics of nature is more Kantian in content than Schweitzer's and does not sacrifice human goods as generously to the goods of the subhuman natural world as Schweitzer's ethic of reverence of life does, at least in theory.

Two other features of dignity that are remarkably constant in all theories of natural dignity is the ontological insistence on the pre-existence and the egalitarian nature of natural dignity. *Pre-existence* means that only natural beings living in the wild are honoured with dignity and held to be worthy of preservation. Behind dignity there lurks a normative concept of “genetic naturalness” (Birnbacher 2014, 7ff.) that marks off what has been generated by natural pathways independently of human intervention. It is not by chance that the concept of *Würde der Kreatur* that has become part of the Swiss federal constitution originated in the context of the debate on the genetic modification of animals for biomedical experimentation. “Dignity”, in this context, functions as a polemic concept with a conservative background. It is used to militate against what appears to be an excessive self-empowerment of man over what is given in nature. In consequence, only “natural”, non-modified mice are protected by this kind of dignity, not genetically modified mice (though these, as animals designed for experimentation, are presumably more in need of protection). Similarly, only the wild variants of plants are protected by the *Würde der Kreatur*-principle, not the overbred variants in kitchen gardens and parks. Animals and plants are not protected simply as manifestations of life, but as manifestations of life in its “natural” form, in their “pre-existent manner of existence” (cf. Kunzmann 2013, 340f.), as “creatures” in the original, pristine form. In this way *Würde der Kreatur* is a concept calling into question large portions of the biotechnology familiar from our modern life-world: breeding of plants and animals for human purposes, food technology, modern agriculture, even landscape gardening on aesthetic principles.

It seems that the philosophical precursors of the introduction of the *Würde der Kreatur*-principle into the legal context paved the way to this specifically conservative tendency. Many of them have given special credit to the members of wild as opposed to domesticated and artificially bred species. Taylor, at least, postulates a principle that wild living plants and animals should be left alone

unless their exploitation is necessary for the satisfaction of basic human needs (cf. Taylor 1981, 201). On the other hand, the distinction between wild and domesticated plants and animals seems to come into conflict with their *egalitarianism*, this being another feature of ecological interpretations of natural dignity that make them, again, a continuation of traditional accounts of human dignity. Indeed, one of the most disturbing features of Schweitzer's ethic is that Schweitzer is not prepared to admit a grading of the dignity or holiness of living beings according to their ontological status, place in the order of nature, or origin. All living beings are likewise sacrosanct and exactly to the same degree. Even the most highly developed animals should not be given priority over the least of bacteria. The same holds for Taylor's Ethics of the Respect for Nature which postulates that all living things should count equally. Though he recognizes that there are great differences between the capacities of members of different natural species he insists that no species should be held to be "higher" in point of inherent worth than another (Taylor 1981, 217; Taylor 1986, 148) Morality requires that, in his dealings with nature, man is as impartial between natural species as he is to be impartial between humans in his dealings with other humans.

Finally, the third aspect of dignity, the aspect of *transcendence*, is likewise present in many conceptions of natural dignity though it is often left implicit or is suggested by the religious overtones of linguistic expressions like "Würde der Kreatur" (Swiss federal constitution). "Mitgeschöpf" (German Animal Protection Law § 1) or "geschöpfliche Würde" (see the references in Teutsch 1987, 69f. and Baranzke 2002, 42). The idea that nature as a whole is something majestic and even "holy" is by no means far-fetched and seems to have a reliable basis in the spontaneous wonderment about the pure existence of the world and our place in natural evolution (cf. Ashby 1980, 28). In fact, there are obvious analogies between the process of natural evolution and the traditional concept of God: We as humans derive from this process; we are part of it; everything we have we owe to it; and human life depends on its persistence. Mankind is embedded, spatially and temporally, in the cosmic process.

The theory with the most explicit reference to a transcendent origin of natural dignity is no doubt Schweitzer's ethic of the reverence for life. However, these references are not without a certain ambiguity. On the one hand, Schweitzer characterizes life and the living world as a "mystery" that should be protected from human curiosity. The wish to penetrate this mystery, by means of science and technology, is rejected as an act of frivolous hubris. The only adequate attitude to living nature should be an attitude of mystical devotion by which the principle of life within man unites with the principle of life in subhuman nature in a kind of mystic union. On the other hand, it is not clear, from Schweitzer's words, whether he thinks of this union between man and nature as a union

with something truly transcendent. It seems that what is singled out by Schweitzer as an object of reverence is the experience of this union itself rather than something that qualifies as an object beyond human experience, such as the objective existence of living things in nature or a transcendent God. Nevertheless, Schweitzer's ethic is the most explicit in laying open the transcendent, and ultimately religious, overtones in the ascription of dignity to nature.

3 Kantians on the dignity of animals: Leonard Nelson, Tom Regan, Christine Korsgaard

Honouring nature, or parts of nature, with dignity, is rooted, as was stated above, in two different or even opposed attitudes to nature: a sentimental one for which nature is primarily an object of feeling, such as in Schweitzer's ethic of the reverence for life, or else a legal and more rational one for which it is unjust to deprive nature, or certain parts of nature, of some of the rights that go together with the ascription of dignity to humans. The differences between these approaches to dignity in nature seem to go together with corresponding differences in the kinds of beings to which dignity is ascribed. Ascriptions of dignity on the sentimental line focus primarily on holistic objects like nature, the living world, or the overarching process of natural evolution; ascriptions on the legal line focus on individual natural beings in the phylogenetic vicinity of humankind such as higher non-human animals, primates or apes.

Leonard Nelson is presumably the only Kantian philosopher who was single-headed enough to extend a specifically Kantian concept of dignity to animals in general, making him one of the founding fathers of ethical vegetarianism. Nelson's moral philosophy is strictly Kantian in its formal aspects. He regards it as self-evident that moral principles hold in strict universality and must be validated from a standpoint of impartiality. Nelson however, blends Kantian metaethics with utilitarian normative ethics in a way that makes his philosophy appear a rigid formulation of an impartial-observer-theory in the manner of Adam Smith's. Moral norms should be defensible from the standpoint of an impartial spectator, who sees to it that the interests of all subjects directly or indirectly affected by the norm are optimally fulfilled. Since a norm that fulfils the interests of one of the affected subjects can be at odds with the interests of others, the judgement which kinds of action should be seen as obligatory, forbidden, or permissible depends on weighing these potentially conflicting interests. In this connection Nelson anticipates several procedures of reaching a truly impartial judgement that have become better known through the work of later au-

thors such as C. I. Lewis' model of successive identification (Nelson 1970, 136; Lewis 1971, 547) and Richard M. Hare's model of hypothetical identification (Hare 1963, ch. 6; Nelson 1970, 137). For Nelson, as for most modern moral philosophers, morality is not degraded by being treated, not as an end in itself, but as a means for the satisfaction of interests.

For Nelson, the only bearers of dignity outside the human world are animals. According to his rather coarse-grained ontology, all animals have interests, so that, since obligations exist only towards entities with interests, all animals are direct object of human obligations. All animals are, in Tom Regan's terminology, "moral patients". One consequence from this is, in Nelson's theory, that animals must not be killed. Nelson is one the first philosophers to formulate a principle of "equal consideration of interests" familiar from Peter Singer's animal ethics. By having interests in a weak sense of the term (that does not imply that interests can be made the object of reflection), animals, according to Nelson, are full-blown subjects not only of rights but, at the same time, of personhood (cf. Nelson 1970, 115) and dignity, Nelson 1972, 132). In appealing to the pathos-laden expression "dignity", Nelson adds emphasis to his general point that the interests of animals deserve to be respected to exactly the same degree as the interests of humans. At the same time, in comparison with Kant's use of "dignity", the content of Nelson's notion is heavily reduced. It has become a purely moral notion devoid of any ontological and metaphysical overtones. At the same time, this notion is associated with a principle which is not to the same degree present in Kant's use of the term, namely an unconditional right to life. By being honoured with dignity, animals, in Nelson's ethics, are accorded the same status that Schweitzer's ethics of the reverence of life accords to all living beings.

Many of Nelson's views on the dignity of animals have been recapitulated in Tom Regan's widely acclaimed conception of animal rights (Regan 1983). Regan, however, puts more weight on the moral limits of "instrumentalizing" animals than Nelson, for whom the moral verdict on killing animals was paramount. In Regan's animal ethics, the prohibition of killing animals for human use is a consequence of the verdict on reducing them to a mere means rather than a fundamental principle of its own. This is not the only difference. An important difference for all practical purposes is that "inherent value", as Regan rephrases dignity (mimicking Kant's expression "innere Würde"), implies a significantly weaker protection than Nelson's "dignity". "Inherent worth" is postulated not for all animals but only for animals who can be looked upon as "subjects of a life", though Regan does not exclude that it applies to other animals, too. Being a "subject of a life" is taken to be only a sufficient and not a necessary condition for having inherent value.

The most recent attempt to extend the Kantian concept of dignity (or its derivatives) to the natural world is Christine Korsgaard's extension of the Kantian category of being an end-in-itself to sentient animals (see Korsgaard 2004, Korsgaard 2012, Korsgaard 2018). This conception makes a further step in weakening the content of Kantian dignity beyond Regan's concept of "inherent value". It considerably softens Regan's radical abolitionism, thus making it more easily compatible with moral common sense. Though thinking of sentient animals as ends-in-themselves, Korsgaard consistently refrains from postulating for them personhood or the possession, as in Nelson's theory, of strong moral rights. She insists, though, that non-human animals should be protected from human-induced harm by legal rules: "We should concede the moral claims of the other animals, and protect those claims as a matter of legal right" (Korsgaard 2012, 26).

4 Conclusion

The fact that the concept of dignity has been considerably watered down in the course of its Postkantian application to nature and to subhuman natural entities can be interpreted as one of many symptoms of a tendency in modern ethics to dissolve the traditional links between normative ethics on the one hand and ontology and metaphysics on the other. Of the three aspects of Kantian dignity, it seems, only the valuational aspect has survived, the aspect of a supreme value and the priority or near-priority of dignity in a hierarchy of values. Neither the absoluteness nor the metaphysical foundation characteristic of Kantian dignity has proved the test of time. On the contrary, even the concept of *human* dignity which is much closer in content to the Kantian concept has proved to be fruitful in ethics and politics only at the cost of throwing overboard many of its Kantian presuppositions. In this respect, then, there is no essential difference between the course the concept of dignity has taken in its human and its non-human applications.

The impoverishment of the Kantian concept of human dignity in its modern applications concerns three aspects. First, the absoluteness with which dignity is privileged in Kant's moral philosophy has proved to be unable to deal with cases in which dignity stands against dignity, between persons or even within one and the same person. In situations in which you can save A from being treated merely as a means only by treating B merely as a means, as in cases in which torturing B seems the only means to prevent A from being tortured, even the absolute priority of the principle of human dignity will be of limited help. Giving dignity lexicographic priority over all other values does not rule out cases in which a fur-

ther principle is needed to adjudicate which or whose dignity is to be given priority.

Second, the career of Kantian dignity in constitutions and treaties around the world would have been impossible without sacrificing the characteristically Kantian association with a metaphysics that provides access to the realm of the *Ding an sich* exclusively to humans. What makes “human dignity” particularly suited to the role of an integrative and overarching concept is that it is compatible not only with the Kantian but with a great variety of metaphysical frameworks, Stoic, Kantian, Christian and others. It is not by itself bound to any of these frameworks. As an “uninterpreted thesis”, as the first German Federal President Theodor Heuss called it, one can subscribe to it even without subscribing to any of these more ambitious theories.

Third, the radical anthropocentrism—or “autonomycentrism” (Camenzind 2018, 96)—specific to the Kantian concept of dignity has increasingly been felt to constitute one of its central weaknesses. This is documented by the various extensions the concept of dignity has been subject to, and especially with regard to the natural sphere. Paradoxically, Kant defends a radical anthropocentrism in a period of Western thought in which authors like Hume and Rousseau had already begun to call into question the exclusivity with which humans were privileged in current ethics and law. Since then, this process has been progressing, resulting in far-reaching extensions of the axiological horizon of values and moral and legal obligations. Seen on the backdrop of Kant’s admired philosophical predecessors Hume and Rousseau, the way Kant singles out man as the only bearer of inherent value and the only object of direct moral obligation seems strangely dogmatic. It is, no doubt, Kant’s greatness that he repeatedly testifies, in his writings, to the inner tension that exists in himself between his dogmatic anthropocentrism and his spontaneous sensibilities for values in subhuman nature such as the natural sublime and the well-being of domestic animals. Often it is nearly impossible not to have the impression that Kant has to hold back his own sensibilities in order not to endanger the consistency of his rationalistic metaphysics. Examples are his unambiguous condemnation of nature vandalism, of cruelty to animals and of spurious vivisections (see *TL* 6:443). In this last case, his criticism is no less harsh than that of Schopenhauer, who recognized Kant’s ambivalence in these matters (see Schopenhauer 1988, 161f., Birnbacher 2011, 203). After all, Kant vividly betrays his sensibility for animals in the sentences in which he anthropomorphizes domestic animals as companions to whom gratitude is due:

Wenn z. E. ein Hund seinem Herren sehr lange treu gedient hat, so ist das ein Analogon des Verdienstes, deswegen muss ich es belohnen und den Hund, wenn er nicht mehr dienen

kann, bis an sein Ende erhalten. [...] Je mehr man sich mit der Beobachtung der Tiere und ihrem Betragen abgibt, desto mehr liebt man die Tiere, wenn man sieht, wie sehr sie für ihre Jungen Sorge tragen. Alsdann kann man auch nicht gegen den Wolf grausam denken. Leibniz setzte das Würmchen, welches er beobachtet hatte, wieder mit dem Blatt auf den Baum, damit es nicht durch seine Schuld zu Schaden käme. Es tut dem Menschen leid, ein solches Geschöpf ohne Raison zu zerstören, als ein Spiel. (Kant 1990, 256)

There is a striking discrepancy here between Kant's recognition of value in sub-human nature and his insistence that seeming obligations towards animals are not really obligations *towards* animals but only *with regard to* animals. Kant interprets his own verdicts as aiming at nothing other than human moral excellence. If refraining from cruelty to animals is obligatory, it is such only as an exercise for keeping oneself from being cruel to fellow-humans.

In passages like these, Kant's anthropocentrism, which culminates in his concept of the exclusive dignity of human moral rationality, appears as a construct a long way away from human moral sentiment.

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Gerhard Schönrich

Kant's Theory of Dignity: A Fitting-Attitude Analysis of a Value

Abstract: Dignity is neither a natural nor supernatural property of rational beings (Simple Property View), but rather it has an underlying property: rational autonomy, nor is dignity a social status constituted by contingent acts of acknowledgement (Simple Status View), rather it is the object of fitting pro-attitudes which we necessarily adopt when we face rational autonomy.

This paper shows that Kant's theory of value is based on the moral-neutral concept of rational autonomy as a second-order ability of an agent to set ends out of free will. We differentiate between an ability, which needs not to be acquired, and performances of this ability, which have to meet abstract autonomy as a norm. This differentiation facilitates the distinction between a robust dignity bound to the end-setting ability of a rational being and a fragile dignity bound to the performances of this ability, which might not be achieved. The analysing scheme of a fitting attitude account puts us in a position to reconstruct the transcendental argument justifying Kant's strong claim: We (as rational beings) necessarily represent our own existence as an end in itself.

1 Dignity is a value—what else?

Dignity is a value. Kant often uses the term “value” or “worth” (“*Wert*”), not only in the *Groundwork* but also in his other ethical writings and in the *Critique of Judgment*. The question is not whether Kant thinks of dignity as a value. The question is which role the term “value” is playing. Does “value” figure as a constitutive term in Kant's philosophy, as I consider it to be, or rather as an auxiliary notion to vulgarise an issue difficult to understand directly? Many scholars make an argument for value as an auxiliary notion on the basis of the following passage:

What refers to general human inclinations and needs has a market price; that which, even without presupposing a need, conforms to a certain taste, i. e. to a delight in the mere purposeless play of our powers of mind, a fancy price; that however, which constitutes the condition under which alone something can be an end in itself has not merely a relative worth, i. e. a price, but an inner worth, i. e. dignity (*GMS* 4:434–435).

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The contrastive comparison to economics illustrates the special role of the term “value”: Whatever the dignity of a rational being consists in, the term refers to an absolute value, i. e. a value that does not only claim validity in one particular respect but in all respects. Kant’s use of the term “inner worth”, however, allows for several interpretations: The value is intrinsic, i. e. independent of other variables in the definition of its meaning. It is beyond compare, i. e. neither definable by “*x* is as valuable as *y*” nor by “*x* is more valuable than *y*” (cf. *GMS* 4:435–436). For this reason, Kant also wants to attribute the feature of being *fundamental* to it. So dignity is the highest value in all imaginable hierarchies. Furthermore, it shall apply *unconditionally*, i. e. in all circumstances (not identical to absolute). Most notably, this value is appreciated for its own sake, i. e. *finally* and not instrumentally. It can remain open here how these four features, absolute, fundamental, unconditional and final, interrelate, and which cross classifications are possible. In conjunction they characterise dignity as a unique value.

Many Kant-interpreters assume that only a being which is morally autonomous can hold a value like that. They base this on the thesis that autonomy is only thinkable as moral autonomy. A being that is not morally autonomous would become its affections’ puppet and would therefore be heteronomous. Kant seems to go even one step further when he defines the moral law itself as a value like that without further ado (cf. *GMS* 4:436).

The concept of value arouses suspicion because it seems to be a cognate of the Aristotelian concept enabling the conception of moral norms that are to be derived from the good. This manoeuvre would actually turn Kant’s idea of ethics upside down. This concern explains why many scholars want to disempower the concept of value since it seems to open the doors to Neo-Aristotelianism. An additional concern is how a value or the good could be identified in the context of Kant’s philosophy if not by the feeling of lust (Sensen 2011, 25), and lust would be an unreliable detector for the good. I agree with other interpreters that this equalisation of morality and autonomy is neither tenable in substance nor conceptualised this way by Kant. Because exegesis of the relevant texts is not my task here,¹ I limit myself to arguments in substance.

If dignity were attained only by subjects determining their will in a moral way, then in the final analysis, it would be the moral lawgiving itself and only the moral lawgiving which is of value. What we call “value” seems to flow out of the moral law as the only source of value (Sensen 2011, 29–31). There are two objections challenging this position:

¹ Based on exhaustive textual evidence, (Prauss 1983) was the first to develop convincing objections against the alleged identity of morality and autonomy.

1. The *objection from the impossibility to lose one's dignity*. A subject that is not morally qualified does not possess any dignity. This claim is highly problematic. Kant seems to be ambivalent: Both a slave and a criminal lose dignity; the former because he is made the mere instrument of his owner, the latter because he is made the mere instrument of the state (cf. *RL* 6:329). But contrary to these considerations Kant maintains: "I cannot deny all respect to even a vicious man as a human being; I cannot withdraw at least the respect that belongs to him in his quality as a human being, even though by his deeds he makes himself unworthy of it" (*TL* 6:463).
2. The *objection from the plurality of values*: If there were only one source of value and this source would be defined as moral lawgiving, all other values would become dependent on this source and would have to be derived from this source like, e. g. epistemic values or aesthetic values, etc. But it is simply counterintuitive that truth, knowledge or beauty might be subjected to the categorical imperative. A moral prescriptivism would have fatal consequences for a theory of values.

As a consequence of these unsolvable problems, autonomy has to be conceived in a moral-neutral way. Like epistemic or aesthetic or political autonomy, moral autonomy is a specific case of the general rational autonomy. Dignity of man has to be grounded in this rational autonomy. We certainly appreciate the moral self-determination of a person; we treat her with respect and we consequently condemn the person who does not behave morally. This, however, neither adds anything to the rational autonomy grounded in the dignity of a person in the positive case, nor does it remove anything of this dignity in the negative case. The moral condemnation and sanctioning of immoral persons does not exclude the simultaneous respect for their dignity.

The concept of rational autonomy enables taking the term "value" seriously. Before cutting deeper, let us first examine the alternatives. If not as a value, what else can we conceive of dignity? Two concepts are considered: Dignity as a (natural or super-natural) property. Or dignity as a status. Let us call the former the *Simple Property View* and the latter the *Simple Status View*. Why "simple"? As will be shown later in a fully developed conception, dignity is not simply identical with but only correlated to an underlying property (autonomy) on which it is supervening. And as a status, dignity is not simply dependent on contingent acts of acknowledging but on demanding an objective normative status.

Both conceptions are guided by strong intuitions. The Simple Property View is governed by the idea that dignity is a gift bestowed on certain beings by nature:

Dowry-Intuition: Dignity is an unalienable and preeminent feature which certain beings possess by birth.

This idea is echoed in the Universal Declaration of Human Rights (1948): “All human beings are born free and equal in dignity and rights”. A property owned by birth cannot be lost so easily, whereas a status is attributed and can easily be lost.

Please note that Kant’s conception of dignity is not limited to human beings; rather it extends to all rational beings owning the property of rational autonomy. In contrast to the leading idea of the Universal Declaration of Human Rights Kant’s conception does not support the anthropocentric idea of an innate human dignity. Because dignity is bound to a certain property it can be lost whenever the property is lost. (That means in the consequence that we can attribute dignity e. g. to people suffering from dementia, only in a derivative way. To discuss arguments bridging this gap is not my task here.) Within a Kantian framework the Dowry-Intuition of an innate dignity boils down to a robust feature of rational beings referring to an ability which is not acquired, but can be cultivated by practise.

The Simple Status View responds to the idea that dignity is something to be acquired:

Achievement-Intuition: Dignity is something to be achieved by an effort or to be created by our practices.

Achievements are contingent in the sense that we can fail. In this perspective dignity can be violated or never achieved, whereas in the perspective of the Dowry-Intuition, dignity is something more robust that cannot be diminished or annihilated even by torture or slavery as long as the underlying property exists. Obviously, both intuitions pull in different directions and explain why the one party thinks dignity has necessarily to be protected by human rights, whereas the other party denies this commitment.

Let us follow the Dowry-Intuition and first examine the Simple Property View. Is dignity a *natural* property of a human being? Nature does not know the only one and unique property to be distinguished in the way we distinguish dignity. The problem is that there are too many properties of this kind, e. g. the velocity of a hunting leopard, the echo location of a bat, the strength of an elephant, etc. But why should we appreciate the owners of a property like that for their own sake? They certainly rank high in a hierarchy of properties/abilities, but they are excellent only in a certain respect, for example, in regards to velocity or strength and only relatively and not absolutely. There is no such thing as a natural property matching the features we have fixed for dignity.

Should we conceive of dignity in a Moorean manner,² as a *non-natural* property owned only by human beings? According to Kant, human beings are denizens of the noumenal world and at the same time of the phenomenal world. So dignity seems to suggest itself as a metaphysical property of human beings as denizens of the noumenal world. This reading seems to have a textual basis in Kant's writings. As denizen of the phenomenal world, a human agent is an animal man ("*Tiermensch*") and of "lower ability", unable to be a bearer of the preeminent dignity of the rational man ("*Vernunftmensch*") as Kant reassures (*TL* 6:569). If there were a metaphysical property called dignity, we would acquire a link to a theological conception of the exceptional position of human beings as an image of God participating in a higher and transcendent realm of rationality.

This reading is challenged by two problems which I can only touch upon here. First: The epistemic problem of identifying a non-natural or super-natural property. Second: The metaphysical problem of postulating queer entities (Mackie). Kant was far from promoting a theological conception of dignity. And I suppose that he also does not defend the doctrine of two worlds. Rather, he defends the doctrine of two points of views on the only world we know, the phenomenal world.

All things considered, the Simple Property View fails. Dignity is neither identical with a natural nor a non-natural property. Rather it has to do with attitudes like respect, approval, favouring, etc. Following these lines of analysis, we are in a better position to explain the asserted normative status of dignity.³ Should we anchor Kant's concept of dignity directly in the Stoic notion of *dignitas* as a social status attributed to a person because of a position or an office? So a judge has dignity because of his office, but he loses this dignity contingently resigning from his office or being impeached. Taken in this vein, dignity seems to be a rank or a manifestation of sublimity ("*Erhabenheit*") (Sensen 2011, 165). In order to prevent the objection that a person of a lower rank/social status cannot be of absolute value, we generalise the idea of ranking so that all human beings share the same sublime quality. Hence, even someone of the lowest rank/social status has dignity (cf. *TL* 6:434–437, 462–468). If this is the leading idea, how can we do away with the feature of contingency obviously not compatible with the uniqueness of the value called "dignity", i. e. with the features of absoluteness, unconditionality, fundamentality and finality to which Kant ascribes it?

² For Moore's varying conceptions of a value-property cf. Olson 2006.

³ Cf. Waldron 2012; Schaber 2017.

We learn from Searle that status is something created by collective intentionality (Searle 1995, 28). A status cannot be explained by the physical properties of a person or object. A piece of metal, for example, is understood to be money or a person is understood to be a judge (X counts as Y in context C) because we implicitly or explicitly attribute certain functions to the person or to the piece of metal. When we stop acknowledging these functions, the person in the black robe, for instance, ceases to send people to prison and the piece of metal can no longer be used to buy goods.

The Simple Status View overcomes the Simple Property View in adding a decisive element. Dignity is something based on a natural property and constituted by pro-attitudes like acknowledging. We retrieve this picture in the developed theory. There is a natural property (autonomy) “counting” as a value not depending on contingent attitudes, but on attitudes we necessarily adopt as rational beings. As long as we are not in a position to complement the theory in adding this missing argument, the Simple Status View faces the problem of contingency. Dignity cannot be conceived as dependent on social attribution and acts of acknowledging regardless of the number of attributers. People may abandon their attributions at any time if there is no conclusive reason to continue. So the Simple Status View is an invitation to a value-subjectivism or value-scepticism.

2 The Value Account of Dignity

What do we learn from the Simple Status View? First of all, it is protecting us from a naïve value realism. Values are neither physical entities nor properties nor are they queer super-natural entities. Scholars denying realism towards values obviously share the following intuition (Schönrich 2015):

Dependence-Intuition: Values can only exist if someone with a pro-attitude exists. Being a value has to do with being valued. Pro-attitudes are mental states of favouring, admiring, respecting, etc., directed to the appreciated, approved, etc. content.

According to this intuition, dependence seems to be nothing but a correlation, which is trivially true: No value without a pro-attitude giving rise to the crucial question of whether dependence is compatible with objectivity or not. If the answer is positive, how can we implement objectivity into the relation?

Most of us obviously share the intuition that values are not contingent or arbitrary even if they depend on pro-attitudes. In our everyday lives, we often disagree with other people about the question of whether something is of value. In doing so, we are guided by an intuition of the following sort:

Objectivity-Intuition: We can always be mistaken in our acknowledgement of the object or the contents of a pro-attitude. Something doesn't become a value just because it is being valued by some subjects. Somehow values equal an objective status.

What does it take for something to be of value? When are pro-attitudes like acknowledging, respecting, favouring, etc. towards a property appropriate or fitting? The answer cannot be that they are fitting if and only if their object is valuable. The circularity is obvious: Being of value means to be favoured by *fitting* pro-attitudes. Hence, what makes the attitudes fitting cannot consist in a value property of the object. That an object has value must be explained with the help of non-value properties providing reasons for having a pro-attitude towards it. An analysis like the fitting-attitude account is best understood as a variant of a buck-passing account. It avoids the circularity problem and, what is more, it proves to be a demystification programme of dignity. Being of value means that the object of a pro-attitude has one or more properties describable in value-free terms, giving a person a reason to adopt that pro-attitude towards it. As we will see, Kant is in fact connecting objects of an attitude with reasons. Having precluded that God or a moral prescriptivism can give us reasons for adopting a pro-attitude, there can be no other source giving us reasons than the properties of the object towards which the attitude is directed.

The leading idea is made evident in the following *scheme of analysis* (Schönrich 2013):

- (V) It is valuable/a value that p, iff there is an S, so that:
- (i) S would have ψ with content p (under suitable circumstances);
 - (ii) ψ is a pro-attitude;
 - (iii) it is fitting to have ψ with content p.

In a preliminary way, we can spell the fittingness-condition out in terms of reasons:

- (iii') It is fitting to have ψ if S has the right reasons.

It is this fittingness that awards the content of an attitude an objective status and averts a value subjectivism or scepticism on the one hand and a naïve value realism on the other hand. So what does it mean to adopt a *fitting* attitude?

Fittingness means that the object the attitude is directed at must be worthy of adopting a pro-attitude. Kant characterises the fitting-relation with the help of the term "*Würdigkeit*", meaning being worth something, e. g. "*Glückswürdigkeit*",

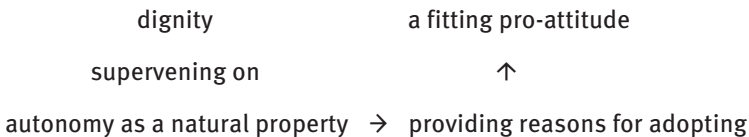
being worth happiness (*KpV* 5:130), or “*Strafwürdigkeit*”, being worth punishment (*KpV* 5:37).

Assuming the well-known distinction between motivating reasons and normative reasons, a reason for the fittingness of an attitude clearly is a case of a normative reason. It explains why the agent *S* is justified in adopting the attitude ψ . It does not explain why *S* is psychologically motivated to adopt the attitude ψ . Adopting ψ *S* may have reasons that are not related to the object at all. Only normative reasons define whether an attitude is correct or incorrect in light of the properties of the object of the attitude. They count in favour of that attitude, but they need not necessarily motivate *S* to have that attitude.

So fittingness-reasons are object-related reasons and not attitude-related ones. Of course, attitudes are sometimes of value as the well-known evil demon-scenarios suggest. If I can avoid heavy pain only by adopting a pro-attitude to an evil demon who will punish me when I don't admire him, then I have a good reason for adopting this pro-attitude. But this reason is obviously of the wrong kind because it is not object-related but clearly attitude-related. The evil demon is not good, but the pro-attitude is of value because it is saving me from suffering. (As will be shown below, Kant is fully aware of the distinction between value, the value of an attitude and the difference of the corresponding reasons.)

The normative gap between motivating reasons and correctness reasons has to be bridged by an argument. There is a way downwards from the level of correctness to the level of motivating a particular agent when we appeal to an ideal rational agent. When reasoning whether to adopt a pro-attitude, an ideal agent would be fully aware of his desires and inclinations; furthermore, he would be fully aware of what his self-given principles would require him to do. In this case, the normative correctness reasons would coincide with motivating reasons. But we are not ideal rational agents. So we need to be convinced in a dialectical way.

What has been said of the connections of autonomy as the underlying property delivering reasons for adopting a fitting pro-attitude suggests the following so-called *buck-passing picture*:



We have to exhibit that Kant not only describes pro-attitudes but also the right reasons making a pro-attitude a fitting one. There must be properties of autonomy delivering reasons not only motivating an adoption of that attitude but also justifying that attitude as a correct one.

3 Kant's Theory of Value

Do we find in Kant's writings a fully worked out scheme of analysis? I think we find at least components and devices capable of being developed along the lines of the proposed scheme. In characterising pro-attitudes, Kant's crucial term is "*Wohlgefallen*" (cf. locus classicus, *KU* 5:204)—an expression rarely used in contemporary German. As noted by the Grimm Brothers (*Deutsches Wörterbuch* von Jacob und Wilhelm Grimm) during the time in question, the expression "*Wohlgefallen*" refers not only to an affection of sensual joy ("*Empfindung der Freude, Lust in sinnlich-ästhetischem Sinne*"), but also to rational and moral reasons ("*geistigsittliche Gründe*"). Thus, the term "*Wohlgefallen*" has to be characterised by an affective and a doxastic component; it is not restricted to being well-pleased with something, rather it is used to express an appreciation of something. My proposal is to translate it as "favouring":

...a rational impartial spectator can never take satisfaction [?] ("*Wohlgefallen*") even in the sight of the uninterrupted welfare of a being if it is adorned with no trait of a pure and good will; and so the good will appears to constitute the indispensable condition even of the worthiness to be happy (*GMS* 4:393).

The translation as "satisfaction" misses the point. "*Wohlgefallen*" is a pro-attitude and not the outcome of an attitude. In the given case, the "rational impartial spectator" is not satisfied because it is simply not fitting or not correct to adopt the pro-attitude of favoring the being in question, rather it is fitting to adopt the contra-attitude of disfavoring such a being.

Our favouring is value-tracking only if the fittingness condition is met. We ought to favour something or someone if it (or she) is worthy of being favoured. In the given case, the fittingness-condition of favouring is defined as the moral quality of the will. In moral contexts, Kant normally uses the term "respect" ("*Achtung*", cf. *GMS* 4:436), underlining the affective component of favouring. Kant differentiates between three cases and, correspondingly, between three types of values:

- (1) A pro-attitude towards the pleasant ("*das Angenehme*"): *subjective (personal) values*.

- (2) A pro-attitude towards the good (“*das Gute*”): *objective values*.
- (3) A pro-attitude towards the beautiful (“*das Schöne*”): *aesthetic values*.

In case (1) and (2) the pro-attitude is intrinsically connected to the appetitive faculty (“*Begehrungsvermögen*”) (KU 5:204). We are driven by an interest in the existence of the object towards which the pro-attitude is directed. This interest comes in two ways:

- (1) The subject is interested in the existence of the object in regard to his own state as affected by the object (cf. KU 5:207). Kant describes this category of object as the pleasant (“*das Angenehme*”). Under this umbrella term, we find all kinds of subjective or personal values. A personal value is a relative value, i. e. a value I favour for the sake of me as this person that I am, driven by my inclinations, desires and preferences. The perspective selecting the properties of the object that give me a reason to adopt a “*Wohlgefallen*” towards it is defined by the sensation I feel whenever I have or consume this object. My desires and preferences pick out the properties of the object giving me a reason to adopt the pro-attitude. The perspective you have may lead you to different properties which give you no reasons at all to adopt a pro-attitude or even reasons for disfavouring the object.
- (2) The subject is interested in the existence of the object in regard to the ends put by reason. Kant describes this category of objects of pro-attitudes as the good (“*das Gute*”) (cf. KU 5:207), differentiating between instrumental good and final good (good for its own sake). In this category, we find objective values (KU 5:210). The perspective selecting the reason-delivering properties is defined by objective ends of the will—the relation to the appetitive faculty or, as we may add here, by ends of the cognitive faculty, e. g. truth or understanding.
- (3) The third category refers to the special case of a pro-attitude without any interest (“*interesseloses freies Wohlgefallen*”). Kant describes it as a free pro-attitude suggesting that the other types of attitudes are bound to specific reasons, the former to reasons given by my inclinations and preferences, the latter to considerations based on public reasons (cf. KU 5:210).

Obviously, all kinds of pro-attitudes are based on reasons. Even in the case of aesthetic values, uninterested, free favouring is grounded in a reason. In adopting such an attitude, the subject has to think of this attitude as one being adopted by any agent (cf. KU 5:211). Here I will leave out this special case in order to focus on the difference of personal (or subjective) values and objective values.

Personal or subjective values are characterised by prevailing private conditions (“*Privatbedingungen als Gründe des Wohlgefallens*”, KU 5:211). Are the prop-

erties of the object such that they deliver reasons to adopt a pro-attitude towards it in regard to my perspective? These properties deliver reasons if they are supposed to satisfy the inclinations and preferences of the agent. When characterising the role of these reasons, we have to be careful:

1. Neither the inclinations nor preferences as such are reasons for adopting an attitude (and so indicating a value); they are only the properties in regard to the inclinations and preferences of the agent. Of course, such a favouring cannot lead to an absolute value. The result is always a relative value because the perspective relative to which the properties are selected as reason-delivering ones is defined by the individual inclinations and preferences of the agent.
2. Not every inclination or preference occurring to the agent has to be accepted as a selector for the properties of an object. In weighing a consideration, the agent is free to suppress, postpone or modify preferences. In other words, the agent can be understood as autonomous in considering and balancing reasons.

In the case of *objective values*, we are faced not with private conditions as reasons, but “public conditions” as reasons (*KU* 5:214). In contrast to the special case of the subjective generality of aesthetic values, objective values are based on objective general reasons that are accessible and relevant to everyone. Truth or understanding, morality, justice, etc., are valuable because there are properties of these objects or contents delivering reasons that support a pro-attitude in a general epistemic, ethical or political perspective which is accessible to everyone reflected on the basis of the corresponding principles. In this sense, objective values are relative values and therefore epistemic autonomy, moral autonomy, political autonomy, etc., are of relative value. So the only remaining candidate for an absolute value is rational autonomy.

4 What is rational autonomy?

Autonomy comes in many forms. Beside moral autonomy arresting Kant's full attention, we find epistemic autonomy as the ability to exercise control over forming judgments on one's own, grasping reasons and drawing conclusions independent from epistemic authorities. Coining the slogan of the Enlightenment, “*Sapere aude*”, Kant praises epistemic autonomy even as a virtue. “The maxim of *thinking for oneself* at all times is enlightenment” (*DO* 8:146, cf. *WA* 8:35). And there is autonomy in the legal sense as the ability to close a contract at will; political autonomy as the ability to contribute to self-governance of fellow

citizens. Last but not least, we find evaluative autonomy to adopt pro—and contra – attitudes towards an object. All these forms are subsets of rational autonomy. So what does it mean to exercise rational autonomy?

Kant exhibits the dimension of rational autonomy using the picture of an agent as legislator of laws, maxims or ends he imposes on himself (cf. *DO* 8:145), figuring at the same time as High Court (cf. *KrV* B: 799) and settling all issues of reasoning and conducting oneself. The three features, *legislation*, *imposition* and *justification*, are constitutive for rational autonomy. They are intimately connected with a concept of agency involving free will and authorship. It is up to me and no one else to give or accept principles of thinking and acting. It is I who is free to impose principles of conducting myself on myself. And there is no higher authority than me who is able to trump my justifications.

Assuming an ability like rational autonomy means to substantiate a strong claim on a natural ability in the phenomenal world. Falling short of being legislators, judges or imposing the self-given laws on ourselves, we stop being autonomous. These features define a norm to be matched by the manifestations of autonomy as an ability:⁴

- (a) The value of the dispositional property (ability).
- (b) The value of manifestations of this ability.
- (c) The abstract value of the manifestations produced by using this ability.

In (a) we retrieve the ability of autonomy as the subvenient property of dignity as an unalienable feature human beings possess by birth. This ability is rather a cluster of abilities for conducting oneself in a certain way in the epistemic field of forming beliefs, making judgement, understanding or in the field of shaping one's will and acting according to principles. We cannot attribute autonomy to beings lacking this dispositional property. They are bestowed with that gift or not. According to the *Dowry-Intuition*, just owning the ability of autonomy gives us a reason to appreciate the owner regardless of his performances in exercising the ability. It is logically possible that there may be cases of beings possessing the ability but never performing it. We appreciate the owner of this ability without praising her for an achievement. The owner is simply not responsible for having this ability possessed by birth. So the affective component of the evaluative attitude in this case is weaker than the affective component of the normative attitude in case (b).

Behind (b) we diagnose the *Achievement-Intuition*. To perform autonomously means to take efforts and overcome obstacles. Praising someone for a perfor-

⁴ Wedgwood 2017, 141 uses this scheme to differentiate between three kinds of rationality.

mance must be distinguished from praising someone for possessing a natural property. In adopting a stronger normative attitude, we hold the person responsible for performing autonomously. We can in principle blame that person for not meeting the norm of autonomy.

The abstract value of autonomy (c) is indispensable for assessing the performances of autonomy that the disposition produces. It works as a *standard* or a *norm* for the autonomous achievements of an agent. Used this way, we understand autonomy as a strong normative term, not as an evaluative one referring to a property or an ability. The evaluative use of autonomy is more than a mere descriptive use. To favour a person for having autonomy as a natural property is more than simply describing this property, but still less than favouring her for performing autonomously.

Focusing on the field of acting, we can characterise autonomy as the ability to set ends out of one's will in the sense of an achievement in order to shape one's will in a certain way:

The will is thought as a faculty of determining itself to action in accord with the representation of certain laws. And such a faculty can be there to be encountered only in rational beings (*GMS* 4:427).

The laws Kant mentions must not be objective laws like the principle of morality (as a special case of a moral self-determination); a subjective principle like an arbitrary maxim does the same job in determining the will (cf. *GMS* 4:420–421). Kant himself gives examples of moral-neutral maxims, like “let no insult pass unavenged” (*KpV* 5:19) or “increase my wealth by every safe means” (*KpV* 5:27). The question is not whether these maxims can be universalised and so being awarded a moral status (the question Kant is focussed upon). Rather, the question is which role they play in an autonomous conduct of an agent.

Unlike animals, rational beings don't simply form beliefs and realise desires. Taking a step back rational beings can reflect on their beliefs and desires and evaluate them according to principles. Like Socrates who tells us that “the unexamined life is not worth living,” (Plato 38). Kant plainly states that a life without reflection on the ends of our natural talents and abilities “has no more worth than the life of cattle” (“*nicht mehr Wert als das Dasein des Hausviehs*”) (*IaG* 8:21).

The transition to reflective conduct happens by taking a second-order perspective on one's desires and inclinations. According to Kant, a rational being shapes its will in maxims by fixing, on the second order level, what kind of will he wants to have, and in the end what kind of human being he wants to be.

Only on the second level can a finite being, who is not the author of her sense impressions and desires, perform as a self-determinating agent. An agent keeps being autonomous even though her desires occur to her because she can evaluate, modify and suspend them. Autonomy is a question of whether the will structures a relation to itself (cf. *GMS* 4:427).

It is wrong to say: If the will is not determined by the universal moral principle, then it will be determined by the law of nature, i. e. by the ends resulting from desires and affections. As long as the agent acts evaluatively (modifying or suspending) in a second-order perspective to the first-order desires, the agent acts autonomously and not heteronomously. This agent has the freedom that is necessary for autonomy. Only those who are not able to take a second-order perspective really act like pure natural beings. They are lacking the dispositional property of autonomy, i. e. autonomy as ability. Autonomy is performed when the agent takes second-order attitudes on first-order attitudes. The agent is able to want to have or not to have certain first-order desires. H. Frankfurt considers this two-tier nature to be the indicator of being a person (Frankfurt 1971). We assess these performances by means of the features of how they are fixed in the abstract concept of autonomy. Does the agent give herself a law of her will in the maxims? Here she is both the lawmaker and the addressee of the law-making; additionally, she decides in the last instance on questions of the justification of correct or incorrect application.

The role of maxims can only be understood in the context of a two-tier, reflexive will structure. When I made it a maxim for me “to accept no insults unavenged” or “to increase my wealth by every safe means”, I neither specified how I will avenge or by which means I want to increase my wealth, nor did I fix the specific situation as a case of application of the maxim. Therefore, every maxim has an antecedence describing the situation type, like “If I am insulted, then...” or “If the situation is not risky, then ...” The kind of will is then defined in the consequence (“... then I want to avenge it”) as a second order volition. In each application of the maxim, this second order determination of the will has to be specified by a certain intention, e. g. “... then I want to respond ironically.”

Realising ends according to maxims is a challenging task involving many different abilities comparable to the skills experts need to cope with a defined task in their domain. The leading idea is that every rational agent is an expert in conducting oneself in the specific domain fixed by his maxim. As will be shown later, skills are not enough. Rather, the abilities called “autonomy” must be conceived of as virtues. A look at the contemporary debate on the relation of skills and virtues will help here. Experts, like firefighters, physicians or chess grandmasters, need in the exercise of their activities a number of skills which essen-

tially include, according to Swartwood,⁵ the following types: (1) the intuitive ability to recognise patterns. The expert immediately sees what needs to be done in a standard situation. If the situation is unusual, the expert uses (2) the deliberative ability to reason step by step. In addition, experts also have the meta-cognitive ability (3) to decide whether pattern recognition is sufficient in a given situation or whether the deliberative ability has to be used. Additionally, experts have (4) the self-regulative ability to manipulate their own behaviour emotionally and motivationally and, finally, (5) they also have the ability to cultivate their behaviour to make the exercise of their activities even more reliable over a long period of time.

Kant describes skills like that as habits gained through exercise over a long period of time (cf. *TL* 6:383). They are used in the application of any (not only morally qualifiable) maxims. Certainly, the maxim “If I am insulted, then I want to avenge it” describes a less complex situation than when a firefighter faces at a large fire. Relatively lower is the challenging performance for the realisation of the maxim in question. I have to recognise my opponent’s statement as completely insulting or as just a lapse. And I certainly have to control my emotions with regard to the motivation in order to react in an adequate manner. Finally, each new case of application serves to make my abilities more reliable. So skills are always involved in the exercise of autonomy.

In spite of the obvious analogy to skills, autonomy as Kant describes it compares to a virtue instead. Even though virtues can be understood as a subset of the aforementioned abilities, they differ according to Stichter from skills in three features (Stichter 2015). In contrast to the exercise of a virtue, the use of a skill is not affected when an agent (1) does not act wholeheartedly: It does not count against the ability of a firefighter if he only shows half the effort and does not give his all. Skills are not affected when (2) the agent acts for the wrong reasons. The physician can have his profit in mind in the exercise of his healing abilities without ceasing to be a physician. Furthermore, we do not deny an agent a skill when (3) he acts with the wrong intention. The chess grandmaster who makes a wrong move intentionally does not prove his inability; however, making an unintentionally wrong move would make us doubt his abilities.

Let us assume that the application of my maxim to take revenge in the case of an insult shall only be understood as a skill. (In the terminology of Kant, this would be a case of “technically practical reason,” or “*technisch-praktischer Vernunft*” (*TL* 6:384).) I then am able to not act wholeheartedly in reaction to an insulter,

5 Cf. Annas 2011; Swartwood 2013; Stichter 2015.

and I can even ignore him. I am able to give a response for the wrong reasons, e. g. when I just want to be appealing to other participants of the conversation by giving a sharp-tongued punch line. I am ultimately able to react intentionally wrong to the insult by remaining friendly. All this does not affect the imputability of the corresponding skills, but does affect the imputability of autonomous performances. The theses I would like to defend are:

- (1) Nobody can act autonomously by chance.
- (2) Nobody can act autonomously unless wholeheartedly.
- (3) Autonomy cannot be performed on the basis of false reasons.
- (4) Nobody can intentionally not perform autonomously.

From the discussion of the four theses, we can hope to understand what makes autonomy so valuable that we attribute dignity to an autonomous agent.

Whereas thesis (1) and (2) are backed by conceptual truths about autonomy as performance complying with a standard, theses (3) and (4) must be supported by arguments linking reasons for adopting a pro-attitude towards performances of autonomy to the abstract concept (as will be shown in the next section).

What rational autonomy is, is defined by the constitutive features of legislation, imposition and justification as necessary and sufficient conditions. Please note, I will now attempt to explore the conditions under which autonomy can be performed. The four theses exhibit necessary *conditions of successful performing autonomy* rather than the nature of autonomy.

(1) *Nobody can act autonomously by chance.* To understand why acting autonomously cannot be understood as a matter of luck, we have to consider the role of the abstract notion of autonomy as defined by the three features used as a standard or a norm. Let us assume a similar definition for justice—a well-known virtue. Just acts can be done by sheer chance. Such acts must only fulfil the standard given by the features fixed in the definition of justice.⁶ The same is true of the virtue of beneficence or prudence. A prudent decision remains prudent even if it is made out of foolishness as long as it fulfils a certain standard. But a heteronomous agent cannot perform an action that is abstractly autonomous by chance because the specific features of autonomy require a self-determining agent which imposes upon oneself the self-given law or maxim according to which she is acting.

The reason is that these features are not external features; rather, they are part of what makes the action the action it is. So it is a conceptual truth guaran-

⁶ Cf. Wedgwood 2017, 140 in referring to Aristotle's *Nicomachean Ethics* (1105a17-b9).

ted by the nature of the concept of autonomy which determines that actions, if they meet the standard given by the abstract concept of autonomy at all, cannot meet this standard by hazard.

(2) *Nobody can act autonomously unless wholeheartedly.* Autonomy, understood as an achievement, is contingent in the sense that an agent can fail to act autonomously but not in the sense that the agent does not act according to her wholehearted intention. This feature is not specific for autonomy; it applies to all virtues but not to skills. An agent can perform not wholeheartedly as a firefighter or a chess player, but he doesn't stop being a skilled firefighter or chess player. In performing not wholeheartedly she uses her skills at a lower level. But nobody can just perform acts at a lower level without ceasing to have the virtue of justice. In an analogous way, an autonomous action ceases to be autonomous when the agent tries to perform at a lower level. One cannot be a little bit autonomous.

The reason is that one cannot adopt the second order perspective halfway. The agent is taking up a second order position or she remains at the position of the first level. There is a limiting case: An agent may put all things aside, i. e. trying to satisfy all desires as they are occurring to her at the first level. Conducting this way requires at least one maxim: "If there are desires, I will try satisfying them as they occur". A maxim of this sort may not be prudent even for an obstinate hedonist; nevertheless, such an agent would prove autonomous, albeit in a single case.

5. The worthiness of rational autonomy

(3) *Autonomy cannot be performed on the basis of false reasons.* In order to defend this thesis, let us first compare two cases:

(Case 1) S* pursues the first-order ends of becoming rich, gaining reputation and exercising power over others. He does not take a second-order perspective on his will.

(Case 2) S pursues the first-order ends, but she determines herself to approve of these ends in the second order by explicitly incorporating them in appropriate maxims.

Let us assume that S and S* accumulate the same riches and gain the same reputation and are able to exercise the same power. The favouring ("*Wohlgefallen*") only holds true in the second case. Only in the second case does the agent prove reflection on her first-order ends. If the performances of autonomy are the ones

that are value-generating, then the conducting of S^* has no value. (Accordingly, she would only have dignity in the sense of the Dowry-Intuition.) Her conducting “has no more worth than the life of cattle” (*IaG* 8:21). Kant’s snappy judgement raises the question: What does the second order of a reflective approval add to the first order?

I believe the question is not asked properly because it suggests a double counting of values. According to the scheme (V), something is a value iff S takes a fitting pro-attitude towards the object of her attitude for the right reasons. What a value is, is determined in the first order upon the question of whether it is fitting to take a pro-attitude towards the object in question or not. According to Case 2, it seems that we create an additional value by approving the value of the first order level. This additional value, so it appears, is not covered by our scheme (V).

Intimately connected with the problem of double counting is an even more confusing problem. We cannot take fitting attitudes towards *honour*, *power* and *money* because they are not (objective) values at all. When pursued passionately, they become *ambition*, *imperiousness* and *greediness* (cf. *Anth* 7:271), just the opposite of values. The corresponding values would be *modesty*, *helpfulness* and *generosity*. But pursuing these values amounts to living “an Arcadian, pastoral existence of perfect concord, self-sufficiency and mutual love” (*IaG* 8:21). Such a life would not provide the sting that is needed for all of a person’s talents to be gradually developed. We would never be able to leave the animalistic state. In order to promote culture and civilisation, we should better consider *honour*, *power* and *money* as values and compete with each other in a rivalry in order to create cultural comforts. How can something that is of no value at all gain value? An agent striving for *honour*, *power* and *money* seems to act for the wrong reasons when believing to pursue cultural values. But acting for the right reasons would mean to abandon the cultural value of honour, power and money.

We can disentangle the confusion by distinguishing two levels:

Level 1: a pro-attitude₁ to object₁ (e. g. power, money or helpfulness, modesty) may lead to **values** (if supported by the right reasons)

Level 2: a pro-attitude₂ to object₂ (pro-attitude₁ to object₁) may lead to the **value of attitudes** (if supported by the right reasons)

Reflecting on our autonomy (in the sense of being able to set ends) we may recognise that we have no reasons to consider *honour*, *power* and *money* to be valuable, but we have reasons to consider the corresponding attitudes to honour,

power and money to be valuable because ambition, imperiousness and greediness are attitudes that promote culture.

So Kant makes a clear-cut distinction between values (constituted by first-order attitudes) and the possible value of the attitudes themselves. According to our scheme (V), any value is constituted by fitting pro-attitudes; hence, the value of attitudes is constituted by fitting second-order pro-attitudes with the first-order attitudes as their objects. So it may be that there are objects of attitudes of no value, whereas the attitudes to those objects may be valuable.

The confusion results from mixing-up first-order reasons with second-order reasons. So wrong first-order reasons lead us to consider power, money and honour to be valuable. Kant speaks of a “delusion,” which he understands as “the inner and practical illusion ... to misunderstand the subjective as an objective cause” (*Anth* 7:274). The trick of nature, so Kant claims, simulates “honour, power and money” as real ends (values) to the rather lazy human being.

An agent who believes to act for these reasons and falsely thinks to pursue self-imposed ends does not act autonomously. Clearing up the confusion has an immediate consequence for performing autonomy in a successful way.

As Kant describes the case, an agent deluded by nature has the wrong kind of reasons for her pro-attitudes (towards objects like honour, power, money) because she mistakes second-order reasons that count for the value of the pro-attitudes (like striving for honour, power, money) for first-order reasons. Such an agent mistakenly considers the following principles worked out by I. Persson to be valid (Persson 2007):

(Downward Claim) If anything, R is a reason to have a pro-attitude, e. g. a desire for X, R is also a reason to desire X.

(Upward Claim) If anything, R is a reason to have a pro-attitude, e. g. a desire for X, R is also a reason to want to have the desire for X.

Both principles are wrong. What speaks against the *(Downward claim)* in Kant's opinion is that a second-order attitude never entails a first-order attitude. It belongs to Kant's fundamental insights that we may be the author of a second-order attitude in the creation of a maxim, but we are not able to create first-order attitudes like desires. They occur to us, and we are only able to modify and block them.

What speaks against the *(Upward claim)* is that we sometimes have desires that we do not want to have. In the situation described by Kant, this means: The agent S would not find any reasons that would make her first-order pro-attitudes towards honour, power and money appropriate if she were reflecting.

We have to distinguish two cases here:

- (1) S does not act autonomously because she refuses to use reflection and she is driven animalistically by her first-order desires.
- (2) S does not act autonomously because she may be reflecting, but she does not see through the deception and pursues ends that are not values for the wrong kind of reasons.

Case (1) is a bad case for the transition to culture because the agent S, lazy by nature, would never leave the state of the life of an arcadian shepherd. Case (2) promotes culture, but it does not do so in a way that requires autonomy because S remains victim to a deception. Her attitudes are based on reasons of the wrong kind.

Reasons of the wrong kind have to be distinguished from reasons that are wrong simpliciter. There are value errors consisting in agents who consider properties of objects in order to give reasons although they do not deliver any reason. If, for example, a resort that S considers to be valuable does not have any property relevant for this (e. g. good air quality or calmness), then it is not valuable although S considers it to be valuable. An error like that does not count against the autonomy of the agent S. That S mistakenly considers a property of the object to be a first-order reason does not devalue her autonomous behaviour because S has self-imposed this end and she is subjectively justified in her appreciation. S is only not justified in an externalistic way because she errs with regard to a property. Autonomy is a virtue that has to be conceptualised internalistically.

It is a different case when S confounds second-order reasons that count for the attitude with first-order reasons counting for the object of the attitude. The properties providing reasons are properties of the pro-attitude and not properties of the object, e. g. by the name of honour, power and money. S did not self-impose these ends, she only believes them to be self-imposed. Actually, they are imposed by nature. Additionally, she is not even justified in a subjective sense because the reasons that are reflectively accessible for her do not count for the value of the corresponding object.

Let us now turn to the question of why autonomy, understood as a second order ability to reflect ends, is of a unique value. What are the reasons speaking in favour of taking a fitting pro-attitude to autonomy itself? What is the argument in favour of appreciating your own rational nature? In the answer, we have to distinguish if we (a) think of autonomy only as an ability or (b) as the manifestations of autonomy that we (c) evaluate in terms of the abstract concept of autonomy.

C. Korsgaard has tried to develop a regress-argument for the value of rational autonomy as an ability on the base of (a). Autonomy as an ability consists in

being able to set ends at your own will. In setting an end, the rational subject must ascribe value to it. Where does this value come from? In a nutshell:

...we regard some of our ends as good even though they are obviously conditional; there must be a condition of their goodness, a source of their value; we regard them as good whenever they are chosen with full rational autonomy; so full rational autonomy is the source of their value.⁷

The leading idea of the argument is to find out an *unconditional* source of value (rather a final value) to block the regress of an open question: If x is valuable because of y and y is valuable because of z, then why is z valuable? The subject seems to be compelled to assume that the source of value must be his own ability to set ends, i. e. his autonomy.⁸ In the best case, we receive a final value at the top of hierarchy. The picture of a source of value is based only on the relation final vs. instrumental values. Each instrumental value derives its value from a final value. But a final value must not be an absolute, unconditional and fundamental one. It is something being favoured for its own sake. Worse, according to the assumptions of this simple picture, autonomy might turn out like a picklock: The highest overall instrumental value to generate final values like happiness, truth or welfare, etc. So the argument is not conclusive.

The Regress Argument is from the outset on the wrong track. The argument falls victim to the confusion of first-order reasons with second-order reasons. As we have seen from the (Upward Claim), this is false. Adopting a first-order attitude to an object like fun, for example, leads to the value of fun if and only if there is a fitting pro-attitude to that object. The reasons I have to adopt a pro-attitude are delivered by certain properties of this object. Even though I am adopting this attitude out of my autonomous ability, the source of value is the fittingness of the first-order pro-attitude in regard to the properties of the object and not the alleged value of the pro-attitude itself. There is no way upwards from valuable ends to the value of the object of the corresponding second order attitudes.

(4) *Nobody can intentionally not perform autonomously.* Here we are concerned about the performances of autonomy in the sense of (b) whose value-inducing properties regarding the abstract concept of autonomy shall be shown. With the focus on performances, we are on the right track of an anti-sceptical argu-

⁷ Korsgaard 1986, 500, see also Korsgaard 1996, 123f. For criticism cf. Christiano 2008, Kerstein 2006, Stern 2011, Sensen 2011.

⁸ There are serious lacunas I cannot discuss here. Cf. Schönrich 2017.

ment. This argument does its job in a direct way: Let's imagine a sceptic denying that there are performances of autonomy that have value.

A performance of rational autonomy consists in adopting a reflective perspective on one's will, i. e. on the ends we are setting on the first-order level. So what does it mean for an agent to intend not be autonomous? Spelled out in value-terms it means adopting a contra-attitude of disavouring autonomy as a performance of second-order attitudes. This attempt is doomed to failure because the sceptic must use just an autonomous act to perform this reflective dispraising. Hence, the sceptical attack is self-refuting. The steps are:

1. Rational autonomy is the ability to adopt second-order attitudes, i. e. pro- or contra-attitudes at will.
2. A denial of rational autonomy means adopting the contra-attitude of disavouring rational autonomy instead of favouring it.
3. In adopting such an attitude, even the strongest dispraiser of rational autonomy has to instantiate just this ability, i. e. she must perform an autonomous act.

In contrast to values like justice or democracy, the fitting pro-attitude for rational autonomy is a manifestation of that value. That's not true for a value like justice. The pro-attitude directed to justice isn't a manifestation of justice itself. Hence, if the act of performing the contra-attitude is autonomous, it is pragmatically self-refuting. If the act is not autonomous, it is meaningless. In each case, the attack of the sceptic fails.

One problem remains: So far, there are only fittingness-reasons for S to adopt a pro-attitude towards performances of autonomy. The object—the ability to form second-order attitudes—has properties which justify S in adopting a pro-attitude. It is correct to adopt a pro-attitude. What is lacking is a motivation reason. But why ought S to adopt such a pro-attitude at all? Refraining from adopting an attitude or simply forbearing it is not the same as adopting a contra-attitude (like the sceptic who is denying the value of autonomy). The fittingness of the attitude makes the attitude of favouring a correct one, but that is not a motivating reason to favour autonomy. Is there a normative pressure to take up the reflective position?

The crucial point is: It is not sufficient that there is a normative fact like the correctness of an attitude. S must believe that there is a normative fact that S ought to respond in a certain way. S actually forms just that belief in the dialectical situation. Pressured by critical questions, S will respond in adopting a pro- or a contra-attitude. And in this dialectical situation, she will experience that a contra-attitude is self-refuting. She cannot deny any longer that the correctness of a pro-attitude towards autonomy is an explanatory normative reason why the

attempt to disfavour autonomy is doomed to failure. Of course, S may not respond to the motivating reason. Is she motivated by this consideration? Can she still remain indifferent? That move means to lose the connection to the principle of rationality (Broome 2013, 23; 170). Rationality requires of S that if S believes that she herself ought to adopt a certain attitude, S adopts that attitude.

The argument puts Kant's claim across to us in this way: "Rational nature exists as an end in itself. The human being necessarily represents his own existence in this way [...]" (*GMS* 4:429). As we have seen, representing our rational nature as an end in itself means that our rational nature—taken as abstract rational autonomy—is of final, absolute, unconditional and fundamental value. That we necessarily represent our own existence in this way means that we cannot help but to take performances of autonomy being of value as demonstrated in the anti-sceptical argument.

And if the buck-passing picture of dignity is correct, this result proves that dignity is a value supervening on rational autonomy. The unalienable dignity of rational beings that can never be lost supervenes on autonomy as an ability (dignity in a weak sense), and the fragile dignity that can be missed supervenes on the performances of autonomy as achievements of rational beings.

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A Semi-Kantian Account of Dignity. Passing the Buck whilst Regulating Reasons for Human Rights

Abstract: I argue that dignity does not by itself provide normative reason(s) for human rights. By drawing on the functional role of certain Kantian ideas relating to dignity, I argue that dignity could however fulfill a regulative role for the normative reasons—reasons provided by other features of human beings—that count in favor of human rights. The account of dignity I propose is formal; it could be endorsed by a plurality of substantive conceptions of dignity in the context of human rights.

Since the end of the Second World War, dignity has appeared as a central normative concept in human rights instruments as well as in numerous basic rights documents. The principal human rights documents give dignity a foundational role in justifying human rights.¹ René Cassin, one of the main drafters of the *Universal Declaration of Human Rights* (UDHR), called dignity one of the “foundation blocks” of the portico of the “temple” of UDHR (Glendon 2001, 171 and Ch. 10). Kant’s conception of dignity was a watershed in the history of the idea (Rosen 2012a, Ch. 1); and it is also often referred to when it comes to the justification of human rights. My aim here is to outline how one might make good sense of the concept of dignity in the context of human rights, by drawing on certain Kantian ideas. This doesn’t mean that I shall ignore interpretative is-

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¹ Cf., for example, the Preamble and Article 1 of the *Universal Declaration of Human Rights*, and the Preambles of the *International Covenant on Civil and Political Rights* (ICCPR 1966/76) and *International Covenant on Economic, Social and Cultural Rights* (ICESCR 1966/76). There are different historical accounts of when dignity emerged as a regulating legal and political concept in human rights discourse (McCrudden 2013, 4f.). For a detailed survey of references to dignity in pre-, inter-, and post-war legal texts (and related sources) see McCrudden 2008, 664–668, 675–678; Beitz 2013, 261–270; Gilibert 2015, 196–200; also, Barak 2015, Part I, Ch. 4, and Part II-III on the constitutional role of dignity.

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sues about Kant's conception of dignity, but the exegesis of Kant's theory will not be my primary task either.

I proceed in three main sections. First, I shall propose a formal account of dignity that is best captured by the concept of 'buck-passing'. In Section 2, I shall apply this buck-passing account to Kant's conception of dignity, showing how it elucidates some interpretative issues. Drawing on Kant's "principle of humanity" as a "supreme limiting condition" in the *Groundwork of the Metaphysics of Morals* (GMS 4:430 f.), as well as his idea of the regulative role of certain principles, I shall address in Section 3 some objections against the normative usefulness of the concept of dignity in the context of human rights. In both Sections I and III, I develop a formal account of dignity that accommodates pluralism in moral accounts of human rights, and defend dignity's place in human rights discourse.

1 A Buck-Passing Account of Dignity (BPD)

I shall deal only with the dignity of human beings (just *dignity* from this point forward) within the context of human rights (henceforth, sometimes referred to simply as *rights*). In this section I take a first step in proposing a formal conception of dignity. I propose and argue that the concept of dignity is not a simple and unanalyzable property which, by itself, provides normative reasons for respecting human beings' rights. The idea is, more precisely, twofold. First, and unlike the common implication in public discourse on this topic, we shouldn't conceive of dignity as a property that taken by itself provides reasons to respect the rights of human beings. Rather, and second, we should conceive of dignity as a higher-order property *of* there being more basic (lower-order) properties of human beings, which actually provide reasons for respecting their rights. We judge—according to this proposal—that rights-holders are in possession of dignity because of other basic features they have. Put the other way around: there are certain base properties of human beings (H) that confer dignity on H and provide reasons to respect H's rights. H's having dignity, however, does not provide an *extra* reason to respect H's rights, but rather is the purely formal (higher-order) property of having some other, reason-giving properties. I shall call this a buck-passing account of dignity, due to its similarity to a family of metaethical approaches to evaluative or deontic properties.

Buck-passing accounts in their original, metaethical usage are those which, in regard to some fundamental evaluative or deontic properties, *pass* the normative responsibility (*buck*) down to the properties on which those evaluative or de-

ontic properties supervene.² They take the normative force of a claim that X is good or right (bad or wrong) to be supplied by other basic features of X that give *pro tanto* reasons to have certain attitudes to X, whereas the properties of goodness or rightness (badness or wrongness) of X provide no additional reason to have certain attitudes to it.³

I am, however, drawing on the main thrust of buck-passing accounts in regard to dignity with several important qualifications. First, the buck-passing account of dignity I present here remains a metaethically neutral account.⁴ The metaethical pros and cons of various versions of buck-passing accounts do not affect my purposes directly. This is partly due to the fact that a buck-passing account itself could be stated in such a way that allows it to be non-committal on any main position in metaethics (cf. Suikkanen 2009; Dancy 2005). Hence, a plurality of conceptions of dignity might fit in with my proposal.

Second, by applying a buck-passing account to the concept of dignity, I do not aim to give any account of the nature of normative reasons. In the remainder of this paper I rather content myself with the (metaethically neutral and) widely accepted view that a normative reason contains features that speak *in favor of* (or *against*) a motive, an action, a character trait, a state of affairs or an institution.⁵ In doing so, a normative reason makes these objects right or wrong, good or bad, worthy or unworthy, sensible or unwise, just or unjust and so on (cf. Dancy 2000, 1). Third, I consider only the predicative use of dignity ('human beings have dignity'). Fourth, my restricted use of a buck-passing account deviates from metaethical accounts in the sense that whilst there are a lot of heterogeneous things

2 In its original usage by T.M. Scanlon, the buck-passing account attempts to explain evaluative notions like goodness in terms of the notion of normative reasons (Scanlon 1998, 97).

3 When asked why we value a given object, we list, according to a buck-passing account, a number of its basic properties. We value, for example, a holiday resort because it has a cozy hotel, peaceful and clean beaches, warm and sunny weather, various notable restaurants, and so on. Once we have listed all these properties, it seems to make no sense to add that one should furthermore value the resort *because* it is good. If the reasons why the holiday resort is good consist in those properties we have listed, then the reasons to choose the holiday resort are just that it has those base properties, not because it has those properties *and* because it is good (Stratton-Lake/Hooker 2006, 153, Suikkanen 2009, 770). Another example: "the badness of a toothache [...] does not add a further reason to the reasons for going to the dentist that are already given by the nature of the toothache, its painfulness." (Dancy 2005, 37)

4 For instance, according to Scanlon the property of being good is a non-natural, higher-order property of *having* some natural, lower-order properties that provide reason to have valuing attitudes towards property-carrying objects (Scanlon 1998, 97). I shall, however, remain silent on the naturalness and non-naturalness of properties.

5 This is, admittedly, not unproblematic, since *favoring* something seems already to imply the notion of a normative reason. However, this concern is beyond the scope of this chapter.

which might possess the property of goodness or rightness, the scope with which I apply the buck-passing account has only one member: human beings as holders of rights merely due to being human. Last but not least, my proposal has, as I stated above, two parts: a negative part (dignity itself does not provide reasons); and a positive part (dignity is a second-order feature).⁶ Dignity should, thus, be analyzed in terms of some other, more basic (lower-order) features. Yet, as to the negative part of the proposal, I am not claiming that all there is to the dignity of human beings is that they have other features in virtue of which we should respect their rights. Although dignity does no additive *reason-giving* work, this does not mean that it lacks any additional normative function. The proposal doesn't lead necessarily to a reduction of dignity to other, reason-giving, basic features. There is more to dignity. I shall return to this point in detail in Section 3.

I now suggest a first formulation of a buck-passing account of dignity (from now on, *BPD*), as a way of conceiving of dignity in the context of human rights.

BPD Dignity is not a property that by itself provides reason(s) for a certain kind of favorable attitude towards its bearer (human beings). Dignity is rather the higher-order property of possessing other, lower-order properties, which give normative reasons for a certain kind of favorable attitude towards its bearer.

By “a certain kind of favorable attitude” I mean our motivational response to the reason-giving properties. I take this response to be an attitude of *respect*, because of the history of the concepts of both dignity and respect,⁷ as well as the ordinary use of them in the everyday language. However, I shall not defend a necessary conceptual relation between dignity and respect here. Moreover, I do not suggest that we conceive of respect only as implying that we ought to avoid interferences with certain boundaries or limits, or refrain from certain treatments of its object. The sense in which I take respect to be the motivational response to dignity (i.e. to reason-giving features on which dignity supervenes) could also incorporate positive actions or treatments of concern or care, or at least shouldn't exclude them. Similarly, I shall use the term ‘violation’ in a broad sense including not only non-omission of forbidden acts, but also non-fulfilling

⁶ For more on the two-part structure of buck-passing accounts, see Suikkkanen 2009, 770.

⁷ For an historical overview of the co-appearance of—and strong connection between—dignity and respect, see Rosen 2012a, Ch. 1, for example p. 26.

of so-called positive duties. BPD remains neutral towards different views as to the exact nature of the duties that correlate with human rights.⁸

Looking at BPD the other way around, it states that, when asked why₁ one should respect human rights, the answer should be “because human beings have dignity”. And when then asked why₂ they have dignity, the response should describe certain lower-order, reason-providing features of human beings. A Kantian approach might answer the second normative question with the property of autonomy or being an “end in itself” (more in Section 2); Pico della Mirandola would have answered with the property of being undetermined to fulfill a primordial (cosmological) role; some theological approaches respond with the *Imago Dei*-property of human beings, and so on.

Now, let me sketch three sorts of reasons (not independent of each other), which speak in favor of BPD.

(a) The first sort of reason to favor BPD is by default. There is actually no alternative to BPD other than to making dignity a mysterious “source” which grounds human rights. As far as I can see, substantive accounts of dignity in the history of the idea, regarding both main senses of the concept—namely as a matter of ranking or status on the one hand, or as an intrinsic value on the other (see Rosen 2012a, Ch. 1)—can be subsumed under BPD. Here, I have to content myself with only three exemplary cases, which together show how deeply different substantive conceptions⁹ of dignity all feature the conceptual structure elucidated by BPD. In Kant’s *Groundwork* we read: “Autonomy is thus the ground of the dignity of a human and of every rational nature” (*GMS* 4:436), which, framed in the terms of BPD, would mean that autonomy is the lower-order property of human beings providing reason(s) for considering them as possessing dignity (I shall say more about this in Section 2). Second, in the Catechism of the Catholic Church one reads:

[M]an [...] is ‘the only creature on earth that God has willed for its own sake’, and he alone is called to share, by knowledge and love, in God’s own life. It was for this end that he was

8 For instance, whether the duty corresponding to a human right would only have to be an act of avoidance, or rather an act which could appear in the Shueian threesome of avoiding, aiding and protecting (Shue 1980), is not at issue here.

9 I am using the pair ‘concept-conception’ in this paper just as W. B. Gallie, Herbert L. A. Hart and John Rawls did in other contexts.

created, and this is the fundamental reason for his dignity [...]. Being in the image of God the human individual possesses the dignity of a person.¹⁰

Here again the same conceptual structure manifests itself: the property of being in the image of God provides reason(s) to consider human beings as possessing dignity. Finally, James Griffin states that: “What we regard as giving dignity to human life, is our capacity to choose and to pursue our conception of a worthwhile life” (Griffin 2008, 44),¹¹ which, using Griffin’s terminology, means that “personhood” with its two components of autonomy and liberty (Griffin 2008, 33), is the lower-order, reason-giving property beneath the dignity of human beings.

(b) A second sort of reason in favor of BPD can be identified by examining the ways in which the concept of dignity is addressed in the most prominent international human rights documents, such as the UDHR (1948), *International Covenant on Civil and Political Rights* (ICCPR 1966/76) and *International Covenant on Economic, Social and Cultural Rights* (ICESCR 1966/76). Taking these documents as reference points, dignity has been assigned diverse, *prima facie*—and even partially incompatible—implications and roles. After all, one must not forget that these documents were developed largely based on practical, and not theoretical goals (Glendon 2001, Morsink 1999, 281 ff., and Maritain ²2007 [1947]). Having said that, particularly in the Preambles of the ICCPR and the ICESCR, one finds that dignity plays a certain kind of foundational role (one might better call it a *derivational* role) for all human rights.¹² Since the alleged derivational role of dignity seems to be the philosophically most challenging issue, I am

10 *The Catechism of the Catholic Church*, Part One: The Profession of Faith, Section 2: The Profession of the Christian Faith, Chap. 1, Art. 1, paras. 6 and 356f., available at: http://www.vatican.va/archive/ccc_css/archive/catechism/p1s2c1p6.htm

11 “[O]ur being able to form a conception of a worthwhile life and then pursue it; that is the source of its [i.e. agent’s] dignity” (Griffin 2008, 47).

12 In both documents, the following sentence appears: “these rights *derive from* the inherent dignity of the human person” (emphasis added). More explicitly, the Helsinki Final Act, Principle VII, (1975) asserts that “civil, political, economic, social, cultural and other rights and freedoms all of which derive from the inherent dignity of the human person”; see also Grundgesetz of the Federal Republic of Germany (1949); see Klein 2002. There is, however, also a second philosophically important usage of dignity in these documents, which seemingly deviates from the foundational role of dignity. This usage addresses dignity as if it were itself the content of some particular human rights (Articles 22–23 of the UDHR; Article 10 of the ICCPR and Article 13 of the ICESCR; see Waldron, 2015, 118f.; Rosen 2012a, 58–62). Due to limited space, I have to set this controversy aside here.

going to show how BPD accommodates this function. BPD fits the derivational role, refining it in a twofold way. By keeping dignity as a higher-order property, BPD can embrace its widely adopted role of providing a foundation for human rights.¹³ Yet, BPD also clarifies the conceptual structure of dignity, as a property that supervenes on other, lower-order properties. And these lower-order properties ultimately carry the responsibility for providing normative reasons why human rights should not be violated. So, BPD offers a plausible reconstruction of the derivational relation between dignity and human rights. Take the right to life as an example. How can the human right to life be derived from the property of dignity?¹⁴ Imagine an account of dignity that stands in direct opposition to BPD, by holding that dignity is a simple and unanalyzable property being itself the source of reason(s) for respecting human rights. On such an imaginary account the derivational relation between dignity and the right to life would look like this:

The imaginary opposite of BPD

(P1) Human beings have life

—

(P2) Human beings have (the property of) dignity

Therefore

(C) Human beings have a right to life

It is, however, hard to see how one could possibly fill in the gap between (P1) and (P2) in this account, given the assumption that dignity is a simple and unanalyzable property. Even if we took for granted that a transition from dignity to rights would occur seamlessly (which in my opinion it would not), it is still mysterious how (P1) and (P2) are related to each other.

Now, consider for instance a version of BPD that operates with a relaxed concept of autonomy (being capable of determining one's own life, or choosing one's own path through life; Griffin 2008, 33) as the lower-order, reason-giving

13 Govert den Hartogh (2014) applies the buck-passing account to dignity too, however he aims to show that dignity plays no foundational role for human rights.

14 Here I am using a broad notion of derivation which should not to be reduced to a minimal syllogistic structure (consisting of a major premise, a minor premise and a conclusion). Derivational relations, as I conceive them here, might possess a more complex structure, and could also reach beyond analytical relations between concepts.

property. The derivational relation between dignity and the right to life might then look like this:

BPD (relaxed autonomy-version)

- (P1*) Human beings (potentially) have the property of autonomy
- (P2*) Having life is necessary for having autonomy
- (P3*) Human beings' dignity consists in (potentially) having the property of autonomy

Therefore

- (P4*) Having life is necessary for having dignity

Therefore

- (C*) Human beings have a right to life

To be sure, many might quarrel with the idea that P1* would be the precondition of having a right to life, but that would be beside the point here. The example only serves to contrast the *imaginary opposite of BPD* with *BPD (relaxed autonomy-version)*, and is rather just meant to be a valid—but not necessarily a sound—derivation.¹⁵ With that said, the gap between dignity and life here is filled in by passing the normative buck on to the property of autonomy on the one hand, and by the necessary relation (per definition) between autonomy and life on the other. One could object that the problematic gap in the *imaginary opposite of BPD* could also be further filled in by adding the premise: 'Having life is necessary for the property of dignity'. This, however, would not be consistent with this account's assumption that dignity is a simple and unanalyzable property—for how would one, following this assumption, be able to show that life is necessary for dignity? By contrast, a relaxed concept of autonomy, as in the example, gives a clear account of why a human being's life, being a prerequisite for autonomy, matters. And that is because of two things. First, this concept of autonomy, compared to the supposed, simple and unanalyzable concept of dignity, is a "thick" concept.¹⁶ Second—and intimately connected to this first aspect—autonomy is related to the concept of life. To be clear, BPD does not solve the prob-

15 Furthermore, I am not asserting that such an autonomy-based account of dignity is flawless. In fact, there are serious criticisms of Griffin's autonomy-based account of human rights (see for example Tasioulas 2013, 299–304).

16 Here I am not claiming that the thicker the lower-order, reason-providing properties, the stronger the account of dignity.

lem of the transition from, say, autonomy to the language of universal claim-rights, but that's another story.

(c) A last sort of reason in favor of BPD consists in the fact that BPD supports pluralism at two levels, which I take to be desirable. On the one hand, it allows that a plurality of heterogeneous, lower-order properties provide reasons for respecting a person's dignity. This in turn makes it reasonable that dignity could play a derivational role in a plurality of human rights, whilst at the same time being specifically connected with certain particular rights (as we see for example with regard to the Articles 22–23 of the UDHR; see also fn. 12).¹⁷ On the other hand, given that dignity would fulfill a derivational role for human rights (as is the case in the prominent human rights instruments), BPD seems to be the only option that embraces a pluralism of justifications of human rights (more on this in Section 3).

This latter point also coheres with a noteworthy feature of UDHR's history. As Christopher McCrudden notes: “the significance of human dignity, at the time of the drafting of the UN Charter and the UDHR (and since then in the drafting of other human rights instruments), was that it supplied a theoretical basis for the human rights movement in the absence of any other basis for consensus.” (McCrudden 2008, 677) Thus, the utility of the concept of dignity, McCrudden continues, “was to enable those participating in the debate to insert their own theory. Everyone could agree that human dignity was central, but not why or how.” (McCrudden 2008, 678; see also Shultziner 2003, 5 and Luban 2009, 213) It is not difficult to see how BPD helps to explain this consensual role for the concept of dignity. Were dignity not a higher-order property supervening on other lower-order, reason-providing properties, it would not be possible for it to fulfill that role.

I would like to conclude this section with three remarks. I do not assert that dignity must be the sole, comprehensive foundation for human rights. In some substantive accounts of the foundation of human rights, dignity may play only a co-foundational role (cf. Tasioulas 2013; Waldron speaks of a “*foundation-ish*” role of dignity, Waldron 2012, 21).¹⁸ BPD should remain neutral towards

¹⁷ UDHR, Article 22: “Everyone, as a member of society, has the right to social security and is entitled to realization [...] of the economic, social and cultural rights indispensable for his dignity [...].” 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 [...].”

¹⁸ According to John Tasioulas, dignity is an “intrinsically valuable status”, which as a co-foundational element could only in tandem with qualified, universal interests ground and generate human rights (Tasioulas 2013, 304ff.). As an intrinsically valuable status, dignity is in turn

both versions of the foundational role of dignity. A second remark pertains to the relationship between the lower-order, reason-providing properties. BPD does not say anything specific about the nature of this relationship. It leaves open whether these properties are irreducible to each other, or grounded in one single, still deeper, reason-providing property. As I conceive the buck-passing account with regard to dignity, the structure of higher- and lower-order properties need not have only two levels.¹⁹ The lower-order, reason-giving properties may themselves be grounded in other deeper, reason-giving properties. The normative buck may be passed down again. In other words, whereas BPD makes an assertion about *passing* the buck, it remains silent about where the buck *stops*. Last but not least, it is important to be clear about the aims of BPD. It does not offer a substantive account of the normative content of dignity, but it aims to explain how the concept has to be conceived so as to allow for a pluralism of conceptions of dignity to be explicable. BPD does not claim to solve the problem of disagreement about the justificatory grounds of human rights. It just aims to give a guiding structure to that debate.

2 BPD and Kant's Conception of Dignity

In this section I briefly explore several important interpretative issues around Kant's conception of dignity.

First, fitting Kant's conception of dignity into the scheme of BPD could result in two possible interpretations of the lower-order, reason-giving feature on which the dignity of rational beings supervenes. According to Kant, that reason-giving feature could be (i) *autonomy* ("Autonomy is thus the ground of the dignity of a human and of every rational nature." *GMS* 4:436.6f.), or (ii) *being-an-end-in-itself* (*GMS* 4:431.09ff.); "since a human being is an end in itself, he

grounded in a variety of characteristic, constitutive features of human nature—Tasioulas calls this "the human nature conception of human dignity" (2013, 305). Tasioulas' conception, considering certain constitutive features of human nature as reason-giving properties for the intrinsic value of dignity, can fit well with BPD. However, Tasioulas is not quite clear about the work dignity does in addition to the work already done by universal interests (2013, 304f.; see below Section 3).

19 For example, in Dworkin's view dignity is an "organizing idea" which connects two fundamental "ethical principles" of "self-respect" and "authenticity" ("[t]ogether the two principles offer a conception of human dignity: dignity requires self-respect and authenticity", 2001, 204). Thus, dignity gives a "portmanteau description" of these two principles, which, seemingly, in turn supervene on other features providing their own normative reasons (Dworkin 2011, 203ff.).

has dignity”, (NF 27:1322; see also TL 6: § 11; § 38). It is noteworthy that many Kant scholars have just gone with the option (i), ignoring the second possibility. Both possibilities, however, seem to be equally plausible interpretations backed by sufficient textual evidence. Yet, it would be hasty to give priority to one of them over the other. This is due to the fact that there is actually another base property of human beings (as a subset of rational beings) behind autonomy and being-an-end-in-itself, which confers upon these properties reason-giving power for respecting persons who possess them. Both lower-order properties of autonomy and being-an-end-in-itself are to be traced back to the deeper property of being *homo noumenon*. Although Kant uses this term first in the 1790s (EAD 8:334; Vigil 27:593; RL 6:239; TL 6:418),²⁰ we meet the idea earlier in different contexts under a variety of terms. The concepts of *humanity* (in Kant’s terminology, i.e. not in the sense of species) in the *Groundwork* (for example in the humanity-formula of the Categorical Imperative) or *moral personality* in the *second Critique* (KpV 5:87; cf. RL 6:239; RL 6:295; RL 6:239.23–26; TL 6:418, 423, 430) are equivalents to *homo noumenon*. However, there are still more equivalent expressions in Kant’s moral theory denoting this base property.

Kant identifies *homo noumenon*, for example, with the *intelligible capacity* (“*Vermögen*”) of freedom. The former denotes just the *subject*, the self (category substance) of that capacity (category causality) (cf. KpV 5:87.3 f.; RL 6:223.25 f.; RL 6:239.23–26; TL 6:418; Vigil 27:579). More importantly for my purpose in this section, Kant characterizes *homo noumenon* in §§ 1–3 of the *Doctrine of Virtue* as the active or “binding” instance (*auctor obligationis*) against the human subject as a whole, i.e. as the passive, “bound” instance (*subiectum obligationis*) (TL 6:417 f.).²¹ Now, note that the component ‘autos’ in ‘autonomy’ has, accordingly, two meanings: ‘autos’ means, on the one hand, the active, lawgiving self₁ (*auctor obligationis* or *obligans*); and, on the other hand, the passive self₂, subject to the self₁-given law (*subiectum obligationis* or *obligatum*) (cf. GMS 4:431.21–24, 440.10–13). This is why *homo noumenon* and the first meaning of ‘autos’ in autonomy are just the same.²² Kant calls this lawgiving instance (autos₁) as taken by

²⁰ One way to explain the late introduction of this term in Kant’s thought might be that the attribution of ‘noumenon’ to ‘homo’ as a subject (category substance) could have been justified only after Kant attested the practical positive significance of the noumenal on the basis of “the fact of pure reason” in the *second Critique* (1788).

²¹ I discuss this in detail in Mosayebi (2018). See also VATL 23:386.13–19; Vigil 27:509 f., 593.3–16.

²² “[B]ut if the obligator is personified as an ideal being [or moral person, it can be none other than the legislation of reason” (Vigil 27:510; cf. VARL 23:258.1 f.); “Personhood, or humanity in my person, is conceived as an intelligible substance, [...] that which distinguishes man in his

itself, also the *pure will* (or the *lawgiving will* as distinct from “freie Willkür”) (see for example *RL* 6:213, 226). *Homo noumenon* is, therefore, the pure will insofar as it is regarded in a *human* instantiation (cf. *GMS* 4:457.9–37–458.1–5). Finally, Kant identifies the lawgiving self₁ component of autonomy and the pure will with *pure practical reason* (for example *KpV* 5:55.15f.).²³ All of these equivalents are just expressions of a base property in virtue of which human beings are in possession of dignity. This is of course not meant to obscure the differences between the above-mentioned technical terms. The bottom line, however, is that the property of *homo noumenon* just accentuates a human instantiation of a “personified”, morally law-giving reason (moralisch gesetzgebende Vernunft).

It is also *homo noumenon* (or one of its equivalents) that makes human beings ends-in-themselves. In the *Doctrine of Virtue* Kant clearly writes: “But man regarded [...] as the subject of morally practical reason, is exalted above any price; for as [... such a subject; R.M.] (*homo noumenon*) he is [...] an end in himself, that is, he possesses a dignity (an absolute inner worth)” (*TL* 6:434f.). Strictly speaking the active, law-giving, intelligible side of human beings is, therefore, the deep-base property, which exalts human beings above mere means and provides normative reason(s) why they ought to be respected: it is this that gives them dignity.²⁴

As I said at the end of Section 1, the lower-order reason-givers under the property of dignity might themselves be grounded in other deeper, reason-giving properties, which are then providing reasons for *them*. The normative buck may be passed down again. We have seen that, when asked why autonomy is the ground of (the reason-giving property beneath) dignity in Kant’s ethics, his answer will be the noumenal character of human beings. But, when asked again, why is the noumenal character itself a reason-giving property, Kant’s answer would be the following: that is “inexplicable” [*unerforschlich*] or “incomprehensible” [*unbegreiflich*]. He stops the buck on account of his Transcendental Ideal-

freedom from all objects under whose jurisdiction he stands in his visible nature. It is thought of, therefore, as a subject that is destined to give moral laws to man, and to determine him” (*Vigil* 27:627; see also *TL* 6:439, footnote).

23 In the *Doctrine of Rights* Kant writes: “When I draw up a penal law against myself as a criminal, it is pure reason in me (*homo noumenon*), legislating with regard to rights [“die reine rechtlich-gesetzgebende Vernunft”], which subjects me, as someone capable of crime and so as another person (*homo phaenomenon*), to the penal law” (*RL* 6:335.17–22); “The morally practical reason in us, that is the humanity (*homo noumenon*) which gives us laws”, (*VATL* 23:398, translation R.M.; cf. *VATL* 23:399.29–400.1ff.).

24 “For there is indeed no sublimity in him in so far as he is subject to the moral law; but there is, in so far as with regard to it he is at the same time legislating and only because of that subordinated to it.” (*GMS* 4:440.02–05)

ism. All we can do, according to Kant, is to “comprehend its incomprehensibility, and this is all that can reasonably be required of a philosophy that in its principles strives up to the boundary of human reason.” (*GMS* 4:463)

I would like to end this section by looking at a dichotomy of uses of the concept of dignity either as *status* or as *value*, which has been recently addressed in attempts to find the appropriate interpretation of Kant’s conception of dignity (Sensen 2011, Ch. 4–5). I cast doubt on the relevance of this dichotomy, both with regard to the discourse of human rights and to Kant’s conception of dignity. According to this dichotomy, dignity has been conceived either as a rank (whether *within* human beings or, of human beings as *opposed* to the rest of nature) or as an intrinsic value.²⁵ I argue, referring to Jeremy Waldron’s account of dignity and Oliver Sensen’s interpretation of Kant’s conception of dignity, for the twofold claim that a discontinuity between these two concepts of dignity is not always defensible, and that there need not be a gap between the two concepts either.

An entity that has a certain status will also usually possess or be accorded some value in that respect; an entity’s being valuable can generate some status for it, and the loss of certain values could mean that the affected entity loses its status completely. The supposed line between status and value is rather blurry. If one, for example, claimed that human beings have an intrinsic value in virtue of certain features they possess merely due to being human, then the result would be that they all have an equal status to that extent.

Now, if one referred to a status-concept of dignity which elevates the position of human beings as a whole (a concept prominently introduced by Cicero) against the rest of the universe,²⁶ it would be still unclear what justificatory or explanatory work this ranking does for the mutual respect of rights *between* human beings.²⁷ Jeremy Waldron, perhaps the most notable contemporary proponent of a status-concept of dignity, conceives of dignity in the context of rights as the idea of “the assignment of [...] a high-ranking status to everyone” (Waldron 2012, 47; cf. Vlastos 1962, 46f.). The current idea of human dignity is, ac-

25 The dichotomy need not exhaust all possible uses of dignity (see for example Rosen 2012a, Ch. 1).

26 Since I am concerned with dignity in reference to human rights, I disregard the—say—pre-Ciceronian status-concept of dignity as a non-egalitarian rank of human beings within a particular society (see Rosen 2012a, 11–19).

27 As Charles Beitz quite rightly points out: “Nothing much follows from the type of species conception found in Cicero about the relative standing of some human beings considered in relation to others, or (without more) how human beings should treat one another. What this shows is that the practical force of views of human dignity in this tradition, which begin by distinguishing human beings as a class from other beings, is parasitic on a substantive conception of value. In this respect the status/value distinction may not run deep.” (Beitz 2013, 275)

According to Waldron, the idea of an upright equality of all human beings, of a universalized, egalitarian nobility (Waldron 2012, 22); Michael Rosen calls this a “Whig” view: “we are all Aristocrats and Noble Lords (and Ladies!)”, (Rosen 2012b, 79f.). Waldron, however, explicitly concedes that dignity is not “rock-bottom”, that there are deeper features of the human person or species on which dignity is based (Waldron 2015, 137). Moreover, he asserts that the status-concept of dignity “comprises not just a set of human rights, but an *underlying idea* which explains both the importance of each of these rights in relation to our being human and the importance of their being packaged together in this regard” (Waldron 2015, 136; emphasis added). He then continues: “That *underlying idea* may be thought of as what dignity ultimately amounts to or as what dignity is ultimately based on or as what the rights that dignity comprises are ultimately based on.” (Waldron 2015, 137; emphasis added) Unfortunately, however, Waldron says nothing more about this “underlying idea”. He does not explain the nature of this idea or its relation to dignity. His status-account leaves much to be desired. I believe Waldron’s account shows that even an elaborated egalitarian status-concept of dignity in the discourse of human rights still remains in need of some substantive idea(s) or values.

Oliver Sensen’s outstanding and meticulous study of Kant’s conception of dignity (Sensen 2011) touches on many interpretative claims, among which I address just two as relevant in the context of my discussion. Sensen seems to see a gap between what he calls the “traditional” and the “contemporary paradigm” of dignity. He advocates, perhaps as his main thesis, that Kant is actually like Cicero, an adherent of the traditional view of dignity in which “‘dignity’ refers to an elevated position of human beings, not an inherent value property” (Sensen 2011, 162, see also p. 211). Sensen’s second claim, with which I conditionally agree, is that in Kant’s moral theory dignity is a “secondary concept”, it “is not a concept that carries any justificatory weight” (Sensen 2011, 202, 211).

In accord with BPD, one might however question why it is not the case that defending the idea that Kant’s conception of dignity incorporates both an elevated rank of human beings as finite rational beings and the intrinsic value of some of their properties on which their dignity-status supervenes. After all, Sensen admits—although just in passing—that dignity qua the “elevated status of human beings in the universe” might be “based on an intrinsic feature like freedom or reason” of human beings (Sensen 2011, 162). What Sensen seems to contest to be the appropriate interpretation of Kant’s conception of dignity is, rather, the view that dignity should be taken by itself as a source or reason-giver for respecting rational beings (Sensen partly fabricates this as the “contemporary

view” of dignity, see Sensen 2011, Ch. 4).²⁸ Such a view, I called it in Section 1 an *imaginary opposite of BPD*, does not, however, exhaust all relations between dignity and intrinsic values. I think Sensen’s interpretation would be perfectly in line with BPD, should he not deny that dignity, even as a status-concept, could still depend on some intrinsic value(s).

3 Dignity’s Function in Moral Accounts of Human Rights

I have so far argued that dignity has directly and independently no reason-giving power: the normative buck does not rest on it, but is rather passed down to other features which confer dignity upon human beings. Hence, BPD might seem to reinforce an objection raised from time to time against the usefulness of the concept of dignity in normative deliberations. To Schopenhauer dignity was an imposing, but empty expression.²⁹ Recently, Steven Pinker has seen dignity as an “almost” useless concept: it’s just the “sizzle, not the steak; the cover, not the book” (Pinker 2008). And to Ruth Macklin dignity is, at least in medical ethics, a completely useless concept replaceable with “respect for autonomy” (Macklin 2003). The idea that dignity passes the buck on to other reason-giving features seems to put forward a similar point, namely that dignity is just a passive placeholder, nothing more than an “empty vessel open to capture” (McCrudden 2013, 15) all sorts of reasons, or even a redundant normative concept. One might, therefore, object against BPD: when it comes to moral reasoning in favor of human rights, why not just go directly and all the way down to those deeper reason-giving features?³⁰

28 For example, the passages of the main human rights documents that Sensen refers to as representative of the “contemporary view” of dignity, just state that dignity is an inherent property. A property being inherent is however not necessarily an intrinsically valuable property. Being in need of nutrition, for instance, is an inherent natural property of living beings, but not necessarily an intrinsic value (*pace* Sensen 2011, 149–152).

29 “That expression, dignity of man, once uttered by Kant, afterward became the shibboleth of all the perplexed and empty-headed moralists who concealed behind that imposing expression their lack of any real basis of morals, or, at any rate, of one that had any meaning.” (Schopenhauer 1965 [1840], 100)

30 There are similar concerns about the buck-passing account of goodness or values at the meta-ethical level (see for example what Roger Crisp calls Scanlon’s “redundancy argument”, Crisp 2005, 81).

Is there any need for the concept of dignity in a theory of human rights? Might Kant's ideas be of any help here? In this section, I am going to outline answers to these questions. My account shall, however, build upon two presuppositions. On the one hand, one need not assume that providing normative reasons exhausts all the normative work a concept might do. On the other hand, although Kant's conception of dignity remains contingent on his Transcendental Idealism (Section 2), there are certain related ideas in his philosophy that can be appropriated, and endorsed by a plurality of substantive normative accounts independent of Kant's own substantive ethics.³¹ In other words, certain ideas in Kant's practical philosophy could fulfill a *function* at the level of pluralism of moral accounts without committing them, at least to some extent, to endorse his substantive *conception* of those ideas.

Now let us first begin with arguably one of the most important theoretical underpinnings of human rights practice. Article 2 of the UDHR states:

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Pertaining to all other Articles in the UDHR, this *meta*-Article grasps one of the essential features of the idea of human rights, namely that the validity of human rights is independent of contingent features of, and contingent relations between, human beings—however one then conceives of human beings. What is missing in Article 2 though, is another essential feature of the idea of human rights: that the validity of these rights is also above those contingent features, such that they trump considerations based on subjective features of individuals and societies, even though they are not necessarily absolute claims.³² Some have

31 To mention just two different examples: see Pogge's account of how Kant's theory of right could be considered and adopted independently of his comprehensive moral theory (Pogge 1997); see also some feminist accounts of sexual objectification of women, which draw on Kant's idea of humanity without endorsing other key aspects of his substantive ethics (MacKinnon 1987, for example p. 173; Nussbaum 1995).

32 This is a controversial aspect of human rights that I cannot deal with here. Human rights are supposed to be backed by strong reasons, which might nevertheless be defeated either when other forms of human rights violations are at stake, or when there are evils great enough so that it would be justified to violate a human right or a set of human rights in order to prevent them. Yet, as Thomas Nagel points it out: "Even if it is permissible to torture one person to save a

expressed this last point about human rights using the concept of *inviolabilities*. Thomas Nagel argues that possession of human rights is a non-instrumental *status* of having a certain kind of inviolability as a non-consequentialist, intrinsic *value* (Nagel 1995; Nagel 2008).³³ His idea is “that certain ways of treating people are to be excluded in advance from consideration as possible means for the achievement of any social or political end—ruled out as impermissible, without inquiring whether they might be useful.” (Nagel 2008, 103) This is, to Nagel, a version of Kant’s idea that persons should not be treated merely as means (Nagel 2008, 105; cf. Kamm 1992).³⁴

In order to capture this point in relation to dignity, I prefer to pay direct attention to a specific aspect of Kant’s idea, namely to the role he ascribes in *Section 2* of the *Groundwork* to the humanity-formula of the Categorical Imperative. After his four-step examination of the feasibility of this formula, Kant characterizes the “principle of humanity [...] as an end in itself” as the “supreme limiting condition of the freedom of actions of every human being” or “of all subjective ends” (*GMS* 4:430f.). What is to be limited here is treating each other as mere means for one’s (own) subjective ends. To be sure, Kant introduces the role of being a “supreme limiting condition” linked to certain substantive elements in his ethics: being a “rational being”, i. e. having a noumenal side, is an “objective end” which sets a limit on rational beings’ treatments of each other. However, I shall step away from Kant’s substantive conception of the principle of humanity and take, instead, its formal *function* seriously.

Given that we are accounting for human rights practice (which means, taking the main documents of human rights as a point of departure, though not beyond critique—John Tasioulas calls this “fidelity desideratum”), I think “dignity” is a proper expression for such a formal function (I shall return to this below), although dignity covers more than human rights. My suggestion now is that we should conceive of the buck-passing property of dignity in the context of human rights as a second-order concept, which captures only certain qualified lower-order, reason-giving properties of human beings. By this qualification I mean those properties that provide reason(s) to respect their bearer apart from, and above, her contingent features *universally* and *equally* (cf. UDHR, Ar-

thousand others from being tortured, this leaves unexplained why one may not torture one to save two.” (Nagel 2008, 106)

33 Nagel’s account (see also Tasioulas 2013) is a striking example of my claim that the relation between a value- and a status-concept of dignity in human rights discourse cannot appropriately be described as an exclusive disjunction.

34 It is noteworthy that in his discussion of human rights, Nagel confines inviolabilities only to “negative rights” (Nagel 2008, 102). Further, he does not operate with the concept of dignity.

ticle 2). Moreover, this qualification need not imply that there are certain decision procedures provided by the concept of dignity itself for selecting those reason-giving properties. The goal is rather clearly set: the features captured by dignity must supply normative reasons for claims that apply universally and equally for human beings merely qua human beings in ways that, other things being equal, they trump subjective or contingent considerations. There might be different procedures governing how to reach that goal (universalizability would be one of them). But I can't see how the concept of dignity itself might do this procedural work in a promising way.

In sum, according to this proposal, references to dignity in the context of human rights function as setting a formal, supreme—though not necessarily absolute—limiting condition on interpersonal and institutional relations. As such a condition, dignity supervenes exclusively on those non-contingent properties of human beings which give reason(s), i. e. substantive content, to such a function. The lower-order properties in question thus provide reason(s) why some forms of treatment by others—whether individuals or institutions—towards the dignity-bearer are forbidden or required.³⁵

But, what exactly is dignity actively doing with those reason-giving features here? Jeremy Waldron, whose account of dignity is, I believe, in line with BPD, proposed that dignity genuinely plays a “unifying” or “organizing” role for human rights (Waldron 2015, 137). In order to explain this role he brings, however—and as we saw at the end of Section 2—another element into play that makes it rather difficult to grasp the idea: “the invocation of dignity points [...] to *the underlying idea that unifies* [human rights]. That underlying idea may be thought of as what dignity ultimately amounts to or as what dignity is ultimately based on or as what the rights that dignity comprises are ultimately based on.” (Waldron 2015, 137; emphasis added) It is unclear whether the unifying function Waldron put forward is primarily a function this idea fulfills, or that

35 To give an example how the proposal works, we might take a look at the conception of dignity offered in the *Cairo Declaration on Human Rights in Islam* (CDHRI 1990). As we see in Article 1(a) of this declaration (“*All human beings form one family whose members are united by submission to God and descent from Adam. All men are equal in terms of basic human dignity and basic obligations and responsibilities, without any discrimination on the grounds of race, color, language, sex, religious belief, political affiliation, social status or other considerations. True faith is the guarantee for enhancing such dignity along the path to human perfection.*”), it makes “the submission to God” a *superior* condition for dignity itself and runs the risk of violating human rights in the name of “[t]rue faith” as the only guarantor of “enhancing such dignity”. My proposal is, therefore, not compatible with this conception of dignity—it disqualifies it as an account of human rights.

the concept of dignity fulfills; and nor is it clear how this idea or dignity are to do the unifying work.

Another, rather less ambiguous, way to see how the relationship between human rights, reason-giving features of human beings (I take Waldron's "underlying idea" to correspond to these features) and dignity might work is to look at the regulative function Kant assigns to the concept of end (Zweck) for the reflective power of judgment. Seeing dignity as a supreme limiting condition, we could analogously say that with the second-order concept of dignity we "prescribe a rule" (cf. *KrV* B 537 f.), which regulates two sorts of pluralities: the plurality of normative reasons for human rights on which dignity supervenes—even if one advocated a sole justificatory foundation for all human rights (for example Forst 2011); and the plurality of substantive moral accounts, which respectively provide (different) reasons for human rights. In both cases dignity has to be seen in such a way "as if" it gives a *purposiveness* (cf. *KU* 5: §§ 65–66, 404) to pluralities of reasons. Conceived as a supreme limiting condition dignity gives, thus, a common thread to all the reasons that the lower-order properties provide (properties that themselves vary according to different substantive accounts).

This leads us to the final step in my proposal, which is to capture the normative work dignity does on its own. Therefore, we could complement the BPD as follows:

DPR *Dignity passes the normative buck (BPD) but as a supreme limiting condition regulates the normative reasons for human rights.*

Yet still, there is more to the regulative role dignity takes on. Claims of violations of dignity might be regarded from an as-if standpoint in the discourse of human rights. To be sure, violations of dignity cover more than violations of human rights. There seem to be certain non-dignitarian ingredients that must still be added to the violations of dignity in order for them to be a matter of human rights.³⁶ However, claims of grave violations of dignity might be regarded in such a way as if they were candidates for claims of violations of human rights, or even inviting us to consider new candidates for what count as human rights.³⁷

³⁶ Cheating on her or his partner, for example, might be a violation of dignity, but is not a violation of human rights. This is another story I can't go into it here; but see for example Alston (1984) on a "process of recognizing of human rights", and Sen's and Tasioulas' ideas of "threshold" conditions for being a human right (Sen 2004, 321 ff., 348 ff.; Tasioulas 2013, 297 ff.).

³⁷ Perhaps Habermas has something similar in mind when he, without further clarification though, states that the idea of "*human dignity forms the "portal" through which the egalitarian and universalistic substance of morality is imported into law.*" (Habermas 2010, 469)

Since I have been giving meaning to dignity in terms of how it could function in the discourse of human rights, one might challenge that according to DPR, dignity is at best, a fungible concept; that we could easily pick out from a range of candidates another normative concept, stipulate for it the same function, and replace dignity with it. I do not believe that dignity is such a substitutable concept here. One way to reply to this challenge is to point to certain features that the concept of dignity jointly delivers: It has a far-reaching historical background in a variety of cultures and traditions of thought. Related to, but distinct from this, dignity is actually part and parcel of substantial documents of human rights as well as basic rights. Moreover, it seems to be strongly connected with the attitude of respect, as the appropriate motivational response to the ways dignity-bearers (expect to) treat each other (see fn. 7). Last but not least, dignity qualifies as a higher-order, buck-passing concept. Therefore, it is of no help to replace dignity completely with some substantive ideas like ‘autonomy’ (Macklin 2003). For, even if one could derive or develop (some would say construct) all the normative reasons for the plurality of human rights from a single substantive idea, there is still a plurality of substantive moral accounts which, deviating from each other, provide different reasons for human rights.

4 Conclusion

I have been arguing that dignity is not a property of human beings which distinctively gives reason(s) for respecting human rights. But this does not mean that it does no further normative work in addition to the work done by the reason-providing properties on which it supervenes. Rather, dignity could fulfill a regulative role for the normative reasons that count in favor of human rights. As a supreme limiting condition, dignity captures only those features of human beings which provide universally valid reasons for certain ways of treating all human beings merely as human beings (DPR). Disregarding what exactly the reason-giving properties beneath it are, dignity is still doing the same job. The regulative function of dignity at stake here pertains to the very basic idea of what human rights are about.

I would like to end with some remarks. I am skeptical about efforts that make dignity the sole currency in a theory of human rights.³⁸ It is probably neither possible nor desirable to tackle all the theoretical problems about human rights by means of the concept of dignity. Second, dignity, as I conceive it, is

38 For an example of a comprehensive dignitarian account of human rights see Gilabert (2018).

in a certain sense—to borrow a phrase, if not his exact meaning, from Dieter Birnbacher—a “conversation stopper” (Birnbacher 1996, 107). When it comes to the question as to why₁ it is morally or juridically impermissible to treat human beings in certain ways, the answer may simply be “because they have dignity”—referring to dignity as a supreme limiting condition in interpersonal relations or in the relations between individuals and institutions—and that’s that. In this use dignity functions as a normative shortcut. But when asked why₂ human beings have dignity, what speaks in favor of this supreme condition, dignity passes the normative buck. Finally, we do not need to tighten up the connection between dignity and human rights mutually. Not every violation of dignity must be a violation of human rights. Yet, if we are assuming that dignity plays a foundational role for human rights (as it is the case in a wide range of human rights documents), every violation of human rights has to be conceived as a violation of human dignity.

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Kantian Dignity Semantics. An unreliable Resource for Human Rights Culture

Abstract: One of the most important normative ties of contemporary human rights culture is the reference to human dignity. Concerning the ongoing philosophical project of elaboration, a rationally convincing and generally accepted account of human dignity I propose four conditions of adequacy which such an account must satisfy in order to benefit contemporary human rights culture in search of its transpolitical normative foundations. Next, I analyze Kant's dignity semantics and reconstruct the meaning of Kantian "dignity of humanity" in three variants (elevation-, priceless-, and end-in-itself-dignity") corresponding to three different premises within Kant's ethics. The sobering result is that none the variants is adequate. As the discussion shows, the inadequacy of Kantian dignity semantics results from Kant's proposal to understand rational common morality as centered on self-legislating pure reason. This proposal is revisionist whereas Kant thought it was reconstructive. In conclusion: To vindicate contemporary human rights culture, reference to Kantian dignity semantics, though popular, is more of a liability than an asset.

1 Why we need an R4-Account of Human Dignity

Scholarly problems concerning the exegesis of Kant's writings on ethics continue even 200 years after his death. Massive disagreement among Kantians persists about the best rational reconstruction of different versions of the categorical imperative, about the nature and importance of dignity ("dignity of humanity"), and about how both notions are interrelated. Quaint though these debates might appear from a political point of view, at second sight they have a bearing on a massively important political project, namely the justifiable globalization of human rights culture. The complex web of normative institutions we call human rights culture would not hold together for long if its integrative normative ties were found to be untenable under rational scrutiny. An idea of human dignity pervades these integrative normative ties of human rights culture, as the famous Article 1 of the Universal Declaration of Human Rights indicates, reasserting a point already inscribed into the opening passage of its preamble. The preamble asserts that "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family" is declared to bear a foundational

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role for “freedom, justice and peace in the world”.¹ If it is true that a defensible notion of human dignity is necessary for, or at least relevant to, the defensibility of declared human rights, then we advocates of human rights culture are politically well advised to clutch at every straw in critical discourse on notions of human dignity.² In brief: “The problem of justification is central. The plausibility of any determination of the content of dignity is dependent on its theoretical justification. No conception of dignity will survive in morality and the law if no convincing reasons are at hand why dignity should be understood in this way and not another” (Mahlmann 2013, 606).

The importance of explicating the differences in, and the differential justificatory standing of, a range of at least *prima facie* defensible dignity-notions is further underlined by the observation that in situations of deep moral disagreement, for instance about the moral permissibility of abortion, arguments based on notions of human dignity are often being advanced as knockdown arguments with much confidence but little reflective scrutiny. Within the international discourse of secular bioethics, for instance, it is far from clear whether reliance on notions of human dignity contributes to consensus-building more than to polemics, and how much of a normative workload the notion can actually shoulder.³ Concerning the idea of human dignity, efforts at clarification (President’s Council on Bioethics 2008) and at vilification (Pinker 2008) balance.

In brief, an account or explication of human dignity that is adequate in at least four respects is a desideratum:

1 Klaus Dicke underscores that “not reason pure and simple, but ‘reason and conscience’ is regarded as the substance of human nature and thus of dignity” and argues that this notion of the dignity of human beings “is a formal, transcendental notion to legitimize human rights claims. This means first of all that dignity is not a substantive norm which can be defined in substance and from which individual human rights claims can be derived immediately by deduction. Rather, the legitimizing function of human dignity is critical in nature. It depends on its relation to single human rights as listed by the Declaration and by instruments of human rights protection as agreed upon later” (Dicke 2016, 118).

2 For illuminating comparative constitutional perspectives on the legal importance of human dignity see the articles by Jochen Frowein, Arthur Chaskalson, and Eckart Klein, in Dicke 2016, 111–159.

3 To illustrate: The word “dignity” has become something of a slogan in bioethics, often invoked by both sides of debates about a variety of scientific and clinical issues, supporting contradictory conclusions. For instance, in arguments about assisted suicide, those who favor the legalization of the practice base their conclusion on a moral imperative to provide “death with dignity,” while those who oppose legalization do so because they see intentionally rendering a human being dead, even out of mercy, as a direct assault on human dignity. [Footnote omitted, M.K.] Certainly this suggests that dignity is a concept “in need of clarification” (Sulmasy 2008, 469).

First, the explication should be *refined*, i.e. its explicans should not be presented as a brute fact, nor as an unanalyzable intuition, a reflection-repelling conviction, nor as some sacred value questioning of which is tabooed.

Second, the explication should be *realistic*, i.e. it should not present human dignity as depending on ideals which many people with a decent amount of knowledge about the diversity of living conditions in our contemporary world would reject as unrealistic lofty ideals.

Moreover, the explication should be *relevant*, i.e. its determinate normative content should make a difference to the affirmative in the ways we think about the validity basis of human rights culture. Human rights culture is a powerful reality both in (morally and legally) normative terms as well as in terms of institutionalized political power. Undoubtedly, human rights culture has massive consequences for good or ill concerning the living conditions of countless people at present and in the future.

Finally, the explication we are after should be *reasonable*, i.e. grounded in beliefs which are confidently available to everyone whom we would count as possessing sufficient common sense, sound critical self-reflection, and good will for dialogue on an equal footing. Formulating the latter condition of adequacy in Habermasian parlance: discursive peers should be able to consent to the claim that the proposed explication of human dignity is reasonable.

To grant that we need a refined, realistic, relevant and reasonable explication of human dignity—for short, an R4-account—is of course not the same as to grant that Kant's moral philosophy provides such an account. After many years of partaking in discussions of diverse issues in bioethics and business ethics in Germany I have the impression that paying homage to "Kant's notion of human dignity" often serves as a proxy whenever appealing outright to religiously tinged dignity semantics would fail to impress opponents in discourse. Typically, such attempts at gaining the moral high ground at critical points of a moral or political controversy blend out the fact that Kant's normative ethics zeros in on the moral law ("Sittengesetz"), not on human dignity. So typically, one ends up having to defend Kant's ethics of the moral law, and of the categorical imperative as the adequate expression of the moral law, against enthusiasts who mistakenly cherish Kant as the philosophical mastermind of human dignity foundationalism. Portraying Kant in this way is a comforting and also, outside of scholarly discourse about Kant's practical philosophy at least, popular evasion of the irritatingly difficult task of developing an R-4 account of human dignity.

In what follows I will argue that Kantian dignity semantics does not deliver the backing that proponents of human dignity foundationalism would like Kant to provide. In my view, it is not even safe to say that at any rate Kant's "overall approach" to normative ethics "is on the right track" and that it will yield a ro-

bust R-4 account of human dignity if properly developed by careful exegesis and charitable interpretation. I think we should seriously consider the possibility that what Kant has to say about human dignity is the more disappointing the more we try to force human dignity semantics into the center of Kant's philosophy of practical reason. We would be better advised to approach and appreciate what Kant has to say about human dignity in the secondary role that this concept really does play within Kant's moral philosophy. For Kant, the dignity (of humanity in any person) derives from the categorical imperative of the moral law (self-imposed by every person), not vice versa.

2 Kantian Dignity Semantics

In the three sections that follow I adumbrate three key meanings of dignity in Kantian dignity semantics. My intention is not to reconstruct this semantics in all its richness. Instead, my aim is the more modest one of pointing out why all three key meanings discernible within Kantian dignity semantics fall short of an R4 account of human dignity.

2.1 Elevation-dignity

The notion of dignity that has gained predominance in contemporary human rights culture is a universalistic, egalitarian and non-meritocratic notion of dignity whose scope of sensible application is (at least) as wide as all members of the human kind. In contrast, the original notion of dignity so predominant in premodern times implies non-egalitarian distinction and excellence by which some persons contrast with some other persons. The original notion of dignity—in latin: *dignitas*—implies a vertical difference in value, worthiness, worth, and generally recognized esteem, and a horizontal difference by distinguishing within the set of all persons between those who have it and others who don't.

Kantian dignity semantics takes up the meaning of the original notion but changes it by giving the meaning of *dignitas* a universalistic, egalitarian and non-meritocratic turn. Kant transposes the vertical and horizontal difference implied in the meaning of *dignitas* into a categorical difference between the normative authority of reason and the authority of desire and other motivational drivers of human behavior. How does this work? Consider: For Kant, possessing the capability of reason is a generic feature of human beings as persons, i.e. a capability which it is essentially normal to possess for the kind of beings to which human persons belong. That possessing this capability is essentially normal

means that we can claim that persons have it and can without contradiction admit some deviant cases of human individuals who turn out to either lack, never develop, or lose this capability over the span of their life. Going along with Kant we should think that possessing reason as we know is what distinguishes us and all persons like us from all other terrestrial animals. Following Kant further into his philosophical position of transcendental idealism we should think that by possessing reason we distinguish ourselves as persons not only from other living non-personal creatures but from nature in general, since nature is for Kant essentially the totality of appearances in space and time governed by nomic necessity. In contrast, the capability of reason gives the possessors of this capability—rational beings—as much negative freedom from nomic necessity as they need for exercising their positive freedom to set themselves ends and to try to reach these by acting accordingly with these ends in view. The capability of reason, for Kant, culminates in the “rational will” of rational beings, or “practical” reason.⁴

The rational will, in so far as it is rational, is⁵ indeterminate with respect to nomic necessity, and determinate only with respect to an altogether different necessity, the “practical” necessity of insight into, and being free to will in keeping with, the claims of reason. So practical necessity and being free to form one’s will either accordingly or not accordingly to the claims of reason viz. practical necessity, these are complementary aspects of Kant’s notion of the rational will of rational beings.⁶ The capability of reason and the freedom that is neces-

4 “The capacity for desire whose inner determining ground, hence even what pleases it, lies within the subject’s reason is called the will. The will is therefore the capacity for desire considered not so much in relation to action (as the capacity for choice is) but rather in relation to the ground determining choice to action. The will itself, strictly speaking, has no determining ground; insofar as it can determine the capacity for choice, it is instead practical reason itself” (RL 6:213). “Das Begehungsvermögen, dessen innerer Bestimmungsgrund, folglich selbst das Belieben in der Vernunft des Subjekts angetroffen wird, heißt der Wille. Der Wille ist also das Begehungsvermögen, nicht sowohl (wie die Willkür) in Beziehung auf die Handlung, als vielmehr auf den Bestimmungsgrund der Willkür zur Handlung betrachtet, und hat selber für sich eigentlich keinen Bestimmungsgrund, sondern ist, sofern sie die Willkür bestimmen kann, die praktische Vernunft selbst.”

5 Strictly speaking, by the light of Kant’s transcendental idealist epistemology, we cannot know whether our will *really is* indeterminate with respect to nomic necessity, but it does not make sense for us to think otherwise, and in this sense, it must be so. On the scant prospects of basing transcendental arguments on Kant’s anti-realist approach in practical philosophy, see Stern 2017.

6 “A will is a kind of causality of living beings in so far as they are rational, and freedom would be that property of such a causality, as it can be efficient independently of alien causes determining it; just as natural necessity is the property of the causality of all nonrational beings to

sarily presupposed in understanding ourselves as involved in any exercise of our rational will is what sets us *apart* from mere nature and *above* all living beings that lack reason and rational will. In this (Kant thinks: well grounded) excellence consists the “dignity of humanity” as understood on the model of *dignitas*: elevation in terms of worth, worthiness, value.

What justifies the elevation in terms of worth, worthiness, value that is implied in Kant’s transformation of *dignitas*? According to a view that is current in the literature, what Kant calls the dignity of humanity (“Würde der Menschheit”) is a normative quality of individual persons based on something they are generically and normally capable of doing, namely willing something for the sole reason that reason requires willing so.⁷ Moreover, this normative quality of individual persons is constitutively necessary for morality, since without it, categorical imperatives would be impossible, and morality, for Kant, is essentially the moral law (“Sittengesetz”) whose normative modality is that of a categorical imperative (manifested in a number of ways). Whenever individual persons have this generic and normal normative quality, they have it in virtue of a capability which, it is supposed, is *valuable as such* and which has, in this sense, “unconditional value” (Guyer 2002, 26) or “unconditional worth” (Baron 2002, 395) for persons.

One defensible way to understand the purported unconditionality of the capability of willing rationally is to take unconditionality as registering the following fact: Persons, provided they are reasonable persons, understand themselves, i.e. understand what they are essentially as persons, by understanding themselves in terms of this capability no matter in whatever other terms additionally they may understand what they essentially are for themselves.

Whatever the merits of this reading of unconditionality, it would appear that arguing for its validity, over and above questions of correct exegesis of Kant’s texts, would require something like a transcendental argument⁸ or some other

be determined to activity by the influence of alien causes” (*GMS* 4:446, transl. Gregor/Timmerman). (“Der Wille ist eine Art von Causalität lebender Wesen, so fern sie vernunftig sind, und Freiheit würde diejenige Eigenschaft dieser Causalität sein, da sie unabhängig von fremden sie bestimmenden Ursachen wirkend sein kann: so wie Naturnothwendigkeit die Eigenschaft der Causalität aller vernunftlosen Wesen, durch den Einfluß fremder Ursachen zur Thätigkeit bestimmt zu werden”).

⁷ Nelson Potter, for one, explains Kantian dignity by reference to “inner moral capabilities of the human agent, in virtue of which the agent has dignity” (Potter 2002, 379).

⁸ Christine Korsgaard in particular has elaborated various versions of a transcendental argument leading us from the capability of willing rationally to the existence of, or at least recognition of, absolute value. Couched in terms of the self-determining of the rational will, or “rational autonomy”, the root version of her arguments runs like this (Korsgaard 1986, 500): We “regard some of our ends as good, even though they are obviously conditional; there must be a condition

sort of sense-critical argument⁹ that could serve to establish that it is inevitable and conceptually independent of any other self-ascriptions within our first-personal self-understanding, to ascribe to oneself, and to ascribe to everyone who is like oneself in the relevant respects, the ability to will something rationally.

I do not want to discuss here any particular attempt to bolster up Kant's view that persons essentially possess practical reason manifesting itself in their rational will. Let us simply assume that indeed we demonstrably cannot but understand ourselves as free enough to will something by responding to nothing over and above that which we insightfully take to be what reason requires.¹⁰ For instance, a phenomenologically convincing case in point would be a person willing to follow the norms of logically sound reasoning (e.g. drawing logically correct conclusions) even in the face of affective resistance fuelled by threatening awareness of very unpleasantness conclusions. Instead, I want to recall a simple truth in order to deflate widespread hopes that Kant's generically transposed *dignitas* amounts to an R4-account of human dignity.

The simple truth I want to recall is the following: No matter whether it can be demonstrated that to understand oneself as possessing the capability of willing rationally really is a rationally definitive¹¹ self-understanding, and no matter whether it can be demonstrated that we inevitably value ourselves whenever we actualize this capability, it does not follow at all that the moral norms and ideals comprising rational common morality as we know it are centered on protecting and promoting this capability and its inherent value. Nor does it follow that the moral norms and ideals that comprise rational common morality should be so centered, or that we should strive to readjust them, for instance by reforming our morality (by moral education) in which they are not yet so centered. The ob-

of their goodness, a source of their value: we regard them as good whenever they are chosen with full rational autonomy; so full rational autonomy is the source of their value". For a constructive critique of Korsgaard's argument see Schönrich (2017).

9 For strictly reflexive argument to this effect in line with Karl-Otto Apel's transcendental pragmatism, see Kuhlmann (1992) and Kettner (2012).

10 For a subtle defense of this view against skepticism see Beyleveld's (2017) reconstruction of Allan Gewirth's dialectically necessary vindication of this view.

11 By "rationally definitive" I refer to what Karl-Otto Apel in his incessant attempts to reformulate the synthetic unity of apperception, the centerpiece of the Kantian paradigm of transcendental reflection, as the communicative of unity of argumentation, has elaborated as "Letztbegründung": Establishing by transcendental arguments for a particular content of a universal validity claim (e.g. a claim to truth) that the claim content cannot be established deductively without vicious circularity between conclusion and premises, and cannot be skeptically rejected without performative self-contradiction. For the role of this mode of justification in Apelian discourse-ethics, see Apel (2001), Brune et al. (2017), Kettner (2016).

served non-sequitur stands even if we admit (as I think we should) Kant's claim that possessing the capability of willing rationally is necessary for acting in morally qualified or other norm-guided ways.

Note that the non-sequitur in no way rules out the possibility that in common morality, i.e. in our most common moral convictions, some of its moral norms work in the service of protecting Kantian *dignitas* (i.e. the value that our generic and normal capability of willing rationally has for us and which everything not possessing this capability lacks). Nor does it rule out that *dignitas*-protecting moral norms must be part of any reasonable, discursively robust morality (i.e. a morality whose norms and values are defensible by appeal only to such justifying reasons that every reasonable person can share and can be expected to share). What the non-sequitur does rule out is the thought that when we center the normative content of morality on Kantian *dignitas*, i.e. on the value of rational autonomy alone, then we are actually articulating rational common morality. Clearly, recentering would be a revisionary ethical project. This project appears compelling beyond alternatives only within a Kantian framework of transcendental idealism, a framework that itself is arguably a far cry from convincing.

Whether rational common morality is a more reliable resource for the project of making sense of human dignity so that it can contribute to the larger project of rationalizing human rights is a question that I cannot pursue here. To repeat, my point here is the conclusion that investing in Kantian *dignitas* with the aim of bringing the contents of the norms of human rights culture closer to the status of a discursively robust morality is a vain undertaking. Kantian *dignitas* even where its explication can be refined and be made reasonable, fails the constraints of realism and relevance that an R4-account of human dignity must satisfy.

2.2 Pricelessness-Dignity

Let us assume we have very good reasons to believe that there is a categorical difference between the normative authority of claims of reason and the normative authority of claims of desire and other motivational drivers of human behavior. This would give us also very good reasons for believing that rational beings (like us) recognize in this difference a special feature of their kind (our kind) which they *can* esteem or positively value in various ways. In the preceding section I interpreted Kant as employing this thought in order to appropriate and transpose into his semantics of dignity the primordial meaning of *dignitas*. Moreover, I have sketched a plausible way to interpret the unconditionality that we

are prone to associate with Kantian *dignitas*: an unconditionality of presupposition within first-personal self-understanding. What remains to be seen is how the presuppositional unconditionality of Kantian *dignitas* can be an axiological unconditionality: unconditional *value*, unconditional *worth*.

The *locus classicus* for tracing Kant's understanding of axiological unconditionality and probably the one best known passage on dignity within the complex Kantian semantics of dignity is in his *Groundwork of the Metaphysics of Morals*.¹² Here (*GMS* 4:434), Kant distinguishes between having a price and possessing dignity. His next argumentative move is to associate dignity with pricelessness and non-relative, hence incomparable or unconditional worth. This connotation is popular because of its seeming comprehensibility and does in fact capture an important aspect of Kantian dignity semantics: "that which is elevated above all price, and admits of no equivalent, has a dignity" (*GMS* 4:434). Dignity, in the sense in which Kant uses this term in the pricelessness-passage, means a value of a very special kind. This value is very special in that it is 1. an *intrinsic* value, i.e. it does not derive from its relations to other values of other kinds, and it is 2. a *supreme* value, i.e. it excludes quantitative commensurability across any set of dignity-bearers. In other words: *n* instantiations of pricelessness-dignity do not amount to *n* times its value.

Pitted against the desideratum of an R4-account of human dignity, Kantian pricelessness-dignity is certainly *relevant*. At least this part of Kantian dignity semantics squares with the contemporary understanding within human rights culture that any and every individual of the human kind can and should recognize themselves and any and every other individual of the human kind as the bearer of an intrinsic, supreme value. But Kantian pricelessness-dignity is not *refined*, since Kant introduces the notion as an intuition, so far merely based on word-meaning. How *realistic* and *reasonable* Kant's notion of pricelessness-dignity can become will depend on the substantial arguments he gives in support of the price/lessness distinction.

The task of explicating the full meaning of the famous pricelessness-passage in search of an argument turns out to be quite difficult since Kant immediately moves on to connect the notion of pricelessness-dignity with two other notions which in turn stand much in need of explication, namely Kant's notion of a realm of ends ("ein Reich der Zwecke") and Kant's notion of an end in itself: [Only] "that which constitutes the condition under which alone something can be an end in itself does not have merely a relative worth, i.e., a price, but rather

¹² For a precise reconstruction of the richness of Kantian semantics of dignity, see Sensen (2011; 2017).

an inner worth, i. e., *dignity*.—Now, morality 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.”¹³

Skipping misleading feudal terminology we can perhaps update talk of a “kingdom” or “realm” of ends by reference to a community of individuals that is well-ordered by their rational will, or to a world of agents coordinated by the normatively egalitarian kernel of communicative action, or briefly, as I would prefer, to a community of equals in communicative interaction.¹⁴ Instead of updating we could of course also deflate and dismiss Kant’s notion of a “kingdom of ends” by interpreting it as a notion in which Kant’s transcendental idealism lapses back into the transcendent metaphysics which Kant set out to supersede.¹⁵ This is because Kant’s notion of a “kingdom of ends”, or more generally a *mundus intelligibilis* as opposed to *sensibilis*, expresses certain categorical oppositions which are deeply engrained in Kant’s thinking and which we would perhaps be happy to discard. In the analysis these oppositions are rooted in Kant’s dualism of agents as theoretically-really totally determined and as practically-really totally free.

“By a kingdom”, Kant explains in the *Groundwork*, “I understand the systematic union of several rational beings through common laws. Now, since laws determine ends according to their universal validity, it is possible—if one abstracts

13 Das “aber, was die Bedingung ausmacht, unter der allein etwas Zweck an sich selbst sein kann, hat nicht bloß einen relativen Werth, d. i. einen Preis, sondern einen innern Werth, d. i. Würde. Nun ist Moralität die Bedingung, unter der allein ein vernünftiges Wesen Zweck an sich selbst seyn kann; weil nur durch sie es möglich ist, ein gesetzgebend Glied im Reiche der Zwecke zu seyn. Also ist Sittlichkeit und die Menschheit, so fern sie derselben fähig ist, dasjenige, was allein Würde hat” (*GMS* 4:435).

14 Onora O’Neill (2004) speaks all too briefly of “a world of agents”, meaning a social world in which agency flowing from the rational will of all agents is possible for, and is being reproduced by, all agents. My term “communicative action” references Habermas, poignantly explained by James Bohman and William Rehg (2017): “Whereas strategic action succeeds insofar as the actors achieve their individual goals, communicative action succeeds insofar as the actors freely agree that their goal (or goals) is reasonable, that it merits cooperative behavior. Communicative action is thus an inherently consensual form of social coordination in which actors ‘mobilize the potential for rationality’ given with ordinary language and its telos of rationally motivated agreement”. The performative attitude required of agents in order to succeed in communicative action normatively requires agents to share an egalitarian second-personal attitude over and above first-personal and third-personal attitudes. For a rationally appealing explication of second-personal attitudes cf. Darwall 2009, 39–63.

15 For this dismissive move within an otherwise Kant-friendly discourse see for instance (Apel 2001, 55–64).

from the personal differences among rational beings, and likewise from all content of their private ends—to conceive a whole of all ends (of rational beings as ends in themselves, as well as the ends of its own that each of them may set for itself) in systematic connection, i. e. a kingdom of ends (...)” (*GMS* 4:433).

Provided we can, why should we conceive of “a whole of all ends (of rational beings as ends in themselves, as well as the ends of its own that each of them may set for itself) in systematic connection”? The normative as well as explicative reason Kant offers is that “all rational beings stand under the law that each of them is to treat itself and all others *never merely as a means*, but always *at the same time as an end in itself*. But by this there arises a systematic union of rational beings through common objective laws, i. e. a kingdom, which—because what these laws have as their purpose is precisely the reference of these beings to one another, as ends and means—can be called a kingdom of ends (of course only an ideal)” (*GMS* 4:433).¹⁶

If we want to be true to Kant’s argument here, we must give up the idea, tempting though this idea may be, that Kantian priceless-dignity is the ultimate source of the normative authority of the moral ought. If in some determinate morality and its associated elaboration to a position of philosophical ethics dignity in the sense of an intrinsic and supreme value (priceless-dignity) is the ultimate source of the morally normative authority, then this morality and the corresponding elaboration into a position of philosophical ethics certainly cannot be Kantian morality and Kantian ethics. We must give up that idea for the simple but consequential reason that for Kant any value, to the extent that any value is value for, or is valued by, the rational will, is entirely determined by practical necessity, i. e. by a rational ought, and not vice versa. With respect specifically to moral value, to the extent that moral value is value for, or is valued by, the rational will, moral value is entirely determined by the practical ne-

16 “Ich verstehe aber unter einem Reiche die systematische Verbindung verschiedener vernünftiger Wesen durch gemeinschaftliche Gesetze. Weil nun Gesetze die Zwecke ihrer allgemeinen Gültigkeit nach bestimmen, so wird, wenn man von dem persönlichen Unterschiede vernünftiger Wesen, imgleichen allem Inhalte ihrer Privat Zwecke abstrahiert, ein Ganzes aller Zwecke, (sowohl der vernünftigen Wesen als Zwecke an sich, als auch der eigenen Zwecke, die ein jedes sich selbst setzen mag,) in systematischer Verknüpfung, d. i. ein Reich der Zwecke gedacht werden können, welches nach obigen Prinzipien möglich ist.—Denn vernünftige Wesen stehen alle unter dem Gesetz, daß jedes derselben sich selbst und alle andere *niemals bloß als Mittel*, sondern jederzeit *zugleich als Zweck an sich selbst* behandeln solle. Hiedurch aber entspringt eine systematische Verbindung vernünftiger Wesen durch gemeinschaftliche objective Gesetze, d. i. ein Reich, welches, weil diese Gesetze eben die Beziehung dieser Wesen auf einander, als Zwecke und Mittel, zur Absicht haben, ein Reich der Zwecke (freylich nur ein Ideal) heißen kann” (*GMS* 4:433)

cessity of the rational moral ought, or in Kant's terminology, the "moral law". In other words: In Kantian ethics to which Kantian dignity semantics pertains, morally relevant value is fixed by a norm, viz. the norm of the categorical imperative. And the appreciation of value (by adopting appropriate evaluational attitudes) follows, and follows from, insight into practical necessity.

Should we go along with Kant's moral value prescriptivism?¹⁷ We should, if we go along with Kant's analysis of what it is to will anything rationally, i. e. Kant's theory of the rational will where the following nexus is axiomatic: "the will is a capacity to choose *only that* which reason, independently of inclination, recognizes as practically necessary, i. e. as good" (*GMS* 4:412).¹⁸

Kant's nexus between recognition of practical necessity and recognition of goodness I cannot find convincing. Here is not the place for elaborating criticism or defense of the nexus and its philosophical presuppositions. Within transcendental idealism, for instance, value-prescriptivism might make sense since it ties in with what I take to be Kant's most profound (but also most revisionary) idea, namely that reason is originally self-legislating ("ursprünglich gesetzgebend") with respect both to our epistemic engagement with a common world (as manifested e. g. in the pure categories) as well as in our normative engagement with each other as persons (as manifested e. g. in the moral law).¹⁹ For my purpose in the present article it suffices to note that a semantics of human dignity that rests on a theory of the rational will which requires a lot of philosophical defense in order even to begin to appear persuasive will not succeed as an R4-account of human dignity. Its *explicans* of dignity will come out neither as sufficiently realistic nor as sufficiently reasonable.

Coming back to Kant's conceptual links between rational beings (1) as ends in themselves, rational beings (2) as members of a community of equals in communicative interaction, and rational beings (3) as instantiations of the dignity of humanity, Kant argues that the primary locus of dignity is nothing else than morality itself: "morality and humanity, in so far as it is capable of morality, is that which alone has dignity" (*GMS* 4:435). It is no deviation when Kant also declares

¹⁷ This raises the theoretically important question whether Kant thought, and was right in thinking, that value-prescriptivism extends to non-moral values and perhaps even to all kinds of values. This point requires a separate discussion.

¹⁸ "[D]er Wille ist ein Vermögen, *nur dasjenige* zu wählen, was die Vernunft, unabhängig von der Neigung, als praktisch nothwendig, d. i. als gut erkennt" (*GMS* 4:412).

¹⁹ "Pure reason is practical of itself alone and gives (to the human being) a universal law which we call the moral law" (*KpV* 31). "Reine Vernunft ist für sich allein praktisch und giebt (dem Menschen) ein allgemeines Gesetz, welches wir das Sittengesetz nennen" (*KpV* 31).

that autonomy is “the ground of the dignity of a human and of every rational nature”. Kantian morality is the morality of autonomy.

Unfortunately, it does not go without saying that Kantian autonomy is not what contemporary enthusiasts of “respect for personal autonomy” are prone to mistake it for, namely personal self-determination. True to Kant we have to understand that the Kantian sense of autonomy is to freely place oneself within a community of equals in communicative interaction, equals in the specific sense that oneself and everyone else like oneself is equally subjecting themselves to the moral law as if the moral law, which does not have any particular author as its originator or source, were collectively self-authored and self-originating.²⁰ Being an end in itself is what the normative order engendered by the moral law *makes* a rational being *be*: Only in virtue of the moral law is it possible (Kant thinks) that “a rational being can be an end in itself” (*GMS* 4:435).

Kant makes it clear that the ground of the dignity of humanity (as both elevation-dignity and priceless-dignity) is not the fact that the instantiators of humanity (i.e. oneself and others) each are an end in itself. End-in-itselfness as such is not yet the primary locus of dignity. For Kant the ground of the dignity of humanity is autonomy. Autonomy, once again, not as individual positive freedom to govern oneself in whatever direction one is willing to set ends for oneself. Rather, Kantian autonomy is the positive freedom to govern oneself in compliance with the moral law that governs every other being with a rational will equally. Symbolizing the collective dimension of Kantian autonomy by uppercase and its individual dimension by lowercase, Kantian autonomy means SELF-self-governance.

Again, we have to note that Kantian dignity semantics is not at all the desired powerful answer to all deep questions of justification concerning the ultimate source of the normativity of human rights. Adopting it as if it were such an answer is either naively optimistic or is an annexation encouraged by projecting into Kant’s thought what many of us today like to be able to think: that dignity grounds human rights; that every human being as such has an equal and inalienable dignity which affords as the best fitting normative attitude towards it that we all respect each other via respecting everyone’s human rights.²¹

20 A tempting analogy is provided by Rousseau. Kant’s moral law is interestingly similar to Rousseau’s *volonté générale*. It differs in that its scope is not the citizenry of a nation but a borderless community of rational peers, namely all beings capable of a rational will.

21 For my own attempt to rationally reconstruct dignity as the most basic moral status, cf. Kettner (2007), Kettner (2009).

2.3 End-in-itself-Dignity

In section II of the *Metaphysics of Morals* where Kant expounds duties of virtue towards others arising from respect that we owe to each other, still another register of Kantian dignity semantics is drawn out. Here (for instance *RL* § 38, *TL* 462)²² the dignity of humanity (pricelessness-dignity and elevation-dignity) apparently takes on somewhat of a criterial role in moral judgment about interactions and interpersonal relations in general.

Consider: A criterion is a characteristic of something by which it can be judged or estimated. The categorical imperative of the moral law, as we learn already in at least one of Kant's various articulations of it in *Groundwork*, obliges each person to govern oneself in interpersonal interaction by respect for humanity in each person. What has come to be distinguished in the literature as Kant's "formula of the end in itself" (O'Neill 2004) places a morally essential normative requirement on human persons (and whatever other rational beings there are) in interaction to never merely use human persons (and whatever other rational beings there are) in the same way we use means to (some)one's ends, but instead so that in as much as human persons (and whatever other rational beings there are) are means to (some)one's ends they always also figure in the interaction as in themselves ends.²³

Kant's contrast between ends that are in themselves ends and ends that are not has an air of the unfathomable. An end that is *not* in itself an end, it seems, is an end either in relation to other ends, or in relation to means (namely to those means that are means to this end), or in relation to both. But what is an end that is *in itself* an end?

22 "Humanity itself is a dignity; for a man cannot be used merely as a means by any man (either by others or even by himself) but must always be used at the same time as an end. It is just in this that his dignity (personality) consists, by which he raises himself above all other beings in the world that are not men and yet can be used, and so over all things" (*RL* 6:462). ("Die Menschheit selbst ist eine Würde; denn der Mensch kann von keinem Menschen (weder von Anderen noch sogar von sich selbst) bloß als Mittel, sondern muß jederzeit zugleich als Zweck gebraucht werden, und darin besteht eben seine Würde (die Persönlichkeit), dadurch er sich über alle andere Weltwesen, die nicht Menschen sind und doch gebraucht werden können, mithin über alle Sachen erhebt.")

23 "The practical imperative will therefore be the following: So, act that you use humanity, whether in your own person or in the person of any other, always at the same time as an end, never merely as a means" (*GMS* 4:429). ("Der praktische Imperativ wird also folgender sein: Handle so, daß du die Menschheit, sowohl in deiner Person, als in der Person eines jeden andern, jederzeit zugleich als Zweck, niemals bloß als Mittel brauchest.")

Coming up with plausible answers is easier once we reference Kant's contrast back to persons by asking what being an end in itself is *for persons*. We might then perhaps want to say that being an end in itself for persons is being free to set ends, and to either accept or reject ends, one's own or those set by others (who are equally free to set ends etc.). In this vein, we can translate the meaning of Kant's abstract contrast in terms of interpersonal interaction. I would begin such a translation by interpreting the distinction of means and ends that enters into Kant's contrast as a distinction pertaining to means-ends-rationality:²⁴

When persons in interaction mutually recognize each other *as equally possessing a rational will*—in Kantian parlance: their *humanity*—then they also recognize that they morally ought not to govern their interactions by means-ends-rationality alone but moreover and always by *respect* for their being equally possessors of a rational will. We morally ought not to govern our interactions by means-ends-rationality alone since doing so inevitably results in reducing some person to some means.²⁵ And reducing a person to a means violates the categorical imperative of the moral law.

So here we have a negative criterion at least by which interaction can be judged to be morally wrong on Kantian premises: Involving reasons that express no other standards than those of means-ends-rationality is a characteristic of an interaction by which the interaction can be judged to be morally wrong and impermissible (within Kantian morality). Total absence of other kinds of reasons in interaction indicates absence of dignity of humanity and serves as a negative criterion in judgments about the moral rightness or wrongness of interactions.

Kant's point, as I understand it, can be formulated more generally thus: To govern their interactions by respect for their being equally possessors of a rational will is what persons *always* morally ought to do, whatever their interactions and by whatever other normative standards the persons involved choose to govern themselves in their interactions.

If this is explication of the moral law's (third) formulation, the formula of the end in itself, is plausible at all then it would follow that when interaction of persons is guided by reasons that express nothing but standards of means-ends-rationality such interaction cannot be morally right. This is so because such interaction falls short of what the moral law requires of us, namely to make our interactions express respect for our being all equally possessors of a rational will. By the lights of Kantian morality, for interaction to be morally right it is nec-

²⁴ Means-ends-rationality is instrumental rationality, cf. Kolodny and Brunero (2018).

²⁵ This is often referred to as "instrumentalization".

essary that the interactors be guided by reasons of the right kind, namely reasons that specifically express standards of respect for the humanity in each person—standards of mutual recognition of each other as equally possessing a rational will -, whatever other reasons are part and parcel of the interaction. And the specific reasons that express standards of respect for the humanity in each person must differ from any good reasons we may have for willing that persons, like other things that are apt to figure in our means-ends-reasoning, be the means to (our) ends.

So far we have only considered a negative criterion in judgments of moral validity. There are positive criteria too for such judgements. However, which interaction guiding reasons specifically and positively do express standards of respect for the humanity in each person is a complex question that I cannot address here. Kant's answers can be harvested by going through his discussions, especially in the *Metaphysics of Morals*, of dignity-respecting and dignity-disrespecting conduct.

Again, note the secondary role of dignity within Kant's theory of morality. The dignity that Kant associates with a person's being an end in itself derives from the moral law, it does not constitute the moral law. We manifest the dignity of humanity by expressing in our interaction respect for the humanity in each person; the humanity in each person, not the dignity of humanity, is what commands such respect.

3 Dignity as motivational, not justificatory

In his attempt to analyze the final form of Kant's practical philosophy, Allen Wood delineates the role of human dignity within Kantian morality. For Wood (2002, 8), "there is no question that Kant believes the dignity of humanity provides us with a moral incentive for respecting people's rights. It might thereby also provide us with strong moral incentives for setting up a just system of right and for trying to reform existing legal and political systems so that they better protect the rights of persons and do not infringe on them." Within Kant's *Doctrine of Right* (as distinct from his *Doctrine of Virtue*, Kant's mature moral philosophy pure and applied) the dignity of humanity does not, however, play a foundational role. Kant does not employ it for grounding the principle of right, the legal twin of the moral categorical imperative.

Wood's distinction between moral incentives and grounds of validity is an interesting one. Incentives tie in with motivation in a way that the latter do not. Wood's distinction apparently allows to carve out a motivational role for dignity in Kant's ethics.

Indeed, whatever roles moral incentives can and do play (in Kant's theory), it is not that of justifiers (i. e. justifying reasons) for moral judgments in particular or moral principles in general. Considering reason-guided action in the lifeworld of a community of equals in communicative interaction (as distinct from the special practice of practical discourse about validity claims) Kant's *Doctrine of Right* allows all kinds of reasons for guiding action in proper compliance with legitimate laws (for instance, reasons of fear of sanctions). But for guiding action in proper responsiveness to the moral law, Kant's moral philosophy allows only for moral duty as one's morally good reason for acting. In order for your action to have moral worth, moral duty must be your sufficient reason for acting as you do. Why? In Kant's view, moral duty is for us (as it is for all beings possessing a constitutively rational will plus inclinations) the way we are engaged by the moral law.

In various contexts,²⁶ Kant accords the dignity of humanity some role in the psychology of moral motivation. But the role dignity plays in didactic contexts, in pedagogy and moral education, in self-perfection of moral virtues, does not make dignity the justifier, viz. the paramount justifying reason, of moral duty. Justification apart, Wood's distinction urges us to consider the motivational role of human dignity in Kant's ethics.

As a matter of fact, someone might actually be moved by esteem for the dignity of humanity (in any of its senses) to fulfil one's moral duties. Yet, esteem for the dignity of humanity does not make it right to be so moved. According to Kant, we need not and should not think that doing what morally one ought to do is morally right because esteem of the dignity of humanity makes it right by providing one's reason for acting. Instead, what we should think is that what makes our doing what morally one ought to do morally right is the moral law itself being one's reason for acting. The moral law as a reason for acting is both the actor's motivating reason and the actor's action-intention's justifying reason, owing to the rational standing of the moral law as the "sole fact of pure reason" (*KpV* 5:31). As I pointed out in the preceding section, morality—not any and every morality but the one and only morality of the moral law—is the primary locus of dignity according to Kant.

With Wood I agree that Kantian dignity semantics gives dignity a role in moral motivation but in my view this role is more limited than in Wood's. In Wood's view, a case in point is Kant's provocative thought-experiment (*GMS* 4:398) of an action done from moral duty alone. Kant canvasses the case of a depressively embittered person who helps someone else solely in virtue of moral

26 Compare the lemma "Würde" in Eisler (1930).

duty with no accompanying inclination to so act. As Kant has it, this person's motivating reason is the thought that helping is one's moral duty; what makes this person want to perform the morally proper beneficent act is nothing over and above this thought. It is not that the helping person does not at all want to help. The point is that the person's wanting to help, in this case, is motivationally tied to duty alone. To the person in Kant's thought-experiment, duty is the morally necessary and motivationally sufficient reason for helping. This at least is what Kant wants to bring out in this thought-experiment.

Trying to save Kant's thought-experiment from didactic misfiring by igniting consternation rather than admiration, Wood argues, in connection with other passages in section 2 of *Groundwork*, that the dignity of humanity in myself and in another person is what gives another person a claim on my mindfulness and what gives me a reason for being responsive to the other's claim on my mindfulness (et vice versa). I find Wood's interpretation interesting already because if correct it would imply that for Kant the dignity of humanity consists in our being an end in itself for one another, *recognition* of which functions as our most general and universally good reason for doing what the moral law commands. I want to argue that Wood gives less of a fitting interpretation of Kant on dignity than a promising proposal for clarifying a sense of human dignity that resonates with modern common moral sense, i. e. with rational common morality attuned to the already existing culture of human rights.

According to Wood, "Kant identifies the 'motive' (Bewegungsgrund) proper to morality with the dignity of humanity as an end in itself (*GMS* 4:427–428). Wood holds that, "according to Kant's theory, the sorrowful man who acts from duty alone is not moved merely by the stony thought 'it is my duty to help'. He acts instead out of a recognition that those in need of his help are ends in themselves. Their dignity—the result of shared mutual recognition that we are an end in itself for each other—gives him a reason to care about them and gives them a claim on his help, whether or not he feels like helping them" (Wood 2002, 16). Wood, it seems, imputes to Kant the view that the dignity of humanity is what generally and properly moves people when they are moved to act in morally right ways. Contrary to Wood I think that a closer look at *Groundwork* (*GMS* 4:427) shows that Wood's interpretation here is an overinterpretation of what Kant thinks are the proper general reasons for acting morally.

In the respective passages in *Groundwork* to which Wood refers, Kant is introducing his analysis of the "rational will", i. e., of how the power of reason and the power of willing to do something are non-contingently connected in beings

who are constitutively rational beings.²⁷ Kant immediately (*GMS* 4:428) goes on to introduce the hypothetical thought of an end that is such that in itself (i.e. without having been put into the volitional position of an end by myself or by someone else) this end could be *a ground of determinate laws* (“ein Grund bestimmter Gesetze”, *GMS* 4:428) and could, by implication, be *the ground* that would make for an imperative that is categorical (i.e. an imperative that commands without having been put into the normative position of a command by myself or by someone else in particular). With his next move, Kant switches abruptly from the hypothetical mode into assertoric mode and declares with total conviction that “the human being, and in general every rational being, exists as end in itself, not merely as means to the discretionary use of this or that will, but in all its actions, those directed toward itself as well as those directed toward other rational beings, it must always at the same time be considered as an end.”²⁸

Recall the discussion in the preceding section. What it is like to be something that is an end in itself Kant explains by reference to human beings as persons: human beings as persons are beings for which what it is like to be oneself is to be an end in itself, meaning that they (we) know that they (we) are “something that may not be used merely as means, hence to that extent limits all arbitrary choice” (*GMS* 4:428).²⁹

In other words: Beings who know themselves to exist in the way of an end in itself know something of normative importance, namely that certain ways of treating them would be strictly impermissible (i.e. impermissible without the possibility of a sound justifying reason that would turn what would otherwise

27 “Hier aber ist vom objectiv=praktischen Gesetze die Rede, mithin von dem Verhältnisse eines Willens zu sich selbst, so fern er sich bloß durch Vernunft bestimmt, da denn alles, was aufs Empirische Beziehung hat, von selbst wegfällt: weil, wenn die Vernunft für sich allein das Verhalten bestimmt (wovon wir die Möglichkeit jetzt eben untersuchen wollen), sie dieses nothwendig a priori thun muß.—Der Wille wird als ein Vermögen gedacht, der Vorstellung gewisser Gesetze gemäß sich selbst zum Handeln zu bestimmen. Und ein solches Vermögen kann nur in vernünftigen Wesen anzutreffen sein. Nun ist das, was dem Willen zum objectiven Grunde seiner Selbstbestimmung dient, der Zweck, und dieser, wenn er durch bloße Vernunft gegeben wird, muß für alle vernünftige Wesen gleich gelten” (*GMS* 4:427).

28 “Nun sage ich: der Mensch und überhaupt jedes vernünftige Wesen existirt als Zweck an sich selbst, nicht bloß als Mittel zum beliebigen Gebrauche für diesen oder jenen Willen, sondern muß in allen seinen sowohl auf sich selbst, als auch auf andere vernünftige Wesen gerichteten Handlungen jederzeit zugleich als Zweck betrachtet werden” (*GMS* 4:428).

29 “[E]twas, das nicht bloß als Mittel gebraucht werden darf [...] mithin so fern alle Willkür einschränkt” (*GMS* 4:428).

be morally impermissible into something excusable by the force of adequate reasons).

Moreover, Kant expounds that beings who think knowingly of themselves as being an end in itself know themselves to be “entities whose existence in itself is an end” (*GMS* 4:428). Kant, as far as I can see, means that to exist in the way of an end in itself implies that one knows that one’s existence needs no particular end that would justify one’s existence as a necessary means to achieving the end. Instead, one’s existing simply in order to exist is a thought that is radically reasonable; one’s existence does not need any justification in terms of ends beyond itself.³⁰

If this is a convincing thought at all (which I think it is) it will probably not be convincing for the particular reason Kant gives where he brings his argument to closure. The particular reason Kant gives strikes me as revealingly question-begging: “without this nothing at all of absolute worth would be encountered anywhere; but if all worth were conditioned, hence contingent, then for reason no supreme practical principle could anywhere be encountered” (*GMS* 4:428).³¹ Even though Kant’s wording here is once again in a hypothetical mode, the dramatic message is all but hypothetical and seems to be the following: We do in fact encounter a supreme practical principle and therefore it is not true that we do not encounter anything of absolute worth; as a matter of fact, we do.

So much for Kant’s convictions. But what if Kant’s supreme practical principle, the categorical imperative of the moral law (in the sense of a universal demand both whose universality and demandingness derive from nothing but the self-legislating power of reason a priori) in sober truth cannot be encountered? What if the thought of unconditional worth is a logically possible but ontologically empty thought? What if the initially intriguing idea that something in morality as we know it is grounded in pure reason because pure reason is self-legislating cannot be substantiated in ways that would convince the sceptic and the person of common sense? Of course, questions such as these mark out broad avenues in the vast scholarly literature on Kant’s ethics.³² As before, the only point I want to make here is that the exigency of strenuous scholarly efforts

30 “Dinge, deren Dasein an sich selbst Zweck ist und zwar ein solcher, an dessen statt kein anderer Zweck gesetzt werden kann, dem sie bloß als Mittel zu Diensten stehen sollten” (*GMS* 4:428)

31 “[W]eil ohne dieses überall gar nichts von absolutem Werthe würde angetroffen werden; wenn aber aller Werth bedingt, mithin zufällig wäre, so könnte für die Vernunft überall kein oberstes praktisches Princip angetroffen werden” (*GMS* 4:428).

32 For an early careful reconstruction of Kant’s *Groundwork* with very sobering results, see Tugendhat (1993, 98–160, lectures 5 and 6).

for making sense of as much as the premises of Kantian dignity semantics advise against relying on it if what we are looking for is an R4-account of human dignity.

4 Conclusion. Kantian Morality or Ordinary Rational Morality?

Allan Wood has succinctly condensed current benevolent interpretations of the nature of morality according to Kant: Morality “is entirely about enlightened individuals autonomously directing their own lives” (Wood 2002, 9).

This sounds sublime and perhaps we should be prepared to follow Kant. But is it true to morality as we know it? Are we so prepared? Why should we accept Kant’s revisionary construction of morality? To be sure, Kant himself thought that what he was doing was a reconstruction, not a revisionary construction. He thought he was vindicating common morality by bringing out its rational kernel. But was he? Or was he substituting an awe-inspiring revisionary rational morality for the common morality³³ whose rational infrastructure Kant never took pains to carefully analyze, as the stunning carelessness of Kant’s discussions of supposedly exemplary cases of moral conduct indicates?

Other pro-Kantian commentators, though critical in details, tend all too easily to gloss over the strangeness of a moral outlook that claims to be fully authorized by pure reason alone and purports to be entirely about enlightened individuals autonomously directing their own lives. Thomas Hill for instance contends that “the central point” in Kant’s ethics “is that as human beings with the capacity to be moral we must treat ourselves and all others with the respect, restraint, and positive concern that for Kant is encapsulated in the idea of human dignity” (Hill 2013, 325). Hill’s cant reference to a capacity simply “to be moral” sounds reassuringly pedestrian in comparison to the capacity to be moral by practicing an all-encompassing SELF-self-governance (i.e. Kantian autonomy) as the moral ought. Rational common morality is a robust moral outlook in which the moral ought can be explained and justified without giving Kantian autonomy and pure practical reason center-stage in what it means to be moral. And rational common morality aside, we are familiar with post-conventional rationally robust moral outlooks, for instance utilitarianism, that appeal neither to pure practical reason’s self-legislation (the moral law) nor to Kantian autonomy.

33 For a robust reconstruction of ordinary rational morality see Gert (2005).

To conclude: In efforts to vindicate contemporary human rights culture, reference to Kantian dignity semantics, though popular, is more of a liability than an asset. What I wanted to make clear in my discussion of Kantian dignity semantics is that we cannot rely on Kant's philosophy of morality when our aim is to bolster by reference to human dignity the validity claims that provide the normative ties of human rights culture.³⁴ We have seen that for Kant human dignity (in the triple sense of elevation-dignity, priceless-dignity, and end-in-itself dignity) has not much justificatory momentum. Kantian dignity of humanity is a product of the moral law, neither its foundation nor its source.

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34 As in the first article of the 1947 Universal Declaration of Human Rights.

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Saneyuki Yamatsuta

The Moralization of Human Dignity in Kant's Ethics

Abstract: It is widely acknowledged that Kant's practical philosophy gives the philosophical foundation for the concept of human dignity in our era. This expectation is however suspected in recent studies, especially in Oliver Sensen's work "*Kant on Human Dignity*", which claims that Kant's concept of dignity can be understood in the "traditional paradigm" and must be separated from the contemporary usage. In my article I tried to show that although the concept of dignity in Kantian philosophy is tightly connected to the traditional understanding of dignity, Kant opened its new possibility by "moralizing" the concept. This "moralization" of dignity by Kant is not only historically important, but also systematically insightful for our understanding of dignity. In order to show the systematical meaning of Kantian concept of dignity, I took up Alain Badiou's critique of "Human Right Discourse", which sheds light on the negative side of human dignity.

1 Introduction

A critical attitude to the concept of human dignity is in philosophical discourse well known. Already Schopenhauer rejected this concept as "the shibboleth of all the perplexed and empty-headed moralists who concealed behind that imposing expression their lack of any real basis of morals, or at any rate, of one that had any meaning" (Schopenhauer 2005, 51). Today this critique about the "emptiness" of human dignity can be heard from almost all philosophical discourse, even from the field of bioethics, where the concept of dignity is supposed to play a crucial role. Ruth Macklin pointed out in her well-known provoking article that the religious background of the concept makes its validity in the secular world suspicious (Macklin 2003). Even if one puts its historical origin aside and concentrates on its usage in the contemporary discourse, one has to face the critique that the concept of human dignity does not produce any meaningful claim, but works only as "knock down argument", namely, that it rejects all contra-argument without any substantial claim (e.g. Birnbacher 2006, 30).

On the other hand, the expectation for clarifying the concept of dignity has become greater. Despite the strong skepticism in academic world, the concept of dignity is widely used in ordinary, medical or political discourse, and it is natu-

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ral to expect its clarification in the philosophical research. There had been separate attempts to reconstruct the concept of dignity in various philosophical traditions; it is, however, only in recent years that researchers have approached systematically to the concept. In the introduction to a recent published anthology “*Dignity*”, Remy Debes expresses the aim of the book with reference to the above-mentioned article of Macklin: “However, in the ensuing years the kind of skepticism Macklin expressed has proven to have staying power. Correspondingly, scholars hoping to vindicate the utility of dignity have increasingly thought it necessary to unravel its knotted ball of meanings, not simply admire them. And yet this interest in unravelling the meanings of dignity has not generally corresponded with serious history of these meanings; hence my motivation for the volume of essays before you” (Debes 2017, 9). It is a bit surprising that the important concept like dignity has been not adequately analyzed in the academic research. The reason could be that the importance of the conception is too self-evident, and researchers had not felt need to justify it; now scholars have begun to tackle with the concept because of the demand outside the academic world and the skepticism inside of it.¹

It is also recognized as a self-evident fact that Kant’s philosophy has special importance in the research of the concept of dignity. Although one sometimes suspects the theological background of the contemporary usage of dignity, Kant’s philosophy is widely acknowledged as a main resource for the conception.² With the phrase like “humanity as an end in itself”, Kant is often thought as the thinker who gave the philosophical foundation for human dignity and accordingly for human rights. In recent Kantian scholarship, however, there has been serious doubt about this common understanding. Several scholars hesitate to assert that Kant gave a systematical justification to the concept of dignity. The main source of this hesitation is a work of Oliver Sensen, *Kant on Human Dignity* (Sensen 2011). In the book, Sensen attempted to show that Kantian conception of dignity is totally different from its contemporary usage, and that man cannot

1 Besides the anthology of Debes, one can count following literatures as the recent attempt to reconstruct the concept of dignity from philosophical perspective: Rosen 2012, Waldron 2012, Quante 2010. In Japanese language two anthologies were published recently, which analyze the concept of dignity in diverse fields: *Actuality of the Concept of Dignity*, Shiso 1114, Iwanami 2017. Yasushi Kato (ed.), *Dynamism of the Concept of Dignity*, Hosei University Press 2017.

2 Michael Rosen claims in his historical description of the concept that the usage of dignity in the German Grundgesetz has two resources, Kantian philosophy and Catholic tradition. “The German Grundgesetz represents an ambitious—yes, you could even say, heroic—attempt to turn the Kantian and Catholic conceptions of human dignity into a shared, articulated account of human rights” (Rosen 2012, 56).

find its foundation in Kantian philosophy. Obviously, this claim will, if accepted, change the whole constellation of the philosophical discourse about human dignity. So far as I see, however, the impact of his claim is not fully estimated, the impact, which can be critical to any kind of argument from the tradition of Western philosophy.³ In any case, if one wants to argue about dignity from the perspective of the Kantian ethics, it is no more possible to do it without confronting Sensen's work.

Sensen himself, however, expresses the aim of his book in an apparently modest way: "I am not trying to show that the contemporary paradigm of dignity is false or unfounded. My interpretation merely poses a dilemma for the contemporary conception: If one wants to justify the contemporary paradigm of dignity (as a value that grounds respect), one cannot just refer to Kant for a justification. One would have to look elsewhere. On the other hand, if one is interested to know how Kant viewed the matter, one finds support in his texts for a different conception of dignity" (Sensen 2011, 7). The "dilemma" Sensen mentions here is, however, decisive for almost all kind of the philosophical debate about human dignity. For it is almost exclusively Kantian ethics, which is recognized as the starting point of the contemporary usage of human dignity.⁴ If Kantian philosophy cannot provide any ground for the concept of human dignity, the entire view of its history must be rewritten.

It is possible that this widespread view itself is unprecise, and that there is another historical element for the realization of the contemporary notion of human dignity. For example, Arnd Pollmann argues that the contemporary paradigm of human dignity and human rights has become possible only after the horrible experience of the totalitarianism in the Second World War, and that the connection between these two notions had not existed before that.⁵ Even

³ In the field of Kantian scholarship, there are already responds to Sensen's work. See *Kant-Studien* Vol 106, Issue 1 (2015), which includes 4 recensions from Kant's scholars and a reply of Sensen himself. The discussion, however, concerns mainly the detailed interpretation of Kant's text (which is undoubtedly important), not the general argument about human dignity.

⁴ See, for example, such a discription: "Immanuel Kant verbindet den Ciceronischen *dignitas*-Begriffs mit dem Autonomiebegriff. So eröffnet er eine systematische Verbindung zwischen Würde und Recht, vermittelt derer der Menschenwürdebegriff im 20. Jahrhundert als Fundament und Quell der Menschenrechte gedacht werden kann." (Baranzke 2010, 13).

⁵ "Nach den totalitären Barbareien des 20. Jahrhunderts hat sich das philosophische Nachdenken über Menschenwürde und Menschenrechte sowie über deren begründungstheoretischen Zusammenhang insofern grundlegend verändert, als monströse Unrechtserfahrungen zwei vormalig getrennte ideengeschichtliche Diskurse so miteinander verschmelzen lassen, dass es zu einem rechtsphilosophischen Lernprozess kommt, der sich auf katastrophale Weise der Katastrophe selbst verdankt" (Pollmann 2010, 27). Similarly: "To summarize: The idea of human dignity is

if, however, the history of the concept of dignity must be reconsidered, problem still remains. For, not only the historical researches, but also the systematical approaches to human dignity very often recourse to Kantian philosophy and use its framework, notions and text as their justification. Actually, it is unthinkable today to argue philosophically about the concept of dignity without mentioning the name of Kant. So the dilemma Sensen modestly formulates can be restated in a more provocative way: whether the philosophical discourse about human dignity discard the Kantian philosophy entirely, or it continues to be based on total misunderstanding of Kant's text.

This paper is divided in four parts. In the first part, I will summarize Sensen's work for my purpose. Although his argument covers broad fields from the contemporary value theory to the applied ethics, his interpretation of Kant targets a very clear perspective of Kantian ethics. In the second part, I will problematize the separation Sensen made between the contemporary and the Kantian concept of human dignity. For this argument I will compare the concept of dignity with the notion of "honor". In the third part, I will try to show that Kantian concept of dignity is still meaningful for the contemporary discussion about dignity. For this purpose, I will take the critique of Alain Badiou against the human rights discourse today. In the last part I will take up the problem of marginal cases of human dignity, in order to show that Kantian concept of dignity can bring positive insight to concrete situation.

2 Moral reading of the human dignity—Sensen's interpretation of Kantian paradigm

As I quoted in the introduction, the aim of Sensen's book is to show the difference between Kantian and the contemporary concept of human dignity. Under the "contemporary concept" Sensen means the view that human dignity is the absolute value which gives foundation for human rights. According to Sensen, this view has two presuppositions: A. the moral requirement like human rights must be founded on some value, and B. human dignity is this value, which

absent from most of the prewar efforts to promote human rights. It occurs occasionally in human rights discourse during World War II but in contexts that do not shed light on the way it was understood. The references in the charter and the declaration show that the idea had achieved a certain currency by the end of the war, but we cannot say from the record that the framers of either document had any articulate or agreed conception of human dignity or that their views of the nature or substance of human rights were much influenced by it". (Beitz 2013, 268)

must be attributed to every human being. Sensen claims, however, that neither of these presuppositions can be found in Kantian ethics. Sensen's book is divided in two parts, each of which deals with the critique of these presuppositions from Kantian perspective respectively. In this part, I will sketch these critiques.

2.1 The moral requirement must be founded on some value.

In the contemporary understanding it is almost self-evident premise that human rights are based on the universal value which is attributed to every human being. Despite all racial, sexual, national differences, we, human beings, must be respected on behalf of the value which we have innately from our birth to death: this inner value is nothing but human dignity. This apparently unproblematic premise is, however, not found, or even rejected in Kantian Ethics. Actually the critique of value-based ethics is the crucial point, which Kant himself regards as the originality of his ethics in the history of moral philosophy. The passage which illustrates most clearly this point is the following one, which Kant called "the paradox of method":

This is the place to explain the paradox of method in a *Critique of Practical Reason*, namely, that the concept of good and evil must not be determined before the moral law (for which, as it would seem, this concept would have to be made the basis) but only (as was done here) after it and by means of it (*KpV* 5:62f.)

Sensen quotes this passage in the beginning of his argument and uses it as the textual evidence against value-based reading of Kant. As he points out, Kant's claim in this sentence is that "[t]he moral law is not based on a prior and independent value, for instance a value of human beings" (Sensen 2011, 24). Moral requirement is not grounded on any substantial value, but, on the contrary, what we count valuable is determined only by the moral law.⁶ Regarding the originality of this claim, Sensen compares this "paradox of method" with the so called "Copernican Revolution" of Kant's theoretical philosophy, because Kant reverses "the relationship between value and the moral law" (Sensen 2011, 26). Not only the sensual happiness, but also any rational principles like "perfection", "God's will" and even human dignity cannot be the founding

⁶ This claim appears to be paradoxical not only to us, but also to readers in Kant's own time. Historical researches (e. g. Klemme 2010, 17) show that the passage was directed to a reviewer of *Groundwork*, Pistorius, who criticized Kant because "there [in *Groundwork*] the concept of good was not established before the moral principle" (*KpV* 5:9).

value for the moral law. As the Categorical Imperative, the moral law gives prescription totally independent from any values.

According to this claim of Kantian ethics, we have to respect other persons not because they have inner value called dignity, but because the moral law commands the respect. One can, however, raise a question against Sensen: for what purpose then did Kant introduce the famous “Formula of Humanity”? This formula is often cited in the contemporary argument of human dignity, sometimes in the bioethics, as the theoretical basis for the concept: “So act that you use humanity, whether in your own person or in the person of any other, always at the same time as an end, never merely as a means” (*GMS* 4:429). In order to justify this imperative, Kant seems to use the concept of “end in itself”, when he wrote: “The ground of this principle [of Humanity] is: *rational nature exists as an end in itself*” (*GMS* 4:428). Is not this “end in itself” an expression of the absolute value of human beings? Do not human beings have dignity, *because* they are regarded as the end in itself? According to Sensen, however, the concept of “end in itself” expresses only that human beings have freedom and that they are bound to the moral law; it does not give the justification for the moral law. We have to respect other people and may not treat them merely as a means, not because human beings are valuable as “end in itself”, but because we are primarily obliged to follow the moral law which categorically commands so. As a whole, Sensen emphasizes, rightly I think, that the primal fact of the Kantian ethics is the moral law, not some preceding morally neutral value which justifies the moral law.

2.2 The human dignity is the value which yields human rights.

In the second part of his book Sensen argues that the Kantian concept of human dignity must be understood in the “traditional paradigm”, which is strictly distinguished from its contemporary usage. Unlike the contemporary understanding, the concept of human dignity had been recognized before the 20th century neither as the absolute value nor as the foundation for human rights. Originated in the ancient Roman concept of “*dignitas*”, the word had meant the “special position or elevation” (Sensen 2011, 153) of a person. By this “archaic paradigm”, the “*dignitas*” was limited to the special position in the society (like consul or senator). Later, several thinkers (Cicero, Leo the Great and Pico della Mirandola) developed the concept of dignity from different perspectives, so that the range of

its meaning was expanded to the whole human being.⁷ This does not mean, however, that for these thinkers every human being has an absolute value called dignity, but that, e.g. by the case of Pico, “all human beings are said to be elevated over the rest of nature in virtue of possessing a capacity for freedom or reason” (Sensen 2011, 161). In the traditional paradigm the concept of dignity had meant always “the elevated position” of person either in a certain society or in universe. Accordingly, the normativity of the dignity is not consisted in the claim that one has to respect dignity of other people, but rather that one has to act properly (or rather “dignitarily”) according to his elevated position, in other words, “to realize fully one’s initial dignity” (Sensen 2011, 161).

With this distinction between the traditional and the contemporary paradigm Sensen claimed that Kantian concept of dignity must be understood in the traditional, not in the contemporary one. When Kant uses the expression like “dignity of a monarch” (*SF* 7:19) or even “dignity of mathematics” (*KrV* A464/B492), he meant the “elevated position” of king or of science. Just same as this example, the “dignity of humanity” expresses “the view that human beings are elevated over the rest of nature in virtue of being free” (Sensen 2011, 166). However, how can one understand the concept of dignity when Kant uses it together with the word “worth” or “absolute worth”? Does not dignity as “an unconditional, incomparable worth” (*GMS* 4:436) mean the intrinsic value of human beings, which gives foundation for the categorical imperative? According to Sensen, even when Kant uses the concept of dignity with the word “worth”, it does not signify the humanity as the source of an absolute value. For, “Kant ties absolute inner worth (almost) exclusively to morality and not to human being as such” (Sensen 2011, 189). As mentioned before, there is in Kantian ethics no prior substantial value which gives foundation for the moral law. Conversely (paradoxically, as Kant said) what is valuable is the morality itself. This “reversal” can be seen also by the case of human dignity. When Kant calls human dignity “an unconditional worth”, he does not mean a morally *neutral* value of human beings, but the morality itself in human beings. Because the concept of human dignity means by Kant the elevated rank or sublimity (“*Erhabenheit*”) of the moral law, it must be understood not in the contemporary, but in the traditional paradigm. Also here, Sensen’s reading of Kant’s concept of dignity emphasizes its moral connotation.

⁷ To this a bit rough historical sketch, the articles included in Debes 2017 give detailed accounts on each figure and estimate their contribution to the concept of dignity, sometimes positively, sometimes negatively.

3 Honor and Dignity—Moralization of the traditional paradigm

Sensen's argument is based on the detailed analysis of Kant's text, which I think largely plausible. The textual evidences are in favor for the thesis that human dignity by Kant is not the source of morality, but, on the contrary, morality gives the foundation for dignity. Is, then, also Sensen's historical view that Kantian dignity must be understood in the traditional framework, not in the contemporary one, also justified? Must the contemporary discourse of human dignity abandon totally Kantian philosophy? I think not. When one estimates Sensen's claim from different historical context, it appears that his historical description is not totally false, but somewhat misleading. In this section I will try to problematize Sensen's historical view from another perspective than the concept of dignity, namely, that of "honor".

Peter Berger described in his well-known article how the concept of honor in the premodern society was replaced by the modern notion of dignity and human rights. "The modern discovery of dignity took place precisely amid the wreckage of debunked conceptions of honor" (Berger 1983, 176). While honor is an aristocratic notion and presupposes the hierarchical order of society, dignity is related to one's intrinsic humanity independently of any institutional role. Recently Kwame Anthony Appiah argued almost in the same line. According to Appiah the system of honor which he called "the honor code" "requires specific behavior of people of certain identities: different identity, very often, different demands" (Appiah 2010, 176). The typical behavior which was demanded by this honor code was the duel of English gentlemen in 19th century. This code was, however, mostly lost in the modern society with its "moral challenge", which demanded not the special behavior for protecting honor, but "the fundamental right to respect that we term *dignity*" (Appiah 2010, 177). After this challenge, some act for honor like the duel was recognized as immoral. The representative figure of this moral challenge is, so argued Appiah, no other than Kant.—In this historical view of Berger and Appiah honor and dignity are oppositional concepts in the premodern and modern society, and Kant, a typical philosopher in the modern world, stands definitely on the side of dignity. In fact, Kant gave already in his early writing negative estimation to the duel: "duels, a miserable remnant of the latter [ancient knighthood] out of a perverted conception of honor are grotesqueries" (*GSE* 2:214, 5).

There are, however, some researches of Kantian philosophy, which connect Kant's ethics to the concept of honor. Elizabeth Anderson and Rachel Bayefsky try to find some traces of the honor ethics in notions used in Kantian ethics, like

“love of honor (Ehrliche)” or the feelings of “self-worth” (Anderson 2008, Bayefsky 2013). According to their view, Kant had not simply rejected the concept of honor in favor of dignity. In *Metaphysics of Moral* Kant defines the “love of honor” as a kind of virtue: “The virtue that is opposed to all these vices [of lying, avarice and false humility] could be called *love of honor*, a cast of mind far removed from *ambition*” (TL 6:420). Like the concept of dignity, honor is counted as a moral quality. There is even a text, in which Kant characterizes the concept of honor as “a concern to yield nothing of one’s human dignity in comparison with others” (TL 6:465). In these texts honor and dignity are not antagonistic conceptions; both of them are used to qualify moral character. As Bayefsky rightly points out: “Instead of creating a strict dichotomy between honour and dignity, and rejecting the former in favour of the latter, Kant specifies a form of honour that can operate in tandem with dignity” (Bayefsky 2013, 826).⁸

How can we understand the concept of honor and its relationship to that of dignity in Kantian ethics? When Kant uses the concept of honor as one of the moral character, it does not presuppose the aristocratic status in hierarchical society. The basic claim of Kantian ethics is that the moral quality of man is totally independent from his social status. Accordingly, the honor as a virtue must be understood in a different way than in the traditional usage which Berger or Appiah described. This is actually the point where Anderson and Bayefsky agree: Kant *transformed* the concept of honor in his own ethics.⁹ The presupposition of the hierarchical order is *replaced* by the moral implication of honor, so that not only the people in high rank, but also every moral agent, i.e. every rational

8 We have to be, however, careful that Kant is ambiguous to the concept of honor. As Alix Cohen indicates (Cohen 2015), Kant was well aware that the love of honor can be the mere inclination to compare one’s condition with others, what Kant called in a Lecture on Ethics “the love of honour in a bad sense” (*Vigil 27:695*). In another Lecture on Ethics, Kant tries to distinguish two attitudes to honor “the love for honor” and “the craving for honor (Ehrbegierde)”, and estimates only the former as a moral quality: “The craving for honour must be distinguished from the love of it. Thus, if we take the two together, the love of honour is a negative thing; our only concern is not to be an object of contempt. But the craving for honour yearns to be an object of high esteem to others. We might call the love of honour *honestas*, though it would then need to be distinguished from respectability. But the craving for honour is ambition” (*Collins 27:408, 9*). Interestingly, Kant claims that while “the craving for honor” needs other people in order to be highly estimated, one can have “the love of honor” even in solitude. Because Kant understood the love of honor as a kind of moral feeling, he can detach it from society, i.e., from traditional hierarchy, which had been necessary condition for honor.

9 “Yet Kant radically transformed this [honor] ethic in the service of universal and egalitarian values” (Anderson 2008, 139).

human being has the duty to act honorably. This “moralization” is the decisive moment for the concept of honor in Kantian ethics.

The same transformation or the “moralization” has occurred by the concept of dignity. According to Sensen’s historical description of the concept, we cannot admit the view of Berger or Appiah that the modern dignity had replaced the pre-modern honor. The concept of dignity has its own history from the premodern usage grounded in the hierarchical social order to the contemporary one as the source of human rights. The moralistic understanding of human dignity in Kantian ethics contributed to this transformation of the concept. Because Kantian dignity is attributed to the moral (noumenal) part of man, it becomes universal attribution to all human beings. People need not have high rank in a hierarchical society for attaining dignity; dignity requires only the noumenal, moral nature of human being. Just same as by the case of honor, Kantian moralization of the concept brought the transformation of the traditional understanding of human dignity. When Sensen equates the Kantian and the traditional paradigm of dignity, he seems to underestimate the effect of moralization of dignity in Kantian ethics.¹⁰

As many scholars indicate, there were before Kant already several thinkers, who universalized the concept of dignity to all human beings. For example, Cicero admitted dignity to all human beings because of their reason. However, the moralization of the dignity by Kant worked more strongly for the universalization of the concept. For, as in the case of the concept of honor, the moralization of the dignity by Kant detached human beings from the hierarchical order. As Appiah indicated with the example of the duel, the “moral challenge” worked sometimes *against* the traditional social order and prohibits the action which had

10 Matter is a bit complicated, because Sensen himself distinguishes the traditional concept of dignity from its “archaic” paradigm. The latter presupposes the hierarchical order of society, but the former does not always so. Sensen would reply to me that I confused this distinction and unjustly criticized him. However, Sensen himself relates tightly these two paradigms of dignity and pays relatively less attention to the distinction between them (“The traditional paradigm of human dignity is related of a third and older *aristocratic* paradigm of ‘dignity’” (Sensen 2011, 153)). Besides, he acknowledged that these two concepts can be mixed, e.g. by Pufendorf. Stefano Bacin argued in his recension to Sensen’s work that the connection between dignity and duty can be already found by natural law theorists like Pufendorf (“The connection between dignity and rights and duties in Pufendorf suggests a more general, and more important point though. Here dignity is understood not merely as a higher rank, but as a higher stance *in moral terms*” (Bacin 2015, 101)). In the reply to Bacin, Sensen admitted that “[i]t seems that Pufendorf mixes elements from traditional and archaic conceptions of dignity” (Sensen 2015, 126). Maybe one can conclude that Kant radicalized the moralization of the concept of dignity and detached it totally from archaic, hierarchical understanding of it.

been thought honorable (or dignitary). With the modern concept of the moralized dignity, human beings are obligated to respect each other independently from their social status and their ability. In this sense, Kantian moralization of dignity contributed to the contemporary paradigm of human dignity. This contribution was made not by total rejection of the traditional understanding of dignitary (or honorable) action and by introduction of the new concept of dignity as an absolute value of human species, but rather by transformation and moralization of the traditional concept, which brought as its consequence also the universalization of dignity.

Several recent attempts for reconstructing the concept of dignity seem to agree with this moralization of dignity by Kant. Jeremy Waldron tries to find the origin of the modern egalitarian notion of dignity not in the rejection of the traditional understanding of dignity as “noble rank”, but rather its expansion to every human being: “the modern notion of *human* dignity involves an upwards equalization of rank, so that we now try to accord to every human being something of the dignity, rank, and expectation of respect that was formerly accorded to nobility” (Waldron 2012, 33). Citing the above-mentioned article of Anderson, Waldron argues that also Kant’s concept of dignity can be understood in connection with the traditional “noble rank”. Or, Michael Rosen connects his non-utilitarian, “duty-based approach” of dignity to Kant’s ethics. By Kant, duty must be observed not for benefiting someone, but rather for not destroying our inner “honor” or “dignity”. “So the dignity of humanity can act as a guide for our behavior only less directly: it requires that we behave in ways that “honor” or “respect” humanity in our person” (Rosen 2012, 153). For showing this roll of dignity by Kant, Rosen quotes a passage from Kant’s *Lecture on Ethics*, which expresses the connection between dignity and honor excellently.

Humanity, in our person, is an object of the highest respect and never to be violated in us. In the cases where a man is liable to dishonor, he is duty bound to give up his life, rather than dishonor the humanity in his own person. For does he do honour to it, if it is to be dishonoured by others? If a man can preserve his lie no otherwise than by dishonouring his humanity, he ought rather to sacrifice it. He then, indeed, puts his animal life in danger, yet he feels that, so long as he has lived, he has lived honourably. It matters not that a man lives long (for it is not his life that he loses by the event, but only prolongation of the years of his life, since nature has already decreed that he will some day die); what matters is, that so long as he lives, he should live honourably, and not dishonor the dignity of humanity (*Collins 27:377*).

In this passage we see clearly that the concepts of honor and dignity are closely connected, and that both express moral qualities. The object of dignity and honor is not physical human life, but rather the morality itself, which even de-

mands the sacrifice of life. As in the premodern society one sacrificed his life for protecting his honor by duel, he is now demanded to sacrifice his life for his dignity, i.e. morality. Kant's contribution in the history of the concept of dignity is that he universalized the moral demand, which had been restricted to noble rank, to all human beings. Now, dignity as morality itself which even demands the sacrifice of life seems to be very far from its contemporary usage, because the contemporary concept of dignity often means the absolute value of human life. In the next part, however, I will try to show that there is still possibility to develop the contemporary concept of dignity from Kantian perspective.

4 Overcoming the “ethics of human rights” with Kantian dignity

I criticized Sensen's thesis that Kantian notion of human dignity must be understood in the traditional paradigm. Even if it had some traces of traditional scheme of the high rank in hierarchical society, Kantian ethics contributed to the modernization of the concept by moralizing and universalizing it. It does not mean, however, that Kantian concept of dignity can be directly connected to the contemporary paradigm. I admit the differences between the Kantian and the contemporary concept of dignity to which Sensen indicates. Most importantly, the Kantian concept of dignity does not constitute any substantial value of human beings, which gives foundation for the duty to respect human rights. From these differences Sensen draws the “dilemma” in the contemporary argument, namely that it has to either give up Kantian philosophy or the concept of human dignity of its own. On my understanding, however, the contemporary and Kantian paradigms are not totally separated, but historically connected. Although Kant uses the concept of dignity (and of honor) in the traditional paradigm, he developed the notion by moralizing it, so that it can be attributed to every human being. If this view is correct, the contemporary concept of dignity need not entirely discard Kantian philosophy. If Kantian concept of dignity and the contemporary one have different perspectives, it means that there is possibility to supply and develop the contemporary paradigm of human dignity by Kantian philosophy. In this section I will try to find this possibility in regard to the critique which Alain Badiou made to “the ethics of human rights”.

It is widely acknowledged that the concept of human dignity is the foundation of human rights. Even if one finds some theoretical difficulties in this relationship, it is generally expected that human dignity gives justification for universal human rights, as it can be seen typically in the Preamble and the 1.

Article of Universal Declaration of Human Rights.¹¹ According to the widespread view, human rights must be recognized to all human beings without any condition, because every human being has the inner absolute value, i. e. dignity.—As I already mentioned in the introduction, many authors claim against this assumption that the concept of dignity has no substantial meaning, and accordingly cannot justify anything. For these authors, the discourse about dignity is just an emotional statement or a political declaration, which does not deserve to be philosophically analyzed. However, more radical and annoying critique against dignity and human rights is, I think, that these concepts are not only empty, but even harmful. One can count to this critique the passage of Schopenhauer which I quoted in the beginning of the paper. One of the contemporary thinkers who made this kind of critique is Alain Badiou.

In his work *“Ethics. An Essay on the Understanding of Evil”* Badiou argued that the “ethics of human rights” of today has several ideological presumptions. Most problematically, it regards human being as “victim” of suffering who has to be saved. The so-called “humanitarian action” or “humanitarian aid” is based on the “split” between the human subject “on the side of victims” and “on the side of benefactors” (Badiou 2001, 12, 3). Because the “ethics of human rights” does not problematize this split, rather always presupposes it, the ethical claim based on human rights has a tendency to be a conservative politics and to preserve the status quo, namely, western Liberalism and Capitalism. According to Badiou, the theoretical origin of this “ethics of human rights” is the philosophical trend of the “return to Kant” (Badiou 2001, 8) in our era, possibly represented by Habermas or Rawls, both of whom contributed to the revival of Kantian ethics in the actual discussion.

The “ethics of human rights” Badiou criticizes corresponds exactly to the contemporary understanding of human dignity as a substantial value for human rights. According to this view, human beings must be protected because of their inner dignity, which is, however, emphasized mostly by suffering, passive person. The understanding of human dignity as the absolute value has a tendency to see human being solely as victim and passive subject, as Badiou warned.¹²

¹¹ About the justificatory relationship of dignity to human rights, see as positive remark (Beitz 2013), as negative one (Schroeder 2012). (Waldron 2015) recognizes many difficulties about this relationship, but still attempts to find some possibilities to use the concept of dignity for human rights.

¹² Against this argument of Badiou, Souter (2009) claims that the human rights discourse does not define human beings solely as victim, but includes further categories like “benefactor”, who helps victim, or “perpetrator”, who produces victim. According to Souter the radical political program for which Badiou argues is possible also in the human rights discourse. “Indeed, Bad-

What this “value understanding” of dignity misses, is the active side of human being: he is not only a passive “suffering beast” (Badiou 2001, 11), but also a moral agency. My reading of Kantian ethics tries to bring this active element to the contemporary concept of human dignity. Human dignity by Kant’s philosophy means not that our physical life has the absolute value and must be respected, but that all of us have duty to respect each other. We are not only passive subject to be respected, but also the active one to respect. Only in this context one can understand the following passage from *Metaphysic of the Morals*, in which Kant mentions the duty to live according to his dignity: “But a human being’s duty to himself as a moral being *only* (without taking his animality into consideration) consists in what is *formal* in the consistency of the maxims of his will with the *dignity* of humanity in his person” (TL 6:420). Kantian concept of dignity requires not that human beings must be one-sidedly protected from physical harm, but that they have to live “in the consistency” with dignity and mutually respect each other. This mutual respect is the fundamental insight of Kantian ethics, which can develop the one-sided “ethics of human rights” Badiou criticized. So, I think, the moral character of human dignity in Kant’s philosophy is not a mark of separation from our understanding of dignity, but a potential to develop it.¹³

iou’s ethics of truths seems compatible with human rights, since it is entirely possible for man to be seen simultaneously as victim, benefactor, perpetrator, social beings and bearer of truths, among many other things” (Souter 2009, 51). I admit that it is “possible”; it is, however, very difficult in the human rights discourse to see a subject simultaneously as victim and as benefactor, because its concrete action like “humanitarian aid” presupposes the “split” between them. In a sense, my interpretation of Kantian dignity tries to overcome this “split” by emphasizing the active side of human beings.

13 After all, Badiou criticism of human rights originates in his understanding of ethics itself, which is radically different from the “ethics of human rights”. Ernest Laclau rightly formulates Badiou’s position as “emancipatory” in contrast to “defensive” ethics: “In the first place, his [Badiou’s] attempt to articulate ethics within an emancipatory project. Against prevailing contemporary trend, which presents ethics as a purely *defensive* intervention—that is, as a reaction to the violation of human rights—Badiou roots his ethics in an essentially affirmative discourse” (Laclau 2004, 120). Whether Kantian ethics is “emancipatory” or “defensive”, I cannot argue in this paper. However, I think Kantian philosophy has both elements. We see, for example, that Kant’s concept of “enlightenment” tries to cultivate (emancipate) human beings without directly changing the present social norm.

5 Dignity in marginal cases

What kind of practical consequence would this Kantian concept of dignity have? Does my understanding of dignity have some influence on the concrete situation where the concept of dignity plays a crucial role? In this last part, I will take one example for showing that my reading of Kantian dignity could bring some insight for understanding real situation. The example is about dignity of not fully rational person.

In the philosophical discourse of human dignity, marginal cases are often problematized, the cases, in which it is difficult or impossible to ascribe someone full-fledged dignity. One of the most discussed issues in bioethics is whether and to what extent we can recognize dignity to prenatal life. Or, some scholars claim that the concept of dignity had historically presupposed human being with full rational capacity and ignored existences which had been not included there, e.g. woman, disabled person or animal (Nussbaum 2006). Oliver Sensen himself treats in an article the problem of the marginal cases with regard to dignity of elderly demented person. Kantian ethics is typically the ethics of rationality, and its concept of dignity can be applied only to the person who has pure practical reason; it seems to exclude people who are not fully rational agents. Because Sensen (and I myself) emphasizes the moral side of Kantian concept of dignity, this exclusion of nonrational person seems to become even worse. How can we recognize dignity by the not fully rational agent?¹⁴

One possibility of interpretation is to make reference to texts in *Metaphysics of Morals*, in which Kant argues about the duties to nonhuman objects like natural beauty and animals. According to Kant, although we have “direct duty” only to human beings, we have also “indirect duties” to nonrational beings like animals; “for it [violent and cruel treatment of animals] dulls his shared feeling of their suffering and so weakens and gradually uproots a natural predisposition that is very serviceable to morality in one’s relations with other people” (*TL* 6:443). For cultivating our moral sensitivity, we are obligated to respect also nonrational beings, although we do not recognize them as rational person and accordingly do not ascribe to them dignity.—With this logic, one may avoid several difficulties in medical ethics from Kantian perspective.¹⁵

¹⁴ Because of this excluding logic, Doris Schroeder claims that Kantian concept of dignity cannot be used for the justification of human rights. “However, *universal* human rights cannot be bestowed through Kantian dignity, which must exclude those who will never (re)gain rational faculties, or else fail as a foundationalist position” (Schroeder 2012, 333, 4).

¹⁵ About this argument, see Sensen 2014, 119f., also Formosa 2017, 158f.

I admit that this argument is, as an interpretation of Kant's text, correct, and that there are several cases to which it can be applied. It is, however I think, somehow dangerous to use same argument to all nonrational beings, e.g., dementia patients and animals. Now, it would be unfair to criticize the interpreter that they equalize disabled people with animals¹⁶; but still I think that in this logic there is danger to treat people like disabled patients as merely passive subject or, as Badiou called, "suffering beast" (Badiou 2001, 11). If we understand dignity as the absolute value of one's physical life and expand it from rational person to nonrational beings, this consequence seems to be unavoidable.

From my reading of Kantian dignity not as passive value, but as active moral quality, one can argue in the following way: to ascribe dignity to people means not only that we have to treat them morally, but also that we expect them to act morally. Only when we recognize someone as a moral agency and ask him the responsibility to his own action, we ascribe to him dignity in Kantian sense. Now this requirement may seem to be too demanding or simply impossible by some cases. It would be ridiculous to expect same level of action and responsibility from all kind of people, e.g. from severe patients. However, I think, it would be sometimes dignity depriving to allow disabled people unmoral action and not to ask their responsibility because of their disability. It is a humiliating attitude, if one does not expect moral action for no justifiable reason. On the contrary, it is from Kantian perspective a dignitary attitude that a dying patient try to be polite and responsible to his family or friends. Even if he is in a condition which needs protection and care, it is his dignity to strive to be a moral agency. To such a person we would have the respect (*Achtung*) in Kantian sense. This active moment in Kant's philosophy can supply the one-sided "ethics of human rights" and can develop our understanding of dignity.

16 Especially unfair to Sensen, because he tries to construct the respect to elderly demented patients not as indirect duty (like to animals), but rather as direct duty (Sensen 2014, 119, 20).

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Susan Meld Shell

Kant's "Idea" of Dignity

Value and Moral Elevation in the *Groundlaying*

Abstract: As Oliver Sensen has convincingly argued (Sensen 2011), dignity in the *Groundlaying* applies, in the first instance, to a state of elevation associated with the moral law as the primary object of respect. At the same time, Kant also uses "dignity" to designate what he calls unconditional or inner value.¹ I will argue in what follows that there is no need to choose: moral dignity for Kant is both elevation and unconditional value, i. e., an inner worth, albeit one that can be represented adequately only through negative reference to that which it is "set infinitely above." This conceptual complexity, as I will argue, renders it particularly well-suited to responding to the "natural dialectic" (*GMS* 4:392) that makes a philosophic "groundlaying" necessary at all (*GMS* 4:405); it also can help resolve a persistent conflict among Kant's readers² between those who locate ultimate value in the moral law, and those who associate it with an "objective" end, such as freedom or humanity.³

1 Historical Meanings of "Dignity"

The conventional connotations of the term dignity [dignitas; Würde] that Kant had available to him were many and complex. The *Oxford Latin Dictionary* lists three primary meanings under "dignitas" (from dignus: to be worthy or deserving):

- a. Elevation of rank
- b. Deserved elevation of rank

1 Dieter Schönecker and Elke Elizabeth Schmidt make this fact central to their critique of Sensen's central claims (Schönecker, 2018). Unlike Schönecker and Schmidt, I stress the importance of *both* aspects of Kantian dignity, rather than insisting, as they do, on the priority, in a "moderate realist" sense, of "rational nature" over the moral law. On the argument I make, the existence of rational nature is inseparable from its activity [Tätigkeit], one that specifically consists in "lawgiving."

2 See Paul Formosa's very helpful taxonomy in Paul Formosa, *Kantian Ethics, Dignity and Perfection* (Formosa 2017).

3 For influential presentations of the latter view, see especially *Kant on Freedom, Law, and Happiness* (Guyer 2000); *Creating the Kingdom of Ends* (Korsgaard 1996); *Kant's Ethical Thought* (Wood 1999).

c. Qualities that make one deserving of such elevation

Under dignity [Würde] Grimm's Wörterbuch (Grimm/Grimm 1991) give a similar list of primary meanings:

- a. office or rank [Ampt; Stände; Rang] and
- b. merit [verdienst; meritum]

This range of meanings, and accompanying ambiguity, are not, I would venture, accidental, and flow partly from the *rebuttable* presumption in any normal political community that those who command authority or are otherwise afforded respect deserve that elevated status—a “political” fact to which Kant, as we shall see, himself appeals.

In *De Inventione*, Cicero defines dignitas as “someone’s virtuous authority which makes him worthy to be honoured with regard and respect [*Dignitas est alicuius honesta et cultu et honore et verecundia digna auctoritas*].⁴ In the one extant passage in which he speaks of the “dignity of man” (*De Officiis* I, 105–106), human dignity is specifically linked to a rationality that lifts us collectively above the beasts, who are governed by sensual appetite.⁵ Kant’s own use of the term human dignity [Würde, dignitas] clearly draws upon this influential precedent, both in its emphasis on overcoming the allure of sensual appetite, and in its aspirational focus, human dignity here being both a quality that is connected with our essential nature, and—given the teleological character of “nature” here—one whose demands we can also fail to meet.

But Cicero also associates human reason with theoretical pleasures of “seeing” and “hearing.”⁶ Accordingly, the “reason” that constitutes man’s specific dignity and the basis of his elevation over the beasts, is also concerned, according to Cicero, with “investigating” and with “study and meditation,”—not just with “doing” and “inquiry about duty” but also an “investigating” separable from “doing.”⁷ That Cicero nonetheless especially associates human dignity with doing is understandable, given that the issue here is human nature in general. But that “study and meditation” are less widely pursued than the sort of

⁴ Cicero, *De Inventione* 2.55.266; cited in 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*, ed. David Kretzmer and Eckart Klein (The Hague: Kluwer Law International, 2002), 23.

⁵ Cited in Cancik 2002, 20–21.

⁶ Cicero, *De Officiis* I, 105.

⁷ Cicero, *De Officiis* I, 105.

“inquiry about duty” that is of interest to everyone does not make it less estimable in Cicero’s eyes.

For Kant, by way of contrast—at least from the time of his early reading of Rousseau—the moral use of reason alone constitutes “the honor of humanity [Menschheit]” (*BBS* 20:44). Thus, while both Kant and Cicero mainly understand dignity as *deserved* elevation of rank (as distinguished from elevation of rank in *fact*), they disagree about the ground on which human beings deserve such elevation. And while each understands dignity to be both intrinsic *and* aspirational—something, in other words, that can be “thrown away” or to which one can fail to measure up—only Kant gives moral and juridical primacy to an inherent dignity that entitles us never to be used merely as means whatever our behavior (or condition).

There is yet another field of association on which Kant’s use of “dignity” draws: namely, its scholastic identification with the various orders of rank both within creation and between creation and God. Aquinas speaks, for example, in his *Commentary on the Sentences*, of “human nature” having “greater dignity in Christ” than in (St.) Peter (III. d. 5, q.1, a. 3), and of one order of being having a higher dignity than another (III. d. 6, q. 2, a. 1). Dignity in this sense is both an indication of relative rank in the order of creation and a mark of essential goodness⁸ that attaches, in accordance with the scholastic tradition, to “substance,” or being *qua* being as distinguished from privation.

Finally, Kant’s concept of dignity is likely to have been framed with more recent philosophic and literary sources in mind, sources that associate it with the “bourgeois” virtues of rational self-restraint, a subject to which I will return. This is especially true of figures like Locke and Addison, and above all, Hobbes, who provides Kant with a convenient, though rarely noticed, foil for his own discussion of “price” and “dignity” in the kingdom of ends.

2 Human Reason’s Natural Dialectic

Kant introduces the term “dignity,” at the end of Part One of the *Groundlaying*,⁹ in the fraught context of what he calls a “natural dialectic” arising from the human propensity [Hang] to ratiocinate or “quibble with” [vernünfteln] the

⁸ As Aquinas also writes in his *Commentary on the Sentences*: “Dignity means the goodness something possesses because of itself, utility its goodness because of another” [*dignitas significat bonitatem alicujus propter seipsum, utilitas vero propter aliud*] (lib. 3, d. 35, q. 1, a. 4, q. 1, c).

⁹ Cf. Schönecker and Schmidt, 87.

“strong laws of duty”—a ratiocination that leads to an “annihilation” of their “entire dignity” (*GMS* 4:405):

There is something noble [herrlich] about innocence; but what is bad about it, in turn, is that it cannot protect itself very well and is easily led astray. Because of this, even wisdom—which otherwise consists more in doing and omitting than in knowledge—still needs science, not in order to learn from it but in order to provide access [Eingang] and durability [Dauerhaftigkeit] for its precept [Vorschrift]. The human being feels within himself a mighty counterweight to all the commands of duty, which reason represents to him as so worthy of the highest respect [Hochachtungswürdig], a counterweight toward his needs and inclinations, the entire [ganze] satisfaction of which he grasps under the name of happiness. Now reason commands its precepts unremittingly, without thereby promising anything to the inclinations, and so, as it were, with disregard [Zurücksetzung] and contempt [Nichtachtung] for those claims, which are so impetuous [ungestümen] and hence/at the same time [dabei] seem so equitable [billig], (claims that do not want to let themselves to be cancelled [wollen aufheben lassen] by any command). But from this there arises a *natural dialectic*—that is, a propensity [Hang] to rationalize against those strong [streng] laws of duty and to cast doubt upon their validity, or at least upon their purity and strictness [Strenge], and, where possible, to make them better suited [angemessener] to our wishes and inclinations, that is, to corrupt them at their ground and to destroy [um... zu bringen] their entire dignity [ganze Würde]—which even common practical reason cannot, in the end, call good. (*GMS* 4:404–405)

The “dignity” of the law thus first comes to sight in the *Groundlaying* as threatened in its entirety by human reason itself. The human being whose reason represents its commands as “worthy of the highest respect” also feels the “counterweight” of “claims” that seem “equitable [billig]” and that “do not want to let themselves to be cancelled” by any such command. It is not sensibility per se that gives rise to rise to this natural dialectic, then,¹⁰ but a division *within* practical human reason that moral science or philosophy must address if the “ground” is to be “laid” (as per Kant’s title).

Kant’s immediate response to this “natural dialectic” is to draw attention to the “dignity” of reason, a dignity of which reason itself is “conscious” as soon as it becomes aware that “it can be practical for itself” (*GMS* 4:410–411), thereby despise[ing] [verachtet] all empirical incentives of which it can thus “gradually become [the] master [Meister].” In the absence of that consciousness, on the other hand, practical reason “waver[s] between motives that cannot be brought under any principle” (*GMS* 4:411).

10 Compare “Considered in themselves, natural inclinations are good, i.e., not reprehensible, and to want to extirpate them would be not only futile, but harmful and blameworthy as well; we must rather only curb them, so that they will not wear each other out but will instead be harmonized into a whole called ‘happiness’” (*RGV* 6:58).

The “dignity of moral laws and concepts,” for their part, lies in the “purity of their origin” (*GMS* 4:411). But in what does this “origin” consist? If it is *human* reason, are we not back to the natural dialectic from which we began? And if it is reason as such, how account for or otherwise respond to reason’s “*dialectic*,” and related departure from “pure reason,” that threaten to destroy the “entire dignity” of the moral law?

Kant’s provisional answer is as follows: if we attend [*Acht haben*] to ourselves in the transgression of duty we find that we do not effectually [*wirklich*] will in such a case that our maxim become a universal law (which would be impossible for us) but only “take the liberty [*Freiheit*] of making an *exception*” in this case “to the advantage of our inclination,” transforming [*verwandeln*], thanks to the “resistance” [*Widerstand*] of the latter, the “universality” [*Allgemeinheit*] of the moral principle into a mere generality [*Gemeingültigkeit*] that “meets our maxim halfway.” The very excuse of our subjective will—namely that this exception is “trivial” and moreover “*wrung*” from it—testifies, on Kant’s account, to an “effectual [*wirklich*] acknowledge[ment of] the law’s validity [*Gültigkeit*]” as “canon of moral judgment generally [*überhaupt*]” (*GMS* 4:424). We cannot, it seems, avoid harkening to the sole thing of which it is possible to think that could be held unconditionally good (*GMS* 4:393) even when we depart from it—a deviation that even common human reason cannot in the end “call good” (*GMS* 4:405), presumably because it contradicts the only stable concept of the good (as per above) that it is capable of holding.

What remains to be shown is that the accompanying concept of duty not only serves as the necessary canon of moral appraisal [*Beurtheilung*] (or what he elsewhere calls the “principle of dijudication” (*Collins* 27:274)), but also “has effectual lawgiving [*wirkliche Gesetzgebung*] for our actions [*Handlungen*],” i. e., furnishes a sufficient motive for so acting. Here philosophy finds itself “in deed” in a “precarious standpoint,” as Kant puts it in a remarkable passage:

We now see philosophy here placed in deed [*in der That*] in a perilous standpoint, which should be firm [*fest sein soll*], regardless of [*ungeachtet*] anything either in heaven or on earth from which it may depend or by which it may be supported. Here it should prove [*beweisen*] its purity as *autocratrix* [*Selbthalterin*]¹¹ of its own laws, not as a herald of those that an implanted sense or who knows what custodial [*vormundschaftliche*] nature whispers to it, which, taken together, although they may be better than nothing at all, can

¹¹ This term was part of the official title of the Russian empress, who was called “Autocratrix [*Selbthalterin*] of All the Russias.” Kant himself used that title of address in in his official letter of request for a professorship at the University of Königsberg, which was then under Russian occupation.

yet never yield principles that reason dictates [dictirt] and that must have their origin fully a priori and therewith at the same time their commanding authority [Ansehen]: expecting nothing of the inclination of the human being, but everything from the supremacy [Obergewalt] of the law and the respect owed to it, or otherwise [widrigenfalls] condemning the human being to self-contempt [Selbstverachtung] and inner abhorrence [innern Abscheu]. (GMS 4:425 – 426)

It remains unclear, in this syntactically ambiguous paragraph, to which hypothetical eventuality “otherwise” refers: to the failure of the human being to measure up to its own standard of judgment, or to the failure of philosophy itself to “demonstrate its purity as autocratrix of its own laws.” And indeed, the two are intertwined; for common practical reason can consistently so measure up only if philosophy leads the way (GMS 4:405, 409), proving its *own* purity (in disregard of [ungeachtet] anything in heaven or earth on which it might depend) by deriving the moral law not from ordinary moral understanding (as he had earlier done, in Section One) but from the concept of a rational being as such.

It is here, in preparation for that crucial “step into a metaphysics of morals,” that Kant draws attention for the first time to the law’s “sublimity and inner dignity”—a complex quality (taking a singular verb) that is “all the more proven [es...beweisen], the less subjective causes are for it and the more they are against it.” (GMS 4:425) Kant’s treatment of “sublimity and inner dignity” as grammatically singular not only indicates their conceptual inseparability at this point; it also thereby anticipates Kant’s extension of dignity to “humanity” in the pages to come. That extension might seem strange, given Kant’s claim to be basing his argument, in this portion of the text, on the a priori concept of a rational being (rather than its specifically human embodiment). But the move proves crucial, as we shall shortly see, in addressing the “natural dialectic” and related “wavering among maxims” that must be quieted if the “supreme principle of morality” is to be “established” [festsetzen].

Kant has not yet shown that the concept of duty contains “effectual law-giving for our actions [Handlungen].” Nor is it yet clear where the “reality” [Realität] of the accompanying principle might lie, given the theoretical limitation of the concept of “reality” to application to a “phenomenal” world governed by the ordinary laws of nature. Still, one can say this much: if the concept of duty does contain effectual lawgiving—if a mere a priori concept, originating in reason alone, *has* effect in the phenomenal world—it will register as “respect [Achtung],” i.e. “the representation of a value [Werth] that breaks off my self-love [meiner Selbst-liebe Abbruch thut], a value, moreover, that attaches to the will’s own “activity” [Thätigkeit] rather to the “object as the effect [Wirkung] of some action [Handlung]” (GMS 4:401n., 4:400).

The moral law's "sublimity" [Erhabenheit] is thus an elevation that cannot be exhibited directly i.e., as a relocation upward in space, but only through the feeling of respect, as the "representation" of a "value" that interrupts self-love. Like the aesthetic feeling of the dynamic sublime with which it is in this respect analogous, that moral feeling is the "effect" of a law-giving power of reason that can be sensuously presented only negatively, i.e., as accompanying a suspension of the interest that we naturally take in our own wellbeing (*GMS* 4:413n.).¹² At the same time, unlike the aesthetic feeling of the sublime, which is, as such, "without interest" (*KU* 5:247), moral feeling "directly engages the faculty of desire" in a manner that is "interested" and hence capable of determining the will. Unlike pathological interest, which elicits "approval" in service to inclination, moral interest, where feeling is the effect rather than the cause of a determination of the will, elicits our "esteem."

3 Autonomy and Value

Kant also here draws attention to the proper or authentic [eigentliche] value of the simply good will [schlechtedings guten Willens] as one that is "lifted above all price" and that consists in its "principle of action [Handlung] being free of all influence of contingent [i.e., experiential] grounds." (*GMS* 4:426) To secure against "prejudicial" [nachtheilig] carelessness or worse in the appraisal [beurtheilen] of actions (*GMS* 4:426), Kant now steps forth "reluctantly" into "moral metaphysics" with a view to finding the "a priori connection" of that necessary law of appraisal (a law to which ordinary rational moral cognition of that value (*GMS* 4:393) already points) with the concept of a will that determines itself *solely* by reason. (*GMS* 4:427) He will thereby establish at least the *conceptual* possibility of effectual rational lawgiving, leaving to Section Three the further task of showing how the supreme principle of morality thus derived (i.e., the categorical imperative as the principle of autonomy") is also *really* possible and can thus be effectually lawgiving for *our* actions or in the world we know. (*GMS* 4:453).

Now a rational will, speaking conceptually, is one "with as a capacity [Vermögen] to determine itself to action [Handeln] in accordance with *the representation of certain laws*" (*GMS* 4:427). These laws, which, as Kant had previously shown, can be either hypothetical or categorical, but in either case, do not suf-

¹² For a more thorough discussion of the relation between the moral and aesthetic sublime, see Clewis, 2009, "*The Kantian Sublime and the Revelation of Freedom*", 126–140.

fice in determining the will to action without an “objective ground,” i.e., something for the sake of which the action occurs, and absent which the law in question would be idle and without determining result. If that objective ground is given by reason it must hold for all rational beings. If, on the other hand, it enables action whose *effect* is the end, it is called a means [Mittel] (as with the full wallet that enables me to purchase food and thereby satisfy my hunger). The former ends are “objective”, in a sense distinguished from the “objective” ground that any determination of a will must have, be its end “objective” (in which case it necessarily holds for all rational beings) or merely “subjective” (i.e., proposed “at its discretion and as [merely] the effect of its actions.”) In the latter case the value of the end depends on reason’s estimation out of deference to inclination. Were these the only ends available, all value would always be contingent, and “no supreme practical principle for reason could be encountered anywhere for reason.” If a categorical imperative is to be possible (*GMS* 4:419), then, another sort of objective ground for determining the will must be conceivable, i.e., an “end” that is *not* (primarily) an effect of action, i.e., a “means” whose value is contingent on inclination, but instead conceivable as a limiting condition on *all* action and hence an objective end or end in itself. But “the human being and ...every rational being,” insofar as they “may *not* be used *merely* as a means,” constitutes just such a necessary limiting condition and hence objective end. (*GMS* 4:428)

All objects of the inclinations have only a conditioned value; for if the inclinations and the needs grounded on them did not exist, then their object would be valueless.... Thus, the value of all objects *to be acquired* through our action is always conditioned. The beings whose existence rests not on our will but on nature nevertheless have, if they are beings without reason, only a relative value as means, and are called *things*; rational beings, by contrast, are called *persons*, because their nature already designates them [sie... auszeichnet]¹³ as ends in themselves, i.e., as something that may not be used merely as means, and to that extent limits all choice (and is an object of respect). These are thus not merely subjective ends whose existence as effect of our action has a value for us; but *objective ends*, i.e., things whose existence is in itself an end, and one indeed that can be replaced by no other end to which it could serve as a means. (*GMS* 4:428)

To be sure, every finite rational being necessarily “takes an interest” in his own existence for its own sake, in accordance with the “assertoric” principle of (private) prudence” (*GMS* 4:415–416, 416n.) (and in a manner not itself dependent on such interests as arise from contingent inclinations—inclinations, indeed,

13 According to Grimm and Grimm’s *Deutsches Wörterbuch*, the term also means to indicate the value of things (as with labels indicating the price of goods for sale).

of which "every such being would wish rather to be free", *GMS* 4:428). But this representation of the "necessary value of one's existence" is only "subjectively valid" unless it is also based on a "rational ground" that is "objectively valid" for *all* rational beings, (*GMS* 4:429), a proviso that will soon prove pertinent (*GMS* 4:439).

From the first and second formulas of the categorical imperative as the objective and subjective ground, respectively, of all practical lawgiving "there now follows" (as Kant here puts it) a third practical principle of the will as "the supreme condition of its harmony universal practical reason": namely, the "*idea*" of every rational will as one "*giving universal law*," or, as Kant proceeds to clarify: "the idea of the *dignity* of a rational being that obeys no law except that which at the same time it gives" (*GMS* 4:434). In accordance with that "idea":

All maxims...are cast aside [verworfen] that are inconsistent with a will's own universal lawgiving. The will is not only subjected [unterworfen] to the law but instead so subjected that it must also first be regarded [angesehen] as *self-lawgiving* [selbstgesetzgebend] and even and on that account first [allererst] subjected to the law (of which it can itself be considered [betrachten] as the author [Urheber]). (*GMS* 4:431)

Unlike the two previous categorical formulas (i. e., of "universal law" and of "humanity"), the "principle of autonomy" contains a "distinguishing" mark that "indicates" the "renunciation" [Lossagung] of all interest; for by legislating universally, one necessarily ignores the contingent aims on which such interest is based. (*GMS* 4:432)

That "idea" yields, in turn, the "very fruitful concept of a kingdom of ends" as an "ideal" (*GMS* 4:433), determinable through the idea alone, that makes the latter actionable in the manner of a "regulative principle,"¹⁴ in accordance with the "idea of the *dignity* of a rational being that obeys no law other than one that it itself at the same time gives."

In a kingdom of ends, everything is either replaceable "by an equivalent" and therefore has a "*price*," or is without equivalent (or "lifted above [erhaben] all price"), in which case it has a "*dignity*."

It follows that a rational being cannot be "thought" [denken] as an end in itself unless it is also considered [betrachtet] as [universally] "lawgiving" (*GMS* 4:434). For, as Kant has just shown, we cannot otherwise conceive of an objective end without falling into self-contradiction.

¹⁴ Cf. *KrV* A 568–569=B 596–597: "[By 'ideal'] I understand the idea not only *in concreto* but also *in individuo*, i. e., as an individual thing that is determinable, or even determined, through the idea alone." Such "pure concepts... have *practical* power (as regulative principles) grounding the possibility of the perfection of certain *actions*."

Like the feeling of respect through which it is “cognized,”¹⁵ dignity as an “inner value” represents a “break[ing] off” [Abbruch] of the ratiocination by which values in exchange are ordinarily appraised, values with which it is incommensurable.¹⁶ It thereby unites in a single term the “sublimity and inner dignity” that Kant had previously associated with “the command in a duty”—a sublimity and inner dignity, according to his earlier report, that is “all the more manifest the fewer are the subjective causes in favor of it and the more there are against it.” And it also internalizes, so to speak, a breaking off of self-love that could earlier be represented only by way of an indefinite approach (“the more... the fewer... the more”) and hence externally, Dignity as “inner value, on the other hand, represents that interruption of self-love in terms of that which is beyond all calculation or “priceless,” i.e., in terms of an alternative rule of action that is internal to reason itself (cf. *GMS* 4:428, 439).

Kant proceeds to liken this ideal to a “commercium” in the ordinary economic sense in keeping with then common usages of private law (and later codified in the Prussian *Landrecht* of 1794).

That which refers to universal human inclinations and needs has a *market price* [Marktpreis]; that which, even without presupposing any need, is in accord with a certain taste, i.e., a satisfaction in the mere purposeless play of the forces of the mind, an *affective price* [Affektionspreis]; but that which constitutes the condition under which alone something can be an end in itself does not have merely a relative value, i.e., a price, but instead an inner value, i.e., *dignity*. (*GMS* 4:434–435)

The meaning of market price, according to common usage, was the price that a seller could ordinarily expect to receive from a buyer where price was not fixed by statute, as was still often the case in Prussia where the laws, heavily influenced by mercantilist theory, weighted the scales of commerce in order to encourage domestic manufacture and production at the expense of foreign trade.¹⁷

“Affection price” [pretium ex affectu], which dates back to the *Lex Aquilia*, initially referred to the special consideration given to the personal feelings of the plaintiff in an award of damages: for example, in the case of one whose slave had been killed, the fact that the owner was the slave’s natural father and hence bore him special affection.¹⁸ Pretium ex affectu roughly corresponds to

¹⁵ Cf. *Feyerabend Lectures on Natural Right* (NF 27:1324).

¹⁶ For earlier versions of this argument see for example Reflection # 1179 (*Refl* 15:521) and Reflection # 5350 (*Refl* 18:159).

¹⁷ Marktpreis roughly corresponds to what the Prussian Code of 1794 called “gemeiner Werth.”

¹⁸ According to Roscoe Pound, pretium ex affectu was mentioned in the Digest only to be generally ignored, although the term still appears, as he notes, in the Prussian legal code of 1794,

what the *Landrecht* calls “ausserordentlicher Preis” (Pound 1921, 242). The *Landrecht* also recognizes “things” “whose value cannot be determined through any relation with other things found in exchange” and which hence are called “priceless” [unschätzbar].

Kant here assimilates “pricelessness” in the then mundane legal sense—mainly of use in decisions involving the award of civil damages—with “dignitas” in a far older sense that valued things according to their essential qualities, as in the assessment of gold and silver in accordance with “the dignity and purity of its own substance” [Propter dignitatem et puritatem substantiae ipsorum] (Aquinas 1911),¹⁹ as distinguished from its usefulness. Value in this older sense is linked to notions of just price, or the intrinsic worth of things, that trace back to Aristotle and Aquinas, and that served as a famous impediment to the market freedoms advocated by Adam Smith of whose thought Kant was an early champion. Here, as elsewhere in his writings, Kant revives scholastic concepts not to restore the ancient order but to repurpose them to suit a new and enlightened rational model.

The “idea” of “a rational being as one giving universal law” is thereby made not only “fully determinable” (as with the “ideal” of a kingdom of ends) but also “given to be cognized” [giebt... zu erkennen]—thanks, in part, to Kant’s selective appropriation of familiar legal and economic concepts. It is given to be cognized, moreover, as an estimation [Schätzung] that juxtaposes inner value, without commensurating it with, values that lend themselves to “computation [Anschlag] and comparison [Vergleichung]” (and are accordingly themselves commensurable). (*GMS* 4:435)

This cognition leads, in turn, to a “justification” of virtue’s “highest claims” that brings the moral law “closer to intuition” (*GMS* 4:436):

And what is it now that justifies [berechtigt] the morally good disposition or virtue [Tugend] in making such high claims? It is nothing less than the *share* [Antheil] that it procures for the rational being *in universal* lawgiving, thereby making it fit [tauglich] to be a member in a possible kingdom of ends, for which it was by its own nature as end in itself already destined [bestimmt], and even on account of this as lawgiving in the realm of ends, in regard to which it is free of all natural laws and obeys only those that it gives itself.... For a rational

which allowed for the recovery of the *Affectionswerth* of property in some aggravated cases. See Pound, 1921, 229–259. See also *Klein/Svarez 1794*. I am assuming that the 1794 act incorporated into the written code what was already considered to be common “enlightened” legal practice under Frederick the Great and at the time the *Groundlaying* was written.

¹⁹ See in this regard Part Two, 2a qu., lxxvii, art. 2.: “Gold and silver are costly not only on account of the usefulness of the vessels and other like things made from them, but also on account of the excellence and purity of their substance.”

being [es] has no value other than that which the law determines for it. But lawgiving itself, which determines all value, must even on this account have a dignity, i.e., an unconditioned, incomparable [unvergleichbaren] value, for which the word respect alone provides a becoming expression for the estimate that a rational being has to appoint for [anstellen] it. Autonomy is therefore “the ground of the dignity of human and every rational nature.” (GMS 4:435–436)

By uniting freedom and submission to universal law, autonomy furnishes the supreme practical principle that Kant had still vainly sought in the Feyerabend Lectures on Natural Right [1784]. (NF 27:1322). At the same time, Kant’s formulation raises a fundamental question as to the ultimate seat of inner value: humanity (as urged, e.g., by Schönecker and Schmidt), or the moral law itself (as urged, e.g., by Sensen).

This question is partly answered by Kant’s subsequent characterization of the three categorical formulas as progressing from “form,” to “matter” or “end,” and finally culminating in “complete determination of the concept”—or, alternatively (insofar as they constitute a “system”), from “unity” (as the form of the will) to “plurality” (corresponding to its ends), to “allness” [Allheit] or “totality” [Totalität]. (GMS 4:436–437).

This rarely noted, and indeed seemingly pedantic, detail calls to mind Kant’s earlier discussion of the a priori “categories of quantity” as enumerated in the Critique of Pure Reason, along with the related “idea” of an “absolute whole” insofar as it constitutes a “system” (*KrV* A 320/B 377 ff.). Although that idea, according to the first Critique, is theoretically transcendent, it is also “fruitful to the highest degree” in its practical use (e.g., as with the idea of a perfect republic in which the freedom of each can coexist with that of all the others). (*KrV* A 314/B 371 ff.). In light of that discussion, Kant’s elaboration “in concreto,” in the *Groundlaying*, of the “idea” of dignity by way of the “ideal” of a kingdom of ends represents just the sort of task whose “execution” constitutes, according to that earlier work, “the proper [eigenthümliche] dignity of philosophy” (*KrV* A 319/B 375).

Kant’s association of the principle of autonomy with the category of totality also sheds intriguing light on the specific departure from “the transcendental philosophy of the ancients” that Kant added to the B edition of the first *Critique* (1787) (*KrV* B 113–115). Here, Kant explicitly assimilates (in good scholastic fashion) the a priori categories of quantity (i.e., “unity,” “plurality,” and “totality”) with the concepts of the “one, true, [and] good.”²⁰ For that assimilation, advanced on wholly practical grounds, emphasizes the conclusion to which he

20 Cf. *Critique of Pure Reason* (*KrV* B 113): “Every being is one, true, good.”

had evidently come in the *Groundlaying* but that may have not have been clear to him prior to his discovery of the principle of autonomy (and hence when he completed the A edition in 1781): namely, that the only determinate totality available to human reason is via a practical ideal by which the a priori concept of totality can indeed be brought "closer to intuition." (*GMS* 4:437)

This passage added to the B edition also points suggestively toward a moral economy that can be reconstructed partly on the basis of unpublished reflections in which the terms "value" and "dignity" figure prominently.²¹ "*What is essential in good character*, according to one of these notes:

is the value that one posits [setzt] in oneself (in humanity), as much in regard to actions directed toward oneself as in those directed toward others. For character signifies that a person borrows the rule of his action from himself and the dignity of humanity. [1179]

Humanity, so conceived, is the "dignity," or inalienable endowment, though whose moral cultivation one acquires a character. The "dignity of human nature" on the other hand is the "freedom" through which a person can, by acquiring such a character, have "worthiness," i.e., "be worthy of life" (along with all of nature's and fortune's goods), and thereby constitute (as no other earthly creature can) the "final end of creation." (*ECA* 15:788)

Man justifies creation in the only way possible on this account (for the purpose of creation is otherwise unfathomable): namely, by acquiring a "character" and thereby making himself *morally* worthy of existence, and hence worthy in the eyes of the highest wisdom in the only sense that we can understand it. Character is acquired through strict adherence to the laws of freedom, i.e., through a thoroughgoing self-consistency "that constitutes the value and dignity of the person" (as distinguished from the dignity of humanity, whose value is given rather than self-positing). And the external world is justified as a condition necessary to the acquisition of character, both individual and collective, i.e., by the realization of the "inner value" of humanity in one that is not only inalienable but also freely posited and for which we are ourselves responsible. (*RefIM* 19:278; *ECA* 15:868)

These reflections cast light not only on the developed argument of the *Groundlaying*, but also on whether dignity is to be attributed primarily to the moral law or to humanity (as free rational nature). For there are two sorts of inner value, according to those notes, each of which is both absolute and incomparable with the values we assign "the goods of fortune and nature" (*RefIM*

²¹ See especially Reflection # 1179 (*RefI* 15:521) (from the late 1770's or the 1780's), and Reflection # 1500 (*RefI* 15:788) (from the late 1770's).

19:278): one that is, so to speak, deposited in us and one that we must posit in ourselves. It is *both* by virtue of our “humanity” *and* through adherence to the moral law that we become worthy of existence both in our own eyes and also, by virtue of that very fact, those of the highest wisdom insofar as we can comprehend it. There is thus no need, nor is it possible, to choose between the primacy of the dignity of humanity, and that of the moral law the simultaneous submission to and giving of which (i. e., autonomy) grounds the “dignity of human and every rational nature.” Nor need one choose, on this account, between “constructivism” and “realism” (as understood in the current literature), for whereas the value of humanity is indeed given independently, the “dignity and value” of one’s own person (as distinguished from “humanity within” it) is established through one’s own adherence to the law laid down by one’s own reason.

Kant’s economy of values comparable and incomparable calls to mind Hobbes’s famous equation of reason and reckoning (Hobbes 1996, chapter five), along with the accompanying theory of desire from which Kant’s own empirical psychology borrows generously. Indeed, it is not difficult to hear echoes in Kant’s description of the kingdom of ends of a famous passage from chapter ten of Hobbes’s *Leviathan* (“Of Power, Worth, Dignity, Honor, and Worthiness”) which serves here as a fitting foil.

The value or worth of a man is, as of all other things, his price; that is to say, so much as would be given for the use of his power, and therefore is not absolute, but a thing dependent on the need and judgement of another.... And as in other things, so in men, not the seller, but the buyer determines the price. For let a man, as most men do, rate themselves at the highest value they can, yet their true value is no more than it is esteemed by others.

“Value, for Hobbes, is determined by the “esteem” of others: i. e., the price set by the buyer on the basis of his own limitless desire, stimulated by his representation of a future that is no less compelling for being imaginary. “Dignity,” on the other hand, is a value “set by the Commonwealth,” and stabilized solely by the power of the sovereign. For Kant, by way of contrast, the value that we necessarily subjectively assign to our own person becomes “objective” (i. e. a dignity) insofar, and only insofar, as we are deemed worthy by our own reason—a consideration that not only speaks directly to the Hobbesian reduction of reasoning to calculation, but also, and by implication, to human reason’s own “natural dialectic” in the face of competing claims that “no [rational] command can cancel [aufheben]” (*GMS* 4:405).

4 Dignity as “Prerogative”

Kant next draws on the term “dignity” in the distinctive sense of “prerogative” [Prärogativ] (i.e., exclusive privilege) over “all merely natural beings,” and that necessarily accompanies one’s status as a “*self-sufficient* [selbständiger] end” (GMS 4:437):

Every rational being, as an end in itself, must be able to regard itself as giving universal laws with regard to any law whatsoever to which it may be subject. For it is precisely this fitness [Schicklichkeit] of its maxims for universal lawgiving that distinguishes/prices it [es... auszeichnet] as an end in itself; from which it also follows that this dignity (prerogative) before all merely natural beings brings with it that [a rational being] must always take its maxims from the point of view of itself—and every other rational being—as lawgiving (and which are on this account also called persons). Now in such a way [auf solche Weise] is possible a world of rational beings (*mundus intelligibilis*) as a kingdom of ends, and this through all persons giving laws to themselves [eigene Gesetzgebung] as members. (GMS 4:438)

Such a *mundus intelligibilis* is thereby “possible,” i.e., possible from the standpoint of the individual moral actor, only on “analogy with the kingdom of nature” (cf. GMS 4:438)—understanding “kingdom” as a system of laws united by an idea, be it internally or (as with the kingdom of nature) merely externally. (GMS 4:436n.) To be sure, this world would not only be “formally” possible on the basis of an analogy (GMS 4:347), but “actually come about” [wirklich zu Stande komme], were the moral law indeed universally followed. And yet it is this very gap between “possibility” and “actuality” [in the sense of “Wirklichkeit”] that brings out the specific “dignity of humanity”—a term Kant here introduces for the first time, along with what he calls “the value of a human being”:

And just herein lies the paradox: that merely the dignity of humanity as rational nature, without any other end or advantage to be attained by it—hence respect for a mere idea—should yet serve as an unremitting precept of the will, and that it is exactly in this independence of maxims from all such incentives that their sublimity consists along with the worthiness [Würdigkeit] of every rational subject to be a law-giving member in the kingdom of ends; for otherwise he would have to be represented only as subject to the natural law of his needs. Even if the kingdom of nature as well as the kingdom of ends were thought as united under one head [Oberhaupt], so that the latter would no longer remain a mere idea but would obtain true reality [wahre Realität], it would no doubt gain the increase of a strong incentive but never any increase of its inner value; for, without regard to this, even this sole unlimited lawgiver would still have to be represented as apprais[ing] [beurtheilte] the value of rational beings only by their unselfish conduct, prescribed to themselves merely from that idea. Morality is thus the relation of actions to the autonomy of the will, that is, to a possible giving of universal law through its maxims. (GMS 4:439)

To which Kant adds:

The essence of things is not changed by their external relations; and that which, without taking account of such relations, alone constitutes the value of a human being is that in terms of which he must also be appraised by whoever does it, even by the supreme being. (*GMS* 4:439)

The crucial point for present purposes is this: although there is “no sublimity” in mere “subjection to the law,” there is sublimity, as Kant here concludes, in the giving of universal law (to which one is also subject), making it possible to explain the “dignity” of “duty,” in new, morally empowering light:

One can now easily explain [erklären] how it happens that although under the concept of duty we think a subjection to the law, we at the same time represent to ourselves a certain sublimity and *dignity* in a person who fulfills all his duties. For although there is, to be sure, no sublimity in a person as *subjected* to the moral law, there is [sublimity] in regard to him as at the same time *lawgiving* and only thereby subordinated to it....Our own will, insofar as it would act only under the condition of a possible universal legislation through its maxims—this will possible to us in the idea—is the authentic/proper [eigentliche] object of respect, and the dignity of humanity consists just in this capacity for universal legislation, although with the condition that it is at the same time itself subjected to this lawgiving. (*GMS* 4:439–440)

Kant’s subsequent announcement, in the very next line, of “*autonomy of the will*” as the “supreme principle of morality” (*GMS* 4:440) has thus been prepared by a progressive attunement²² of his readers to the dignity of humanity, and with it the sublimity of one’s *own* self-positing esteem and accompanying elevation over all that is *merely* subject to the law. And he thereby clarifies, without prejudice to the “dignity of humanity,” his earlier claim that “all respect for a person is properly only respect for the law ... of which the person gives us the example” (*GMS* 4:401n.).

5 Dignity and the Claims of Private Prudence

In so doing, Kant also places in a new, and more fruitful, light his earlier description of human reason’s “natural dialectic” given, on the one hand, the commands of duty, and on the other, the “seemingly equitable [billig]” claims arising from our natural inclinations and accompanying needs—claims that “do not let

²² Cf. *RGV* 6:38.

themselves be cancelled by any command" (*GMS* 4:405). For the specific dignity of reason as the essential element of "humanity" has been exhibited in a way that speaks directly to the two-fold claims of prudence as Kant had earlier described it:

The word 'prudence' [Klugheit] has a two-fold meaning; in the first it can bear the name of 'worldly prudence' [Weltklugheit] and in the second that of 'private prudence.' The first is the skill of a human being to have influence on others, in order to use them for his aims. The second is the insight to unite all these aims to his own enduring advantage. (*GMS* 4:416n.)

So long as practical reason permits itself to be directed by the assertoric rule of *private* prudence, and hence, ultimately, by a "mere idea of the imagination" (as distinguished from "worldly prudence," whose aims here remain open), reason's function is "merely" passive, "administering [administriren] a foreign interest," as Kant here strikingly puts it, rather than "prov[ing] [beweise] its commanding authority as supreme lawgiving" (*GMS* 4:441).

The term "administriren"—unusual in Kant's published corpus—calls to mind the famous "clock-like" administration of Frederick the Great, which left minimal discretion to subordinates. In *What is Enlightenment (WA)* Kant was willing to give limited approval to the "private," merely "passive" use of reason to which state officials were restricted in accordance with Frederick's "way of ruling" so long as it eventually gave way to "principles of government [Regierung]" that treat "the human being, who is now *more than a machine*, in keeping with his dignity" (*WA* 8:37, 41–42).

In contrast to the values to which the "private" use of reason "ministers" mechanically and hence as subject to a law not of its own making (be it positive law when reason serves the interest of the sovereign, or the law of nature when it serves the interest of one's own inclination), dignity is *both* inner value *and* the prerogative that accompanies fitness for giving the law by which all (other) value is determined. The claims, arising from human need, that no command can "cancel"—for the cancellation [Aufhebung] of a claim can only happen by means of a homogeneous counter-claim—lose their apparent "equity [Billig[keit]]" only when common practical reason, in full awareness of its dignity in this enriched and complex sense, ceases for that very reason to "approve" [billigen] them.²³

Kant's remarks at (*GMS* 4:441) echo his distinction, earlier in the *Groundlaying*, between inclination, which my will can "approve," or even (in the case of

23 For similar uses of the term "Meister," see, e.g., *RGV* 6:59, *TL* 6:483.

that of others) “love” as “favorable to my advantage,” but not “esteem.”²⁴ In the case of approval, the value of my end depends on the subjective weight that it is assigned in choice’s “reckoning” (in good Hobbesian fashion); in the case of esteem, by way of contrast, the value of my end is “overweighed” or “excluded” from such reckoning:

For the object, as an effect [Wirkung] of my proposed action [Handlung] I can to be sure have an inclination, but never *respect*, just because it is merely an effect and not the activity [Thätigkeit] of a will. Just as little can I have respect for inclination in general, whether my own or another’s; I can at most approve [billigen] it in the first case, in the second I can sometimes even love it, i.e., regard it as favorable to my own advantage. Only that which is connected with my will merely as a ground, never as an effect, only what does not serve [dient] my inclination but outweighs it, or at least wholly excludes it from the reckoning [Überschlage] in a choice [Wahl], hence only the mere law for itself, can be an object of respect and hence a command. (*GMS* 4:400)

“Interest,” for Kant, names that “by which reason becomes practical, i.e., a cause determining the will.” (*GMS* 4:459n.)²⁵ Interested determination of the will, according to Kant’s later definition, involves “a connection of pleasure with the faculty of desire [pleasure that is aroused by representation of the existence of some object] that the understanding judges to be valid as a general rule (though only for the subject).” (*RL* 6:212) In the case of merely empirical interest, in which pleasure precedes determination of the will, the “rule” in question is merely “counsel,” resting on a wavering concept of happiness that is, in the end, no more than an “idea of the imagination.” Interest here is understanding’s estimation, on the basis of what happens “on the average,” of that contribution of a given pleasure of this sort to the satisfaction of one’s desires as a whole, albeit one not representable under a determinate concept. Understanding estimates, on this account, the value (= net quantity of pleasure) that can be attained by satisfying our many and competing “inclinations” (which have “interests” of their own), with a view to maximizing the totality of satisfaction that we call “happiness.” If this were all there were to “interest”—if reason could not also be practical on the basis of an “idea” that is connected with a determinate prin-

24 Compare Kant’s distinction in the *Critique of Judgment* between two ways of “liking” that are connected to an interest (and hence with determining the faculty of desire): a liking for the “agreeable,” i.e., for what gratifies us (a kind of liking that we share with animals), and a liking for the “good,” i.e., “posit as having objective value” either in itself (in which case it is “esteemed” [geschätzt]), or as a [mere] means to some end (in which case it is “approved” [gebiligt]) (*KU* 5:206–210).

25 “Only of a rational being,” as he continues, “does one say that he takes an interest in something; non-rational creatures feel only sensible impulses.”

ciple—then perpetual “waving among maxims” would be our inevitable fate. But there is also an interest “attaching to the ideas of morality,” as Kant will insist in Section Three—an interest that alone holds out the prospect of a value that can “compensate us for the loss” of everything that makes us value our condition. (*GMS* 4:450).

We are now in a better position to understand Kant's claim that it is precisely “in consciousness of its dignity” that reason “can gradually become master” over inclination rather than “waving among maxims that cannot be brought under any principle” (*GMS* 4:411). In *full* awareness of its own dignity as (potential) lawgiver, human reason could no longer permit itself to view the claims of inclination with undue indulgence. For a human being could no longer do so (as he would now recognize) without squandering the priceless humanity with which he is endowed on interests not its own, thereby reducing his personal value (as distinguished from the “humanity” *within* his person) to less than nothing in the eyes of his own reason.

That implicit moral economy gains additional support from a passage from the *Critique of Pure Reason*, published two years later, which touts “the moral motive” as the only one that can “ground a character” by “teach[ing] the human being to feel his own dignity.” For it thereby:

gives the mind a force, unexpected even by himself, to tear itself away from all sensual dependence insofar as it would become ruling [herrschend warden], and to find for the sacrifice that he offers rich compensation [Entschädigung] in the independence of its intelligible nature and the greatness of soul to which he sees that he is thereby determined [sich... bestimmt]. (*KU* 5:152)

Here (as in the more famous “Conclusion”, *KU* 5:162) Kant summarizes the spiritual exchange (and accompanying logic of sacrifice and compensation) earlier epitomized in the “idea” of “the *dignity* of a being that obeys no law that it “at the same time gives” (*GMS* 4:434)—an idea that the concept of the kingdom of ends conceived as an “ideal” enables us to strive to actualize through our own virtuous action.

In conclusion: Dignity is ultimately grounded in autonomy, or the capacity for universal lawgiving. We are endowed with that capacity by virtue of our “humanity”; we enjoy personal worthiness, on the other hand, only insofar as we live up to humanity's demands. Kant is thus a value “realist” with respect to the dignity that is ours innately, and a value “constructivist” with respect to the worthiness we personally acquire by making ourselves fit to be a lawgiving member of the kingdom of ends. We can either actualize our humanity by investing that endowment rationally or waste it by expending our means [Vermögen] on ends that

even common human reason cannot in the end find good. The stages of Kant's argument, beginning with the "dignity" of the moral law and culminating with our own universally lawgiving will as the "proper object of respect," bring home what is at stake for human reason when it finds itself tempted, in accordance with its "natural dialectic," to approve claims that it cannot esteem. Neither dignity as inner worth, nor dignity as elevated status, but only both united in the feeling of respect, can subjectively meet that dialectical challenge.

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How to Respect Someone's Dignity

Abstract: What does it mean to respect someone's dignity? What exactly does one have to do, or refrain from doing, in order not to violate the dignity of a person? Kant says that the requirement to respect others is already contained in the Formula of Humanity: "The duty of respect for my neighbor is contained in the maxim not to degrade any other to a mere means to my ends" (*TL* 6:450), and he states the formula in the following way: "*So act that you use humanity, whether in your own person or in the person of any other, always at the same time as an end, never merely as a means.*" (*GMS* 4:429) In virtue of being a formula of the Categorical Imperative, Kant intends this to be a universal principle that can determine the moral rightness of all cases. Accordingly, he calls this formula "the supreme limiting condition of the freedom of action of every human being" (*GMS* 4:430 f).

But what exactly does the requirement to respect someone demand? In order to pursue this question, I shall first examine how Kant uses the term 'dignity,' and grounds the requirement to respect someone (Section 1). I shall then analyze but reject two common explanations of what it means to respect another, i. e., not to use someone, and getting their consent (Section 2). Finally, I shall put forward my own interpretation of Kant's respect requirement (Section 3), and argue that it has several advantages (Section 4). My claim is that one respects someone if one grants him or her an equal high standing, and that one does so by being able to universalize one's maxims.

1 Dignity and the Justification to Respect Someone

What exactly is dignity, and how does it relate to respect? It is an almost universally held view that Kant defines 'dignity' as an absolute inner value all human beings possess, and that respect is the fitting attitude to honor this value (cf. Wood 1998, 189; Langton 2007; Darwall 2008; Schmidt/Schönecker 2018). Kant says, for instance: "The *respect* that I have for others or that another can require from me (*observantia aliis praeestanda*) is therefore recognition of a *dignity* (*dignitas*) in other human beings, that is, of a worth that has no price, no equivalent for which the object evaluated (*aestimii*) could be exchanged." (*TL* 6:462). I have argued before (cf. Sensen 2011) that Kant's views on dignity and respect are more

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complicated than that, and that Kant does not adhere to the standard interpretation of his work. In this Section, I shall briefly summarize three central arguments of my previous work to support my claim:

(1) Kant grounds the requirement to respect others in an alternative way, and (2) he directly argues against the commonly invoked notion of value. (3) He also uses a different conception of dignity that, in addition, has a different function. I shall briefly summarize these points now, but at the end of this article, I shall also argue that my interpretation has further advantages when it comes to the notion of respect. It can provide a universal criterion of rightness that can lay claim to cover all cases, and it can establish a wider, more inclusive scope of who should be treated with respect. But first I shall recapitulate why I read Kant's notion of dignity in a different way.

1.1 Value as Foundation

Kant sometimes seems to define 'dignity' as an absolute value, for instance, when he says: "inner worth, that is, *dignity*" (*GMS* 4:435), or "dignity, that is, an unconditional, incomparable worth" (*GMS* 4:436). The natural reading of expressions like these is that Kant defines 'dignity' as an absolute inner worth, and it is also natural to think that if one should respect someone, that it is something about them, an absolute inner preciousness, that is the reason why one should respect them (cf. Watkins/Fitzpatrick 2002). However, I shall now argue that dignity could not play this role, as Kant does not ground his supreme moral principle on a value.

If one wants to argue that one should respect another because of a value they possess, or that a value is the basis for Kant's supreme moral law, then one is immediately faced with challenges from Kant's texts. Think about the following trilemma. Kant says (i) that all human beings should be respected, (ii) that only a good will has an absolute value, and (iii) that not all human beings have a good will. In more detail:

(i) Kant argues that all human beings should be respected. This is expressed in the Formula of Humanity (see above), but he also argues directly that a criminal or a vicious human being should be respected as being human: "I cannot deny all respect to even a vicious man as a human being ... even though by his deeds he makes himself unworthy of it." (*TL* 6:463)

(ii) Kant famously argues that only a good will has unconditional worth: "It is impossible to think of anything at all in the world, or indeed even beyond it, that could be considered good without limitation except a **good will**." (*GMS* 4:393) This is not an isolated statement, or a view that Kant took back later.

He repeats it in several works. For instance, in the *Critique of the Power of Judgment* Kant says: “Only through that which he does without regard to enjoyment, in full freedom and independently of that which nature could passively provide for him, does he give his being as the existence of a person an absolute value” (cf. *KU* 5:208f., 443). What this means is that Kant does not tie absolute value to the mere existence of human beings: “the existence of man is not by itself a *factum* that produces any obligation.” (*Vigil* 27:545) Absolute value is tied to actions, and something a human being gives to himself by being morally good: “Thus good or evil is, strictly speaking, referred to actions ..., and if anything is to be good or evil absolutely (and in every respect and without any further condition), ... it would be only the way of acting, the maxim of the will, and consequently the acting person himself ..., but not a thing.” (*KpV* 5:60)

(iii) The third horn of the trilemma is that not all human beings have a good will. There are human beings which we cannot understand other than being vicious (cf. again *TL* 6:463), and in the *Religion* Kant even argues that all human beings are by nature evil (cf. *RGV* 6:32; Denis 2010).

The conclusion we should draw from this trilemma, I believe, is that value is not the reason why I should respect someone. If all human beings should be respected, but not all have an absolute value, then value is not the ground for the required respect. Accordingly, it is not surprising that Kant does not talk about value or dignity in the passages where he says that he will ground morality, e. g., the third section of the *Groundwork*, the first chapter of the *Critique of Practical Reason*, or the section on the prior concepts in the *Metaphysics of Morals* (cf. *TL* 6:221–228).

But what is an alternative grounding of respect? Kant says that the requirement to respect others is an unconditional imperative produced by the agent's own reason. The Formula of Humanity is a categorical imperative too:

I can recognize that I am under obligation to others only insofar as I at the same time put myself under obligation, since the law by virtue of which I regard myself under obligation [the Categorical Imperative] proceeds in every case from my own practical reason; and in being constrained by my own reason, I am also the one constraining myself. (*TL* 6:417f.)

On Kant's account, a victim can claim a right by reminding the agent of the Categorical Imperative the agent's own reason prescribes to him:

the other, having a right to do so, confronts the subject with his duty, i. e., the moral law by which he ought to act. If this confrontation makes an impression on the agent, he determines his will by an Idea of reason, creates through his reason that conception of his duty which already lay previously within him, and is only quickened by the other, and determines himself according to the moral law. (*Vigil* 27:521)

The foundation of Kant's ethics is "the *moral imperative*, which is a proposition commanding duty, from which the capacity for putting others under obligation, that is, the concept of right, can afterwards be explicated." (TL 6:239)

However, one could object that Kant offers a different justification in the passage that leads up to the Formula of Humanity. There Kant says that it is an end in itself which is the ground of the imperative itself: "The ground of this principle is: *rational nature exists as an end in itself*." (GMS 4:428 f.) But this quote by itself does not establish that Kant grounds morality on a value. 'Value' and 'end in itself' are not necessarily the same. One therefore first has to clarify what Kant means by 'end in itself,' and if one looks at how he defines it, I argue, it turns out to be a different description of freedom. For instance, Kant says: "his own nature as an end in itself ... as free with respect to all laws of nature, obeying only those which he gives himself" (GMS 4:435). Someone is an end in itself in virtue of freedom: "Freedom, only freedom alone, makes it that we are an end in ourselves." (NF 27:1322) If one replaces 'freedom' with 'end in itself' in the above quote, then Kant holds that the ground of the moral principle is freedom. This is what Kant argues—without referring to a value—in the third section of the *Groundwork*. Freedom is supposed to be a causality, every causality needs a law, and the moral law is the causal law of a free being (cf. GMS 4:446 f).

It is therefore not surprising when Kant says that the Formula of Humanity too is an a priori law of reason: "This principle of humanity ... is not borrowed from experience; ... because of its universality ... so that the principle must arise from pure reason" (GMS 4:431). The Formula of Humanity commands with strict universality and absolute necessity. Necessity and universality, however, can only be gained a priori: "Necessity and strict universality are ... secure indications of an *a priori* cognition" (KrV B4). Reason brings forth this law out of itself, and prescribes it necessarily: "reason ... with complete spontaneity it makes its own order according to ideas ... according to which it even declares actions to be necessary" (KrV A548/B576). The Formula of Humanity is an in-built or constitutive principle of human reason, something that describes how our reason necessarily functions, and it grows out of Kant's argument that only autonomy can yield moral obligation (cf. Sensen 2018a).

1.2 Kant's Account of Value

What I have argued for so far is also supported by Kant's account of value itself. It seems that in order to ground moral requirements, value would have to be a distinct, non-natural property in G.E. Moore's sense (cf. Langton 2007, 184 f.; Sensen 2011, 14–23). However, as I will argue, Kant does not put forth such a

value, and in his *Critique of Pure Reason* he even argues that we only know the relation of things, not what they are in themselves (cf. *KrV* A49/B66 f). He also argues directly that we are not warranted in assuming such a property, nor the faculty to detect it: “we cannot cook up ... a single object with any new and not empirically given property Thus we are not allowed to think up any sort of new original forces, e. g., an understanding that is capable of intuition of its object without sense” (*KrV* B798).

What is more, Kant's own positive account of value does not ground morality (cf. Sensen 2011, 32–36; Horn 2014, 98–110). Kant is what one could call a ‘transcendental prescriptivist’ on value. This is akin to Richard Hare's position who had asked what the term ‘good’ adds in a judgment such as ‘this apple is good.’ His answer is that ‘good’ is used to recommend something (cf. Hare 1952, 94–150). For Kant the term ‘good’ is used not to recommend something based on one's empirical preferences, but he uses the word to express that reason declares something to be necessary: “the will is a capacity to choose *only that* which reason ... cognizes as practically necessary, that is, as good” (*GMS* 4:412).

This judgment can be of two types. Reason might prescribe an action as a means to an end, or unconditionally: “Now, if the action would be good merely as a means *to something else* the imperative is *hypothetical*; if the action is represented as *in itself* good, hence as necessary in a will in itself conforming to reason, as its principle, *then it is categorical*.” (*GMS* 4:414) In the first case, one could also say that the action is relatively good, whereas in a categorical prescription the action is recommended unconditionally, or in every respect and under any circumstance. The action is then “good or evil absolutely (and in every respect and without any further condition)” (*KpV* 5:60).

If the judgment ‘*x* is good,’ or ‘*x* has value’ is just another way of saying that reason regards *x* as necessary, then it is easy to see why Kant repeatedly says that (absolute) value is secondary and *follows* from the moral law: “*the concept of good and evil must not be determined before the moral law ... but only ... after it and by means of it*” (*KpV* 5:62f). This is not a peripheral statement with a limited application (*pace* Kain 2018, 82f). Rather Kant says that is part of the “method of ultimate moral investigations” (*KpV* 5:64), and he goes on to connect his analysis of the good to the claim that only this view of autonomy, where all moral justification proceeds from an a priori law of pure reason, can yield moral obligation. This is also why Kant says—in the prominent passages on dignity—that “nothing can have a worth other than that which the law determines for it.” (*GMS* 4:435 f.) Value is not the foundation of moral requirements, but follows from the a priori moral law.

1.3 Kant's Conception of Dignity

If I am right about Kant's views on the justification of the moral law, then what is the meaning of 'dignity,' and what function does the concept play in Kant's account of morality? Even if value is not the foundation of Kant's moral philosophy, 'dignity' might still be the name for the value of an absolutely good will. However, Kant frequently—and even in the *Groundwork* passages—defines dignity in a different way, e.g., as “sublimity” (*GMS* 4:440), “prerogative” (*GMS* 4:438), or simply as “rank” (cf. *TL* 6:468; *Anth* 7:127). Kant defines ‘sublimity’ as that which is raised above all else: “We call *sublime* that which is *absolutely great*.” (*KU* 5:248) This is an older, Stoic notion of dignity. Kant credits the Stoics directly for his conception of dignity (cf. *RGV* 6:57n.), and he repeatedly specifies dignity with the Latin “*dignitas*” (cf. *TL* 6:436, 462).

The Stoic notion of dignity can be used in all sorts of contexts (cf. Griffin 2017). As far as I can see, Kant uses ‘dignity’ in three different applications. He sometimes uses it to say that one being is elevated over the others in a specific respect. In this sense Kant talks about the “dignity of a monarch” (*SF* 7:19), the “dignity of philosophy” (*KrV* B86), the “dignity of mathematics” (*KrV* B492), or the “dignity of a teacher” (*RGV* 6:162). These are not moral usages, but simply express that on a certain scale, one being is infinitely raised above the others. Throughout his writings, Kant uses ‘dignity’ 39 times in this sense, and 41 times he talks about the dignity of humanity, and expresses that human beings are elevated over the rest of nature in virtue of having freedom: “the dignity of human nature, ... its freedom” (*RGV* 6:57n.; cf. Sensen 2011, 177–179).

However, even if this is so, it could be that Kant has two conceptions of dignity, an older Stoic one, and a newer one that expresses an absolute value. But again the situation is more complicated than that. In his published writings, Kant uses the term ‘dignity’ 111 times. 31 times out of these he talks about the dignity of morality, e.g., the “dignity of virtue” (*TL* 6:483), or of the “sublimity and *dignity* in the person who fulfills all his duties” (*GMS* 4:439 f). Only seven times does ‘dignity’ appear next to ‘worth’ or ‘value,’ and these appear in contexts where Kant talks about moral value. This includes the famous *Groundwork* passage on the difference between price and dignity. There he asks about practical necessity, or why a morally good human being acts on the Formula of Autonomy (cf. *GMS* 4:434). His answer is because moral worth is raised above all price, or has a dignity, an elevated position. ‘Dignity’ specifies that moral worth is unconditional, or infinitely raised above price (cf. Sensen 2011, 180–191).

In sum: One human being could have several forms of dignity at the same time: the dignity of a teacher, of a human being, and of a morally good

human being: “The dignity of human nature lies only in its freedom ... But the dignity of one human being (worthiness) rests on the use of his freedom” (*ReflM* 19:181, #6856; my translation). Kant applies ‘dignity’ in the same function throughout his writings: to express that one element is infinitely raised above something else.

However, what about the passage that I quoted at the beginning, according to which the respect I have for another is the recognition of a dignity in that person (cf. *TL* 6:462)? Does this not contradict my account? I do not think so. Notice that in the paragraph immediately following that claim Kant says that human beings have a dignity because they should be respected, not that they should be respected because they have a dignity: “Humanity itself is a dignity; for a human being cannot be used merely as a means ... but must always be used at the same time as an end. It is just in this that his dignity (personality) consists, by which he raises himself ... over all *things*.” (*TL* 6:462) How can Kant say both on the same page? The second quote is in line with the justification I have presented above. The first passage is consistent with this if it talks about who or what should be respected: the other’s capacity for a good will that has a worth beyond price.

I grant that it sometimes seems as if Kant defines ‘dignity’ as a value (cf. Formosa 2017, 68–70), and even a value that grounds moral rights (cf. Kain 2018; Schmidt/Schönecker 2018). But by itself this is not enough to claim that the common reading is right. Whenever Kant says that he justifies morality, he does not state the common reading, and the common reading dissolves if one carefully separates Kant’s notions of ‘value,’ ‘end in itself,’ and ‘dignity,’ which he does not define in the same way, and which one cannot simply use interchangeably.

2 Respect as Not Using and Consent

However, even if my interpretation is correct, what does it mean to respect someone, or—in terms of Kant’s Formula of Humanity—not to use oneself and others as mere means? In the rest of the chapter I shall argue that my alternative reading of Kant’s account of dignity has several distinct advantages: (a) it makes Kant’s texts coherent, (b) it can give more concrete guidance than the value reading concerning what we should do, (c) it can provide a universal criterion that aims to cover all cases, and (d) it can include a wide variety of beings as the proper object of respect. But first one has to specify what exactly one should do in order to respect someone. The traditional reading of dignity as a value is not by itself a reliable guide to answer this question (cf. Wood 2009, 86). For instance, what would the account say about voluntary euthanasia? Is a person who

has less than three months to live, and is in constant pain, allowed to end her life? If one argues that all human beings have an absolute value, it is not clear whether this value requires to preserve a life even against the person's will, or if the value of their autonomy lets them decide what to do. One needs a more specific criterion with which one can decide concrete cases. In this section I shall reject two candidates for the meaning of universal respect: not to use someone, and securing someone's consent.

2.1 Treating as Mere Means

One plausible way of explaining what it means to respect someone is to say that one should not use people: "He has just been using me!" is a severe moral complaint. However, it is not clear that the injunction can cover all cases of moral wrongness, as Kant's principle purports to do, if one reads this demand literally. For instance, if a building is collapsing after an earthquake, it might be wrong to take a person, and use him or her as a pillar to prop up the building (cf. Parfit 2011, 222f). However, while this seems plausible, all things being equal, it is unlikely to be applicable to all cases, and this is what the Formula of Humanity should be: a standard for all cases. A first limitation to the literal requirement are cases of not helping. If you walk by a man in a desert who is dying of thirst, and you do not give him some of your excess water, you are not using the person as a mere means (cf. Parfit 2011, 226). A Kantian will be quick to respond that 'not treating someone as mere means' is not the whole of the Formula of Humanity, but that it also demands to treat others as ends in themselves. The first part, 'not using humanity as mere means,' could cover negative duties of not harming or deceiving someone, while the second part, 'treating humanity as end in itself,' could cover positive duties such as helping.

However, this answer does not fully remove the challenge, for there are also cases of harming in which I do not use anyone as mere means. For instance, if you enjoy wildly shooting your machine gun, you might be hurting other people. But hurting other people might not be the source of your pleasure. You would be happy if the people were not there, but you still shoot even if they are there. In cases like these, you are not using others as mere means, but you are acting wrongly. A Kantian could reply that—while you are not treating the victims as mere means—you are not treating them as ends in themselves. This seems correct, but it would change Kant's own use of the distinction. Kant seems to use the requirement 'not as mere means' for negative or perfect duties, and 'as ends in themselves' for positive or imperfect duties (cf. *GMS* 4:429f). But not

shooting at others with machine guns is a negative and perfect duty, all things being equal.

What this indicates, I believe, is that the Formula of Humanity is not literally about whether humanity is used as a (mere) causal means to something else *in the outside world*. The formula should be a universal principle, and not all cases involve the causal connection between means and ends. One can apply the Formula of Humanity to all cases, I believe, if one reads it as saying that one should not treat humanity as a mere means *to the satisfaction of one's own inclinations*, but always as an end in itself. The demand not to treat others as mere means then becomes the demand not to exalt oneself above others, i.e., not to treat them as less important than one's own inclinations: "a duty of free respect toward others is, strictly speaking, only a negative one (of not exalting oneself above others) and is thus analogous to the duty of right not to encroach upon what belongs to anyone." (*TL* 6:449f.)

This demand of not exalting oneself above others can cover very different moral wrongs: lying, stealing, injuring, or killing someone, while the duty to help others is provided by the second part of the Formula of Humanity, the requirement to treat someone as end in itself (cf. *GMS* 4:430 f.). There are important other meanings of 'not treating someone as mere means,' but they are more local in character, and do not cover all cases. This, I believe, is also valid for the complaint 'you have just been using me.' It has been argued that this complaint boils down to a complaint that important information was withheld to which one was entitled (cf. Scanlon 2008, 106–117). What is more, it seems to me that this complaint is mostly raised in situations where one party had an interest in having a close personal relationship, e.g., as a romantic or business partner. In these cases, one is disappointed in finding out the true intentions of a person one trusted. But as such the complaint is not literally about having been a mere means in a causal sense of the word, and it does not cover all cases of disrespect. A similar point can be made against interpreting the Formula of Humanity as a requirement to acquire consent, as I shall now argue.

2.2 Consent

A second candidate for explaining the Formula of Humanity is the requirement to secure the consent of another. Kant seems to express this demand in his explanation of why it is wrong to make a false promise. He says that "he whom I want to use for my purposes by such a promise cannot possibly agree to my way of behaving toward him, and so himself contain the end of this action." (*GMS* 4:429f.) Maybe what makes an action right is if I have the consent of an-

other, and what makes it wrong is if consent is denied. However, there are different forms of consent, and one would still need to specify which form Kant has in mind.

The most obvious form Kant might have in mind is *actual* consent. Maybe something is morally right if an agent actually gives his or her consent, and it is wrong if the agent does not consent. If I drive your car, or enter your apartment, everything seems to depend on whether I have your consent. However, apart from this initial plausibility, the importance of actual consent does not seem to extend to all cases. Actual consent seems to be neither a necessary condition for all cases, nor a sufficient condition. There are many cases where consent does not seem to be necessary. If, for instance, after an accident you are unconscious, the first responders should—all things being equal—try to save your life even if they do not have your actual consent (cf. Parfit 2011, 178). In a similar vein, there are cases where securing the actual consent of another does not seem sufficient for moral rightness. If, for instance, a cannibal searches for a victim, and finds one that gives his or her consent (as might have happened in the case of the Cannibal of Rothenburg), this does not seem to make cannibalism morally right in that case. In addition, there is the problem that oppressed people often agree to less than is rightfully due to them (cf. Williams 1973, 236 f). Actual consent seems to be everything in cases that involve the property of a person—if I drive your car, or enter your apartment—but it does not seem to be a *universal* right-making feature.

Maybe, then, it is not actual consent, Kant is proposing, but *hypothetical* consent. What is hypothetical consent? On the common reading of it, it is the consent an agent would give under ideal conditions, e.g., if she were awake, fully informed and rational (cf. Van Schoelandt 2015, 1035 f). Conditions like these could explain why it is morally right to help an unconscious person after an accident, and why the cannibal is morally wrong in killing someone even with the victim's consent. In the first case the victim would consent to the surgery if she were awake, and in the second case the victim would not consent to it if he were fully rational, and of sound mind.

However, there are at least two problems with hypothetical consent. The first is to determine the right conditions for hypothetical consent. For instance, the stronger the conditions of rationality and full information are, the more there might be a discrepancy between what a fully rational agent would consent to, and what an actual agent does consent to. For instance, one could argue that it would be fully rational to consent to being pushed off a bridge in order to trigger the automatic breaks of a runaway trolley that would otherwise kill five people (cf. Parfit 2011, 230). This is likely not what actual people consent to, and this

would yield the paradox that one would overrule the will of a person in the name of consent.

There is at least a second problem with hypothetical consent. It is not clear why one should take up the standpoint of idealized hypothetical consent. Either the idealized conditions are moral in nature, or they are not. If they are not moral in nature, it is not clear why we would expect them to yield a moral result. If they are moral in nature, it seems that they need to be justified by an independent moral standard (cf. Shafer-Landau 2003, 42f). These points make it unlikely that Kant has this form of hypothetical consent in mind as the ultimate moral standard. To go back to the trolley example: If this would be Kant's point, then one could use someone as a mere means, push him off a bridge, in order not to use him as a mere means.

But there is at least a third form of consent, and maybe it is this that Kant has in mind. In the Kant passage cited above, Kant says that the victim "cannot possibly agree" (*GMS* 4:429f.) to the way he is treated. Maybe what Kant proposes is *possible* consent. Kant scholars point out that someone who is deceived, for instance, cannot possibly consent to the aggressor's intention because the victim is not told the truth (cf. O'Neill 1999, 138; Korsgaard 1996, 138). But this answer would run afoul the ambulance example. After an accident, an unconscious victim cannot consent to being treated because she is unconscious, yet we still believe that helping her is the right thing to do.

However, I shall argue that Kant has a different form of possible consent in mind. In his essay "Theory and Practice" Kant discusses a war tax. He says that people could not oppose it, because it is possible that the war is necessary. However, if the tax is leveled on some, but "others of the same rank were exempted," one "could not agree to a law of this kind ... since it cannot take this unequal distribution of burdens to be just" (*TP* 8:297n.) The point here, I take it, is that one cannot agree to something if it is unjust. What this means is that consent is not by itself a right-making feature, but Kant uses it to track an independent moral principle. One can (morally) consent to something if it is just, but cannot (morally) consent to it if it is not. The important moral criterion is then the criterion of universality and justice. I have argued elsewhere that the political principle has the same universality as its content as the moral Categorical Imperative (cf. Sensen 2017). But what is important here is only that Kant's consent requirement tracks a moral principle, but it is not itself the right-making feature.

That consent is not the one and only right-making feature, according to Kant, can also be seen from the fact that he only refers to consent in one of four examples. He merely mentions it in the example of false promises, but consent does not seem to make sense for duties towards self (suicide and promoting one's talents), and seems less important in cases of helping others. If I am driv-

ing in a rescue boat, and I only have room to save five in one area, or one in another part of the lake, I do not first have to drive by the one, and acquire his consent to rescue the five. As important as securing consent is in some cases, it is therefore not the best explanation of a universal demand for respect, or so I have argued.

3 Respect as Equal Standing

So far I have argued that the most universal readings of the demands not to treat someone as a mere means, and of gaining their consent, refer to a separate moral principle. Kant himself says that the Formula of Humanity and the Categorical Imperative: “*act only in accordance with that maxim through which you can at the same time will that it become a universal law*” (GMS 4:421) are “tantamount” and “at bottom ... the very same law” (GMS 4:436, 438; cf. Engstrom 2009, 167–183):

to say that in the use of means to any end I am to limit my maxim to the condition of its universal validity as a law for every subject [Categorical Imperative] is tantamount to saying that the subject of ends, i.e. the rational being itself, must be made the foundation of all maxims of actions, never merely as a means, but as the supreme limiting condition in the use of all means, i.e. always at the same time as an end [Formula of Humanity]. (GMS 4:438)

Kant explains the reason that both formulas are tantamount in the following way:

every will ... is restricted to the condition of agreement with the *autonomy* of the rational being, that is to say, such a being is not to be subjected to any purpose that is not possible in accordance with a law that could arise from the will of the affected subject himself; hence this subject is to be used never merely as a means but as at the same time an end. (KpV 5:87)

When I ask if my maxim could be universalized, I rule out maxims that could not be adopted by others. By doing so, I give other people an equal standing as people who have to be able to adopt the maxim as well. This is tantamount to treating them as ends in themselves. Respect is attributing others an equal standing in my actions. What, more concretely, does one have to do?

Kant explains the central idea of the Categorical Imperative in that one (i) should not make an exception to (ii) a law that is objectively necessary: On the one hand, we hold “a certain principle to be objectively necessary as a universal law,” yet, on the other, “we take the liberty of making an *exception* to it for

ourselves (or just for this once) to the advantage of our inclination" (*GMS* 4:424). Kant's derivation of duties from the Categorical Imperative is often conceived to be deeply flawed (cf. Allison 2011, 186; Gillessen 2014). However, I believe that many people overlook the second part of Kant's requirement: There are laws which we hold to be objectively necessary prior to the Categorical Imperative.

What is the difference between the two interpretations? A popular test case for Kant's procedure is whether it is morally allowed to play tennis on Sundays at 10am (cf. Herman 1993, 138). If one just uses the first part of Kant's requirement, and asks whether the law could be universalized, then the proposal fails: If everyone tries to play tennis on Sundays at 10am, the courts would be too crowded and no one could play. However, Kant does not use the procedure to universalize any arbitrarily proposed plan, and to see if a conflict results. Rather he applies the procedure to laws which we hold to be objectively necessary. These are laws of "anthropology" (*GMS* 4:412), or "universal ends of mankind" (*Collins* 27:258).

Kant would therefore agree with a famous charge against his views that by itself the Categorical Imperative is empty and devoid of content: "through the law ... *in genere*, no rule of dutiful action can then itself be determined, because this belongs to the matter" (*Vigil* 27:578). However, the procedure is not meant to get concrete duties out of the formal Categorical Imperative alone. Rather—as in his theoretical philosophy—form and matter have to come together: "Thoughts without content are empty, intuitions without concepts are blind." (*KrV* B75). Kant believes that there are anthropological, universal ends of mankind, e.g., self-preservation, the propagation of the species, and human community (cf. *RGV* 6:26). It is to these universal laws that one should not make an exception.

Kant describes the synthesis of form and matter in his description of the "duty to be benevolent" (*TL* 6:393). Our nature gives the matter: "since our self-love cannot be separated from our need to be ... helped in case of need ..., we therefore make ourselves an end for others" (*TL* 6:393). But this claim by itself does not generate an obligation: "the only way this maxim can be binding is through its qualification as a universal law" (*TL* 6:393). So, our nature provides laws we hold to be objectively necessary for our well-being. The Categorical Imperative demands not to make an exception to these laws.

In order to read the Formula of Humanity and the Categorical Imperative as tantamount, in line with Kant's statements, one has to read both formulas as expressing the same main claim, and as yielding the same results. However, this does not mean that Kant uses the same procedure for both formulas. The Categorical Imperative requires that I check whether I want to make an exception to a general law of human ends. The Formula of Humanity, I have argued above (in Section 2.1), requires that I not subordinate an individual to my (unsanctioned) inclinations. Both procedures get at the same idea, the idea of an equal, impor-

tant moral standing of all rational beings, but they do so in a slightly different way. I shall confine myself to Kant's two examples of respect.

In the case of duties towards self, the question is whether the human being is used as a means to further inclinations: "If he destroys himself in order to escape from a trying condition he makes use of a person *merely as a means* to maintain a tolerable condition up to the end of life." (*GMS* 4:429). The same consideration rules out other vices, such as gluttony or substance abuse (cf. *TL* 6:424–429). In these cases, the rational being is used for the fulfillment of morally unsanctioned inclinations. According to the demand to respect others, one should not subordinate others to the satisfaction of one's inclinations, and thereby exalt oneself above others (cf. again *TL* 6:449f.): "it is obvious that he who transgresses the rights of human beings intends to make use of the person of others *merely as a means*" (*GMS* 4:430). I have argued above (in Section 2.1) that Kant can only uphold the Formula of Humanity as a universal principle that covers all cases if he adds that one intends to use others as mere means *'to the fulfilment of one's own inclinations.'*

My reading of Kant's Formula of Humanity has four advantages over rival, standard interpretations: (a) It can explain Kant's remarks that different formulas of the Categorical Imperative are tantamount, and it thereby makes Kant's texts coherent; (b) it can give more concrete guidance than the value reading concerning what we should do, and (c) it can provide a universal criterion that aims to cover all cases. In the last section, I shall argue that my interpretation has a fourth advantage over standard readings.

4 The Objects of Respect

So far, I have argued on textual grounds that Kant conceives of the Formula of Humanity as a version of the Categorical Imperative. However, this reading also has a systematic advantage regarding the scope of the respect requirement: It can include a wide variety of beings as the proper object of respect. If one asks who or what is the proper object of respect, then the standard view of dignity will yield a narrower scope of concern. According to the standard view, 'dignity' is the name of an absolute, inner value. Human beings are said to possess this value in virtue of having freedom or rationality. This, however, leads to the problem that it does not cover all human beings. We might have no indication that elderly demented people or very young children possess either freedom or rationality. Kant's view seems to be that freedom is not a natural property, and therefore we could not rule out any human being for not possessing it (cf. *RL* 6:280n.).

However, this view has been criticized as not being systematically plausible, and some people draw the conclusion that non-rational human beings do not possess dignity (cf. Formosa 2017, 140–162). This does not mean that we could treat these beings as mere means, but we would need auxiliary reasons to add to this requirement. But this creates two sets of problems. First, if one includes non-rational human beings, but not animals with similar non-rational capacities, then the position might be accused of being speciesism (cf. Singer 1975, 6), or an arbitrary preference for human beings. Second, some people will argue that respect is not just for human beings, but that we should respect animals and the environment as well (cf. Schmidtz 2011; Foreman 2015). On the standard view, one would either have to argue that the environment possesses freedom and rationality, or find different reasons to justify a requirement of respect.

My interpretation of Kant's views can, by contrast, provide a more inclusive scope of concern, and it can do so in a more wholesome way, whereby one requirement can cover very different recipients of respect for one and the same reason. This is because on my interpretation the duty to be a respectful person is a demand of one's own reason. What this means is that I do not first have to look at the victim, and see if it has a certain feature, such as rationality or freedom. Rather, I should develop the attitude of respect, independently of whom I will encounter. For instance, I should not be a deceptive person, period. I do not first have to find out how rational the other being I am in contact with is. One could express the difference by saying that the standard view is third-personal, it grounds the requirement to respect another in a feature the other possesses. By contrast, I interpret Kant as holding a first-personal view. Every duty is prescribed to me by my own reason, therefore even duties towards others are grounded on a duty towards self (cf. again *TL* 6:417f.).

One can apply this view to animals and the environment as well. One simply should not be a cruel person, and this respects higher animals as well (cf. *TL* 6:443). In addition, one can argue that respect comes with an attitude of not exalting oneself in a way that would destroy the environment (cf. Hill 1983). If one understands that one is one among many, one has reason to form a general attitude of restraint that pertains independently of whom or what one encounters. (For a longer version of the argument for universal respect see Sensen 2018b.) However, my interpretation does not imply that it is totally irrelevant what features the other possesses. If, for instance, a foreigner does not speak the language very well, it is respectful to speak slowly to him. But if she has perfect command of the language, it would be disrespectful to do so. However, these are questions of application, where the form will yield a different result depending on the matter. But in terms of justifying the demand for respect one does not

first have to find out what the other is like. The requirement to be respectful is a categorical imperative, or so I have argued.

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Thomas E. Hill, Jr.

The Kingdom of Ends as an Ideal and a Constraint on Moral Legislation

Abstract: In my broadly Kantian account of deliberation about moral principles, inspired by Kant's kingdom of ends, human dignity is not a metaphysical ground for the norms that we associate with it. Rather it is a status, not a merely conventional status but a comprehensive *status* defined by the basic moral principles and values, such as (for Kantians) the requirements of justifiability to all and treating humanity as an end in itself. Human dignity has an important role in practical deliberations, but its specific requirements must be determined and justified by the theory in which it is embedded. Many have discussed the constraints and limits required to respect the dignity of every human person, but I emphasize that this also calls for certain positive attitudes and ideals beyond these negative duties.

1 Summary of the deliberative Framework

My plan¹ is this: (I) I sketch the broadly Kantian framework for moral deliberation about principles that I have previously proposed for contemporary discussion. This is inspired by Kant's ideas but in some respects goes beyond what we can find in the texts. (II) Because the idea of human dignity has a pivotal role in the proposed framework, I try to explain my current understanding of this. Human dignity, as I now see it, should have a central role in Kantian normative ethical theory, but it is not a metaphysical ground for the norms that we associate with it. Rather human dignity should be seen as a comprehensive *status* that encapsulates principles and values that are ultimately supported by more basic principles, such as (for Kantians) the Categorical Imperative. It serves as a focal point for practical deliberation about more specific (mid-level) principles and particular moral judgments, but it gets its content and support from the theory in which it is embedded. (III) Finally, I try to show how, assuming this framework, respect for human dignity is not simply a matter of negative duties but calls for a range of positive attitudes that ideally we should strive to maintain

¹ This essay was prepared initially for a conference on dignity and the kingdom of ends in Bayreuth, Germany. I am grateful to the sponsors, my distinguished colleagues, and especially Jan Willem van der Rijt for making this conference possible.

as well. The negative duties that prohibit various kinds of gross *violation* of human dignity are what we most obviously and urgently need to insist on, but the fullest respect and appreciation of human dignity calls for positive changes in attitudes, policies, and practices beyond refraining from these obvious and urgent violations.

My project here, I should emphasize, is not to present a strictly text-focused interpretation of Kant's thought but rather one line of thought inspired by many of Kant's writings. My frequent citations of Kant's work, then, are meant to refer readers to relevant passages for thoughtful review and comparison, not addressing for now the extent to which the features of my "broadly Kantian" proposal deviate from the best historical reading of the relevant texts. In my view, close analysis of historical texts is important, but so too is the different project of trying to work out for ourselves our best contemporary theories while standing on the shoulders of our admirable predecessors. As John Rawls notes in his *Lectures on the History of Moral Philosophy*, Kant himself encourages us to draw from classic texts, not blindly, but with independent critical thought. The passage that Rawls quotes with approval is this:

[W]e cannot learn philosophy; for where is it, who is in possession of it, and how shall we recognize it? We can only *learn to philosophize*, that is, *to exercise the talent of reason*, in accordance with its universal principles, on certain actually existing attempts at philosophy, always, however, *reserving the right of reason to investigate, to confirm, or to reject these principles in their very sources*. (My italics) (Kant 1965, 657; KrV A 838/B 866; Rawls 2007, xiv).

Most readers of this volume probably know Kant's texts well, and perhaps some are familiar with my attempts to develop aspects of his work for contemporary discussion. Here I will just summarize the main idea of the deliberative framework that I draw from Kant.

The proposal belongs to normative ethical theory, and so the question is not whether to be metaethical realists, anti-realists, or constructivists. The proposal is also not meant to provide practical moralists with a quick and easy formula for deciding what to do in particular cases. Rather, the proposed framework addresses questions that arise at a high level of abstraction, after we press back a series of "why?" questions. To explain why we should make *particular judgments*, we often appeal to substantive *mid-level principles* (of fairness, respect, and charity, for example). But *why* should these familiar mid-level principles govern our decisions, *how* exactly should they be articulated, and *what exceptions*, if any, do they allow? To respond we need to ask further, what is the appropriate moral *perspective* for deliberating about mid-level principles? Rule-utilitarians propose that the questions should be addressed from the perspective of

“legislators” concerned exclusively to endorse the moral codes the general acceptance of which would maximize utility. (Hooker 2000) The broadly Kantian proposal has been, instead, to identify and assess mid-level moral principles from the point of view of rational deliberators with features drawn from Kant’s kingdom of ends.² The members, for example, are rational and regard themselves as subject to whatever principles they all together “legislate” for all. They regard humanity in each person as an *end in itself*, that is, our rational nature is an objective end (and so a source of reasons) for all rational agents.³

Members of the kingdom of ends have personal ends, but “abstract from personal differences” when deliberating. The legislators, whom we are to emulate, are to be seen as ideally rational and well-focused when deliberating, but they are deliberating about principles *for* themselves and others as imperfectly rational, often weak-willed and rebellious. Because, to be realistic, disagreement is likely among those of us who try to take up this perspective, it is best understood as a standard for *conscientious* (not infallible) decisions about principles.

2 Human Dignity

Any theory that appeals to hypothetical agreement to determine what principles should be endorsed needs to specify what motivates the parties to agree with one another.⁴ On the proposed kingdom of ends model, rational autonomous legislators are committed to mid-level moral principles by a shared commitment to

2 The main idea of my broadly Kantian proposal has remained the same over many years, though my understanding of specific features and practical applications has evolved. (Hill 1972; Hill 1989; Hill 1991; Hill 1992; Hill 2001; Hill 2003; Hill 2005; Hill 2008; Hill 2016).

3 In my broadly Kantian proposal, the idea that humanity (or rational nature) in every person is an end in itself should not be seen as identical with the idea that human beings have dignity, but these ideas are inseparably connected. That is, the *dignity* of human beings is a status defined by moral principles about how they should be treated and how they should act, but the categorical imperative to treat humanity in every person as an end in itself is a crucial part of the justification or basis of these status-defining principles. Scholars may debate about whether Kant’s humanity formula (*GMS* 429), should be distinguished from Kant’s assertion that human beings, insofar as they are capable of morality, have dignity (*GMS* 435), but this is the reconstruction that I now think makes good sense, even if not of every mention of *dignity* in Kant’s texts, at least for purposes of my broadly Kantian deliberative framework for assessing mid-level principles.

4 Famously, members of Rawls’ Original Position are motivated by self-regarding desires for primary social goods, such as income, wealth, rights, powers, opportunities, and the social basis of self-respect. These are supposed to be things it is rational to want more or less whatever else one wants to further one’s life-plan. (Rawls 1999b, 78–81).

humanity as an end in itself.⁵ Mistakenly, I now think, I have also described the legislators as motivated by a common commitment to *human dignity* (Hill 2016, 83). To summarize briefly, what I now think, instead, is this: *Dignity* is a *status* whereas *humanity* is a complex intrinsic *property*, a set of capacities and dispositions belonging to our “rational nature.” What is supposed to *motivate* (or give reasons for) moral legislation in the kingdom is the members’ commitment to *humanity as an end in itself* and to their being subject to the *universal principles* that they jointly author as rational autonomous legislators. The resulting mid-level principles and the higher order imperative to follow them are what constitute the status of human dignity. This will become clearer, I hope, as I proceed, but my focus will be on features of human dignity, as I now understand it.⁶

First, the history of the term *dignity* suggests that dignity is a special *status* that a person has in a social, religious, or legal system. (McCrudden 2013, 59–139; Düwell 2014, 53–144) We think, for example, of the dignity of a Supreme Court Judge, an Archbishop, or a Queen. When individuals disappoint us, we still speak of the dignity of the *office*, for example, of being a judge in the highest court, a spiritual leader for millions, or the President of the United States. The status or office that one has in a social, religious, or legal system may, of course, be good or bad, depending on the system within which it is embedded; but, in any case, the status or office is *constituted* by rules, principles, and values that are part of the system. The dignity of one’s status is defined by the normative expectations associated with it, in effect principles about how the person with dignity should be treated, how that person should treat others and how that person should act to be worthy of the status. In normative ethical theory, at the highest level of abstraction, we can understand that *to be human*, rather than a *thing* or non-rational *animal*, is to have a moral status that is defined by a set of basic and derivative principles regarding how a human being should act and be treated. (*GMS* 428).

5 This does not mean that in my broadly Kantian deliberative framework the idea of humanity as an end in itself alone is supposed to be sufficient by itself to determine what principles the legislators would adopt, as Kant might seem to suggest when he says that his formulations of the Categorical Imperative are basically the same. (Kant 2002, 236–237; *GMS* 436) Following Rawls, I think that the relevant outcome of deliberation about principles also depends on the conception of persons as rational and autonomous legislators and the conception of the society for which they are legislating (that is, themselves as imperfectly rational agents in human conditions subject to the “laws” that they legislate). John Rawls emphasized the important role of the conceptions of persons and society in models for assessing principles. (Rawls 1999a, 304). See also Rawls 2005, 14, 18, 29–35, and 107–110.

6 My summary comments on human dignity here are foreshadowed in Hill (Forthcoming). Comments more specific regarding Kant are in Hill 2014.

Second, human dignity is a *universal* and *moral* status. It is a *moral* status in that it constituted by moral principles, unlike the often unjust or immoral statuses defined within particular social, legal, and religious systems. From a moral point of view, to be human is to have a *universal* status in that all human beings have it, regardless of their individual capacities and limitations. Unlike positions that carry a dignity as defined within various cultures, human dignity is not limited in its jurisdiction to a particular state, religion, or culture. The moral status is not earned by meritorious efforts; we become human beings at birth (if not sooner) in a normative as well as a biological sense. The status is not lost by offensive conduct, though specific derivative rights may be forfeited or become inapplicable. (Kant 1996a; *TL* 462–468) As with the local dignities of a judge, a spiritual leader, and a queen, one is expected to live by the principles that constitute it, making oneself worthy of one's status; but, unlike most conventional dignities, one cannot resign from one's *moral* status as human being. Saying that that one “*throws away one's dignity*” by behaving in a crude, undignified, and offensive manner should be understood as metaphorical, implying that one has behaved in a way *unworthy* of one's status as a human being, not that one no longer has it. The better image to invoke is that one is doing something “*beneath one's dignity as a human being.*”

Third, human dignity is an *elevated* status; but in what sense? Following the analogy with dignity in narrower contexts, those with dignity have rights, prerogatives, and responsibilities that those with less elevated status don't have. For example, defendants, witnesses, and observers at a trial, however distinguished in other respects, can't call a recess or pass sentence on offenders and they don't have the judge's responsibility to know the relevant law and to be impartial. Also, judges are subject to special norms about how they should present themselves and how others should address them. They should comport themselves *with dignity* and be addressed in a *dignified manner*. Judges, then, have an elevated status in that by the governing norms in their jurisdiction they have rights, privileges, and responsibilities above and beyond what ordinary citizens have. By analogy, then, the status of human dignity is elevated in that it attributes to human beings special rights, privileges, and responsibilities that non-human animals and material things don't have.⁷ Specific derivative rights vary, but the basic moral standing for any human being is to be treated in accord

⁷ This is not to deny, however, that non-human animals are morally considerable. At least some of the prescribed treatments—such as a ban on torture—hold for both human beings and non-human animals.

with the principles that fully rational *moral* lawmakers in a kingdom of ends would legislate for themselves.

Those of us who are privileged from birth by arbitrary conventional norms may not *feel* elevated by just treatment under the more egalitarian norms of human dignity, but we *are* elevated in one important sense at least, namely, that the rights and decent treatment that we have under these broader norms are not limited to specific jurisdictions and cultures. If universal human rights were respected everywhere, power-hungry autocrats and billionaire Presidents would lose power and privileges that they now have under local laws and conventions; but under the norms of human dignity they would still have rights not to be murdered, tortured, or treated with complete contempt, and their moral standing would be *elevated from local to global*.

Fourth, the specific protections and responsibilities that should be attributed to various kinds of human beings and non-human animals are *not simply a function of their levels of intelligence*. Although we may say, speaking generally, that the status of human beings is elevated, the point is not that human beings have more amazing traits than “lower” animals. On average we are smarter, but Panda bears are more peaceful, ants and bees work together better, and some animals behave as more loyal partners and better parents. Our status as human beings does not depend on the claim that there is an awesome distinctive trait, natural or mysterious, that all human beings have and all non-human animals lack. Only beings with certain rational capacities are *subject* to moral principles, and only they can *take up the moral point of view* to work out specifically what those principles require. But this is not to say that we lack moral grounds to respect and care for human beings who are cognitively impaired. Arguably there are good reasons for attributing the status of human dignity to human beings who are severely cognitively impaired, extending to them the protections of human rights without the obligations and accountability that others have. (Freeman 2018, 174–203; Galvin, 2018, 204–226; Sensen 2018, 72–87) Some brain-damaged human beings, unfortunately, have less cognitive capacity than many non-human animals. We still count these cognitively impaired people *as human beings normatively* as well as biologically; but, as in all cases, the relevant specific norms must be responsive to their different needs and capacities as well as our relationships with them.

Again, though this is a contested issue, arguably the moral norms that define our status as human beings assign to us duties, rights, and responsibilities that we cannot reasonably attribute to non-human animals. It obviously makes sense that we don’t *hold non-human animals morally accountable* for their behavior in the same ways that we do morally competent human beings; and although arguably our moral norms *should* afford more protection to pandas, gorillas, and dol-

phins, it is hard to make the case for flees and mosquitos. What the derivative norms of care and respectful treatment require for animals of various kinds remains controversial; but, in my view, it is a mistake to suppose that the principles regarding how to treat beings of various kinds are simply responses to their levels of cognitive capacity. The principles for how we should treat non-human animals must come from the proposed moral lawmaking perspective, but this is no denigration of animals or license to mistreat them. Most of the familiar reasons for treating them well should appear in debates from the perspective of kingdom of ends, not at the most basic abstract level but downstream as empirical facts about our relationship to them and the natural world are taken into account. (Wood 2008, 101–105; Calhoun, 2015, 194–212)

Fifth, we can say that human dignity is *an intrinsic (or “inner”) worth* in the sense that its source, that is, what explains a person’s having this worthy status, is not anything “external,” such as social status, political office, class privileges inherited from ancestors, or entitlements conferred *arbitrarily* by an authority (human or divine).⁸ To say that the “source” of the status is *not* externally conferred in these ways is not to imply that it is “conferred” by anything else, natural or mysterious. We should not think of a “source” here as a metaphysical entity in human beings from which norms mysteriously arise, like arresting odors from a cooking pot with unknown contents. Rather, if we must put a name on it, the non-external source of human dignity is human *reason*—or *humanity* if this is understood as a complex set of rational and moral capacities that most human beings have (at least potentially). Human *dignity* is a moral *status* that is primarily based on the special *value* of our *humanity* (or “rational nature”), that is, an objective value that is at least partially expressed in Kant’s assertion that humanity is an “end in itself.” The humanity, or rational nature of human beings, figures centrally in various explanations of why we attribute the status of dignity to rationally competent human beings—and ultimately to all human beings. One Kantian line of argument basically appeals to us as reasonable people first to acknowledge the special value that we place on our own humanity and then to recognize that we have a rational interest and commitment to living under common principles with others. (Kant 2002, 229–230; *GMS* 429; Cureton 2013, 363–386)

⁸ The point here amounts to a denial of extreme divine command theories of moral obligation that insist that whatever the divine being commands is obligatory for us, regardless of whether or not there are independently good reasons for the commands; but the point is compatible, I think, with theological views that hold that a divine being wills the best and most reasonable moral standards for human beings for reasons independent of their having been willed or commanded. (Kant 2002, 243; *GMS* 443).

Sixth, human dignity is a moral status that is in effect defined by principles about how human beings should act and be treated by each other and how we should treat ourselves. Arguably some are *absolute principles*, some are *inherent presumptions of dignity* that are subject to exceptions, and others are *derivative duties and values*.

Turning first to absolute principles, it is important to distinguish the general comprehensive moral principle from what I call mid-level principles. In Kantian ethics the comprehensive principle is the Categorical Imperative, one version of which is the imperative to follow the laws of a kingdom of ends. (Kant 2002, 237, 239; *GMS* 4:436–439) This is meant to be an absolute principle, valid for all conditions, but like Kant’s universal law formula, the proposed kingdom of ends model of moral legislation offers a deliberative procedure rather than substantive descriptions to identify more specifically what we must do. Most generally, it says one ought always to act in accord with the mid-level principles that rational autonomous human beings would endorse insofar as they deliberate in abstraction from personal differences with due regard for humanity in each person as an end in itself. This basic principle is not, of course, a handy moral GPS that instantly points the way for us to go, but, rather, a highly abstract philosophical attempt to articulate a comprehensive moral standard that is both presupposed in common moral thought and rationally defensible. What I call “mid-level principles” are more specific and substantive principles, such as those Kant discusses in *The Metaphysics of Morals*. In moral theory these can be debated and confirmed by deliberating with others from the basic moral perspective abstractly described as law-making in a kingdom of ends, but for *practical* purposes *particular* moral judgments need to be guided by mid-level principles. Arguably, some of these mid-level principles hold without exception even in our morally challenging world. Examples that are widely accepted now include the prohibitions of genocide, murder, slavery, torture, and rape. If we include motives in the principles, it is even harder to maintain any initial suspicion that all principles are open to exceptions. Consider, for example, prohibitions of murder for profit, torture for amusement, or enslavement for sexual gratification.

Other mid-level principles express only what I call *inherent presumptions* of human dignity, for example, that one ought not to deceive, coerce, or manipulate human beings or deprive them of life, liberty, and the vital resources and self-respect that they need to live as rational autonomous persons. These are *inherent presumptions* of human dignity in that they reflect *directly and obviously* the special value of humanity from which the principles defining the status of human dignity derive. In a perfect world these would be requirements that would

admit no exceptions, and they would be followed by everyone. However, in our far from perfect world, regrettably, it may sometimes be justified, all considered, to act contrary to these presumptions. Consider, for example, carefully targeted bombing of terrorists who are massacring innocent people with chemical weapons. The killing, especially the risk of “collateral damage,” is directly and obviously opposed to what rational moral legislators, who value common humanity, would want, and so there should be a strong presumption against the bombing. But arguably in some extreme circumstances *an exception may be justified by the very concerns for humanity that stand behind the general prohibition*. All the non-terrorists assessing their risks, we can imagine, would be rational and reasonable to endorse the bombing, and arguably even the murderous terrorists would have to concede that it is right *if* they could detach themselves from parochial interests and ideology and see the matter from the more inclusive and reason-based Kantian deliberative perspective.

Unfortunately, in a corrupt and dangerous world there can also be justified exceptions to the strong presumptions against coercion, lying, and manipulation. All serious lies are *presumptively* wrong but, despite what Kant may have thought, lying to a murderer to save a friend can be a justified exception acknowledged by legislators in a kingdom of ends. (Kant 1996b, *VML*) To violate a presumptive principle is always morally regrettable in some respect, even if it is what must be done.

To return to another example that I have used, mockery of a person on racial or religious grounds directly disrespects humanity in the person mocked, and so such mockery is *presumptively* wrong as a practice that *obviously and directly* conflicts with respect and concern for humanity. (Hill 2003, 195–196). But is it possible that there are justified exceptions? Suppose that a well-meaning person is serving as a war-time spy in opposition to an oppressive, evil regime and that her joining oppressors in throwing racial slurs at a victim is a temporary necessity for the spy to preserve her cover so that shortly she can provide crucial information that will lead to the rescue of the person mocked and others. Here arguably making an exception to the standard presumption makes sense not because of a utilitarian calculation but because the exception can be justified by the same Kantian concerns for humanity that justify the general presumption.

Finally, some mid-level principles are indirectly and more remotely *derivative* from the legislative model in that they are applications that depend on empirical facts about human psychology, the general human condition, and specific kinds of situation. The guiding idea here is that the derivation or justification of relatively specific moral principles, if fully laid out, would proceed in several stages. According to Kant, the Categorical Imperative is a principle of pure practical reason presupposed in common moral thought and established as a ration-

al necessity by philosophical arguments. (Kant 2002; *GMS*, section III; Kant 1996a, *KpV*, Book I, Part I). From the perspective formed by the Categorical Imperative together with general concepts of imperfect rational agency, ends, means, obligation, laws, *Recht*, etc., arguably certain formal principles can be seen to be rationally necessary for any rational agents, human or otherwise, who share with us certain essential features of moral agency. Then any such “pure” principles must eventually be applied to human conditions, taking into account pervasive empirical facts about human life everywhere (such our mortality, fallibility, desire for happiness, and unsocial sociability). From these formal and general assumptions, Kant suggests, a structured system of moral principles for human beings could be derived—first principles of a *metaphysis of morals* and then some more specific conclusions for various particular circumstances. (Kant 1996a, 9–11; *RL* 6:214–217). Scholars can debate about the details in Kant’s texts, as he moved from the *Groundwork* to *The Metaphysics of Morals*, but for present purposes the main point is that a broadly Kantian deliberative framework needs structure and application in stages even if it deviates from Kant’s texts (for example, regarding how far pure practical reason alone can take us). Though quite different, Rawls’ theory of justice has a structure and application in stages, from general principles to more specific circumstances, that partially mirrors Kant’s. (Rawls 1999b, 171–176)

Derivative principles dependent on pervasive empirical facts are not necessarily less subject to exception than the inherent presumptions are. For example, incest is widely regarded as wrong, even for consenting adults, because of deep and complex psychological facts about family relations and child development. If abandoning that taboo would cause lasting harm and undermine moral development, as many believe, then arguably Kantian legislators would make strict rules against incest even though it is not as directly and obviously wrong as murder and slavery. (Neu 1976) Their prohibition would hold *without exception* but is nevertheless *derivative*, given empirical facts, from more basic moral considerations.

The rule against incest does not wear its justification on its sleeve, as it were, in the same way that rules against murder, torture, and slavery do. That is, knowing *what* is prohibited does not make it obvious *why* it is prohibited. The description of what murder is, namely, the intentional taking of a human life, is at least a key factor any full argument to show that murder fails to treat humanity in a person as an end in itself. By contrast “sexual intercourse between siblings or between parents and their sons or daughters” does not identify the moral factors that make incest wrong, even if once the prohibition is embedded in cultures its wrongness will perhaps appear to be an immediate “intuition.” Compare the wrongness of “putting arsenic in someone’s coffee” and “taking someone’s

life.” Although those who understand the effects of arsenic will count both as obviously wrong, the second description makes explicit the main feature that makes the act wrong under basic moral principles.

Although ultimately basic principles of human dignity lie behind all derivative moral requirements, what we call *violations* of human dignity refer to the most egregious offenses against humanity, especially those that humiliate and degrade victims by denying their status as human beings.

3 Positive Ideals of Human Dignity

In the *Groundwork* Kant says “it is not enough that an action not conflict with humanity in our own person as an end in itself; it must *harmonize with this end*.” (Kant 2002, 231; *GMS* 4:430; *KrV* 4:231). He argues not only that that it would be wrong to adopt a maxim of utter neglect for humanity’s natural “capacities for greater perfection” but also that to *harmonize* with the end of humanity one must to some degree *promote* the end. Again, after arguing that it is wrong to act on a maxim to aid the needy *only if* they have a *right* to one’s aid, Kant says that “the ends of any person who is an end in himself must, *if this idea is to have its full effect in me, be also, so far as possible, my ends*.” (Kant 2002, 231; *GMS* 4:430) If we don’t utterly refuse to develop our talents and to give charitable aid, Kant implies, we *negatively harmonize* with humanity as an end, but we should *harmonize positively* with the end by promoting humanity’s capacities for greater perfection and the permissible ends of others. In *The Metaphysics of Morals* these positive prescriptions are the widest imperfect duties that, Kant says, do not specify how, when, or how much to do to promote the prescribed ends. Failing even to adopt the principle to promote these ends, Kant says, would be a vice, but neglecting them (to some degree) is not culpable or vicious but shows a deficiency of moral worth. (Kant 1996a, 153–156; *TL* 6:390–394).

Although my aim, as I said, is not to offer Kant exegesis, for me these passages at least *point towards* a conception of *ideals* beyond strict duty—ideals for moral aspiration. Striving to live by ideals is not something that others can demand of us as a matter of right. Ideals call us and draw us to action, unlike threats from a punitive conscience. Ideals inspire without demanding, awaken what is best in us without laying down an exact measure for what is adequate and what is insufficient.

With regard to beneficence and developing one’s talents Kant clearly incorporated into his system at least one major aspect of ideals as I understand them, namely, that everyone should promote certain ends (such as others’ happiness

and the development of our talents) to some extent even though general moral principles do not specify what or how much one is to do to promote the end. Beyond this, *ideals* (as I use the term here) are *a very high degree* of moral or human excellence in attitude and practice of various kinds, which can be quite general (such as promoting others' happiness and developing one's talents) or more specific (such as relieving poverty, reforming prisons, parenting, teaching, scientific inquiry, musical performance, and more). Ideals are among the things that are worthy and good for a person to strive towards, but they represent a higher achievement than anyone can faulted for not fully reaching. Although perhaps, as Kant says, everyone should strive ceaselessly towards an ideal of *moral perfection* (to have virtue and fulfill all one's duties from duty), there are many other more specific ideals that cannot all be pursued to a maximum extent. (Kant 1996a, 196–197; *TL* 6:446–447; Strawson 1961, 1–17). Albert Schweitzer, for example, worked tirelessly to help his poor patients in Africa but because of this he could not to the same degree perfect his talents for music and philosophy.

My question now is what positive ideals are implicit in the fullest recognition of the *worth of humanity* in each person. Principles articulating these ideals should be among the cluster of principles that, in my view, we see as inherent in the idea *human dignity*.

Obviously much turns on the meaning and scope of *humanity in persons*. Scholars differ, but what is relevant for present purposes are features that human beings (for the most part) have in common, that few (if any) non-humans have, and that on due reflection we regard as intrinsically valuable and worthy of respect, appreciation, and cultivation. As will be evident, I am working with a broad, inclusive idea of humanity, not just the capacity to set ends, or to think rationally, or to act morally.

So what are some of the positive ideals inherent in the fullest recognition of the worth of humanity? I propose for consideration the following.

First, positive steps to support reforms that may prevent violations. Those committed to respecting human dignity will not only avoid exploiting and debasing other human beings, they will also try to reform institutions and public policies that do this. Taking some effective available steps towards this end is a responsibility that everyone has, but, pursuing an ideal, some people *admirably* make this project of preventing violations of human dignity their *all-consuming work*. Here we have a morally commendable end that calls for positive steps but is essentially derivative from the prior negative principles against exploiting and debasing humanity. Are there positive ideals not tied in this way to the prevention of others' wrongdoing? Consider the following.

Second, ideal development and use of one's intellectual capacities. If we understand humanity (or rational nature) in persons broadly, as I do here, it includes intellectual capacities and dispositions, for example, to question, seek evidence, and to value clarity and consistency. It also includes ability to think ahead, to remember, to plan, and to seek effective means to one's ends. As Kant and a long rationalist tradition suggest, these "powers of mind and spirit" are not valuable only as means to further ends; they are aspects of our humanity that we should value for their own sakes. (Kant 1996a, 194–195; *TL* 6:444–446). To cherish and exercise these capacities is part of what it means to be fully rational, and so *ideally* one would express respect these aspects of humanity by developing and using them *beyond the minimum* necessary for survival and fulfilling strict duties to oneself and others. Of course, not everyone has the intellectual capacity for higher math, physics, or philosophy. This is a reason not to demand perfection as a duty, but it is no reason not to embrace *the ideal* that everyone be able and encouraged to develop and exercise their intellectual abilities *to a high level* consistent with their gifts and circumstances. To value this, in my expansive view, is part of what it is to recognize human dignity.

Third, appreciating what is in itself worthy of attention. Among the powers of mind, spirit, and feeling that belong to humanity broadly conceived is the ability to *appreciate* things that are worthy of attention independently of any instrumental and moral value that they may have. Appreciation of nature and art are obvious examples, but more broadly we can appreciate all sorts of things, large and small, recognizing and responding to them as worthy of attention, often admiring, cherishing, and commending them to others. To appreciate the goodness of things apart their moral and instrumental value is not necessarily to see them as things to be produced, much less as things to be produced in maximum quantities. We say that the objects of appreciation, such as beautiful natural scenes, works of art, and meaningful human experiences are "valuable and good in themselves," implying that they are worthy of attention and that we expect that those who know them will value them too and consider them worthy of being valued.⁹ This is not G.E. Moore's intrinsic value as an intuited non-natural property or Kant's idea of the intrinsic goodness of dutiful acts. Appreciating something as worthy of attention, however, is more than merely *liking* it and *desiring* it. Appreciating is not the same as being grateful, though appreciating the good will of a benefactor is an aspect of gratitude. Appreciating nature, art, and other things of intrinsic worth often makes one happy, but that is not the primary

⁹ The philosophical analysis of these value judgments remains controversial, but they are familiar to virtually everyone. See Hill 1983 and 2006.

point. The topic is complex, but briefly, in sum, my suggestion here is that if we most fully respect and value the rich powers of mind and spirit of humanity, broadly conceived, we will be open to appreciate what is intrinsically worthy of attention in nature, art, and many aspects of ordinary life. This, I suggest, is an important, even if less urgent, part of a full recognition of human dignity.

Fourth, expressing respect for others explicitly. Consider now the positive expressions of respect that go beyond restraining oneself from interfering with others' privacy and the like. Negatively, proper respect for persons calls for an attitude and policy of restraint in personal relations, allowing other adults, even close friends, a sphere of independence and privacy, but ideally we would convey to others our respect more explicitly than we can express by silent non-interference. As Sarah Buss has argued, at their best the various cultural norms of *good manners* encourage positive expressions of respect that constantly remind us of the humanity of others even when we are not actually feeling respectful. (Buss 1999, 795–826). Context matters, of course, as to when and how it is appropriate to express respect explicitly. Consider, for example, the rituals of weddings, funerals, formal dinners, and the handshakes, hugs, or cheek kisses expected at greetings and good-byes. Even if he does not interfere with others, the ideal person is not the withdrawn introvert who shuns the artificial rituals by which we express mutual respect and who insists on keeping even his feelings of respect to himself. (Hill, Forthcoming). Some rituals and rules of etiquette, unfortunately, serve mainly to express and reinforce unjust social inequalities, but at best they can express respect for individual human beings considered as moral equals. Saluting a confederate flag at a white supremacist rally expresses a hateful contemptuous message and, though rude, refusing to shake the hand of the most overt racists may be justified. Some protests express double messages, for example, on one reading American football players who kneel during the national anthem express a righteous respect for black victims of police violence while also expressing an unintended disrespect for the flag that symbolizes solidarity among fellow citizens. These contextual ambiguities, however, should not cloud the main point, which is just that it is normally a good thing to be ready to express respect positively for any human being in the ways that customs, rituals, and good manners make possible.

Fifth, maintaining one's dignity. There are also ritualized and culturally variable ways of expressing self-esteem and self-respect. Some of these simply reflect confidence in one's merits and pride in one's accomplishments, as when American football players spike the ball and dance after scoring a touchdown. But when we say that a person "maintains her dignity" despite unfair attacks and humiliating conditions, even faces death with dignity, we honor a deeper self-respect rooted in a proper appreciation of one's humanity. The postures,

looks, styles of dress, and gestures we associate with *being dignified* are often merely signs of class snobbery, but they can be more. Slaves and prisoners in horrible conditions, irrespective of social class, have sometimes demonstrated a deep respect for themselves as human beings, often unconsciously, by being self-possessed and confident in their worth in the face of pressures to internalize an oppressors' demeaning message. The corollary of the ideal of *being dignified* or *maintaining one's dignity* is that one should be ready to allow and encourage others to live—and die—with dignity in manner and circumstances.

Finally, standing up for and living by one's values. If we restrict the conversation to duties, such as the duty not to violate human rights, few will openly doubt that it is a good thing to “stand up for one's values and to live by them.” But in a broader, more inclusive discussion, “our values” refer also to ideals of the kinds just mentioned and in general to living in relation to others as we judge that we would in a perfect kingdom of ends where it is known that everyone follows its laws and so no compromises and exceptions are needed in response to problems posed by evil-doers and free-riders. I have argued that in order to serve as a guide and constraint for our own moral decision-making, the principles that the legislators adopt must be adapted in a principled way to the real world with all its wrong-doers and slackers, but as Kant suggests we can also be inspired by the utopian ideal of a world in which everyone does his or her duty. While it would be foolish and wrong simply to ignore the imperfections of this world, there are times when individuals *may* rest from their dutiful activities without doing wrong or being subject to moral criticism. In these times—and this normative space—one may choose, even at some sacrifice, to live by the higher standards of the more perfect world in which everyone acts as they should. Wanting and trying to do so can be an expression of solidarity with people of good will and, perhaps more importantly, an expression of one's moral nature and identification with common humanity.

The kinds of cases that illustrate this ideal arise most clearly when standing by what would be ideal conduct for everyone is not only permissible but also has at least some remote chance of making a small difference. Think of recycling a certain material that few others will bother to recycle, voting when it seems virtually certain that one's candidate will lose, responding in a measured respectful manner to debaters who seem to be incorrigibly rude, and resigning from a board in protest to policies that one thinks every member should oppose though no others will. In these cases, I imagine, standing by one's values requires some sacrifice of one's desire-based interests, and let us stipulate that if everyone were morally conscientious, the recycling, voting, polite respectful responses, and protesting bad board policies would be the right standard practice. By hypothesis, given the very low probability that enough others will cooperate, standing by the

relevant value while others do not is not required in these cases. Rather, it is good to do but not morally necessary. Some might say that it benefits the agents because they have a moral interest in standing by the value, but the ideal that they exemplify is not a pursuit of benefits for oneself. We admire them not for their efficient pursuit of self-interest but for their wish and hope, despite the odds, that others will cooperate and, even more, we admire them for their willingness to express this wish and hope at some cost by living as if they were in a better world when, strictly speaking, they would not be wrong to do otherwise.

Unfortunately, sometimes a person wants to live by the utopian standards of what would be best if everyone would follow suit but faces compelling reasons why in the imperfect world created by wrongdoers (wars, slavery, etc.) they must disregard their high-minded moral desire (and hope) to live out their values in cooperation with others and instead act by a lower standard that is, all things considered, morally necessary. These are morally tragic cases—would-be pacifists required to kill in a just war, for example, slaves wanting to resist oppressive foremen but required to remain silent for the sake of family, and so on. In these cases, living out one's values (for example, by resisting the military draft and the oppressive foreman) would incur a moral cost as well as a prudential one, and I have supposed that, all things considered, it is not justified. Nevertheless, sometimes despite this a person makes heroic efforts to live out his or her moral ideal without counting the cost. If there is at least some remote hope of a morally good outcome, this resistance, though ultimately unjustified, may be more admirably motivated than the choice of those who always calculate the odds and take whatever seems most efficient path to good outcomes for themselves or others.

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Dieter Sturma

In the Realm of Ends—Kant on Autonomy and Dignity

Abstract: Kant's ethics is unique in the history of philosophy as it avoids ideological, speciesist, and metaphysical propositions in the sense of intrinsic values. Its normative innovation lies in the discovery of the autonomy of practical reason. Although persons always have to act under given conditions, ethical justification solely depends on inferences in the space of moral reasons. The concept of the realm of ends allows the paradox of dignity to be resolved. According to Kant, persons are equally subject to the constraints of the space of morality, the social space, and the realm of nature, and it is the concept of dignity which provides the ethical standards for justifiable behavior. The normative constraints of the realm of ends have an impact on the world of events. As long as persons live, they are inhabitants of the realm of ends—regardless of the disregard of their autonomy or violation of their bodily integrity.

1 Introduction

“Dignity” is a thick normative concept with a long cultural history. Its semantical potential is directly connected to the development of human rights. The identification of dignity with autonomy and human rights did not exist prior to the second half of the eighteenth century. It is, most of all, Kant's ethics of autonomy that paves the way for the modern approach to the concept of dignity.

Kant's moral philosophy occupies a unique position in the mainstream of European ethics. It differs fundamentally from the approaches of virtue ethics, naturalistic ethics, consequentialism, and value ethics with regard to methods and normative objectives. Its systematic starting point is the fact of reason and not the virtuous, rational, or preference seeking subject. The systematic burden of Kant's ethics is carried by concepts like “autonomy,” “will,” “duty,” “fact of reason,” “moral law,” “end in itself,” and “realm of ends.”¹ It includes no systematic reference to concepts such as “virtue,” “happiness,” and “compassion” or “benefit,” narrow “self-interest,” or “instrumental rationality.” Neither eudai-

¹ See sections 4, 5, 6, and 9. In the following, the expression “Reich der Zwecke” is translated as “realm of ends.” In contrast to the German concept, the often-used translation “kingdom of ends” has a monarchist undertone.

monistic orientations nor empirical derivations or consequentialist models play a constitutive role in the ethics of autonomy. Rather, it obtains its specific profile from Rousseau's conception of self-awareness, activity, and moral order, which in its specific manifestation cannot be found in any other ethical approach (cf. Sturma 2004).

The formal design of the idea of autonomy places Kant's ethics in a challenging position within current ethical debates. It is regarded as the reason for its alleged weak moral psychology, while virtue ethics, naturalistic ethics, and consequentialism in turn are seen as gaining plausibility from their assumed proximity to the psychological situation of persons. It is not true, however, that Kant avoids psychological considerations entirely; he is merely decisive in rejecting the supposition that psychological scenarios can have a justifiable function within ethics as such. Kant inquires into the internal structure of moral predicates and judgments—regardless of the empirical manifestation of actions.

The ethics of autonomy as a whole—from Rousseau, Kant, and Fichte to John Rawls and Christine Korsgaard—makes few ontological commitments. It adopts a series of epistemological requirements and accepts at least partially the validity of physicalism, which manifestly covers essential areas of the spatio-temporal world in which persons act and *have* to act. Kant's combination of the scientific worldview of his time with a genuine moral philosophy is paradigmatic for this approach.

Before Kant, the history of the ethics of autonomy is short. Although the concept of autonomy was used in Greek and Roman antiquity in ways that suggest an inner attitude, excellence, or a form of self-determination, it was mainly used in political philosophy until the eighteenth century. Rousseau, Kant, and Fichte reshaped the concept of autonomy as a form of reasonably justified or justifiable action and connected it directly with the standpoint of persons. This modern concept of autonomy proved to be the key for the new deontological ethics.

With Kant's ethics of autonomy, the concept of dignity takes up a special place in the history of philosophy. His approach is neither ideological nor speciesist, nor metaphysical in the sense of subscribing to intrinsic values. It is his *categorical imperative*, and in particular the formula of humanity and the prohibition of instrumentalization, that lays a systematic foundation for the concept of dignity and provides us with a very special form of ethical recognition.

2 The Concept of Dignity

In European philosophy, the concept of dignity fulfills the role of expressing moral and ethical recognition. Looking back at the period between the Middle Stoa and Cicero, we already see considerations of the expression “dignity” as being an essential feature of the life of persons. In Western history, it is not until the post-Hellenistic period that it gains moral significance. Four approaches to dignity are particularly influential: the dogma of God’s image in man, the humanist discourse, the deontological discourse on humanity, and the discourse on dignity and recognition.

The thesis that humans are made in God’s image can be excluded from a systematic and methodological point of view, as the arguments it offers are not plausible to those who do not share its theological presuppositions from the outset. It cannot be justifiably developed outside its ideological system, which contains specific notions of revelation and the miraculous. In general, dogmatic presuppositions signal a withdrawal from the symmetric discourse of giving, asking, and taking moral reasons.

The humanist conception of *dignitas hominis* is developed with respect to epistemic, moral, and aesthetic capabilities. This approach explains the interest of humanism in science and culture, especially in literature, painting, and sculpture. What we glean from the humanist discourse on special status is the recognition that, from an epistemic, moral, and aesthetic perspective, humans have a special status in the world, which means they have a particular duty to take normative considerations into account. This aspect of humanism is forcefully developed by Giannozzo Manetti. He regards the special epistemic and practical status of humanity as undeniable. Humans are uniquely equipped with acute perception and intellect as well as with technical and aesthetic skills. By virtue of these capabilities, they masterfully navigate artificial systems—such as rules of grammar, laws of nature, numbers, and arts.

Manetti emphasizes that the developed epistemic capabilities do not allow for moral privilege or tyranny over non-human life-forms. On the contrary, humanity’s dignity implies special ethical obligations and practical requirements. Manetti explicitly endorses the old idea of humans as the guardians of the earth: humans cultivate the earth and prevent land from being devastated by animals or overgrowth. Its labor allows fields, islands, and beaches to bloom (Manetti 1975, 121–123). For instance, Manetti conceives of beautiful landscapes as a human achievement in integrating natural developments into culture.

The upshot of the humanist discourse of dignity is the insight that humanity has a special epistemic, moral, and aesthetic status *in* nature. However, this spe-

cial status does not give humans a license to exploit the “rest of nature”. It bestows on them the obligation to use their epistemic, moral, and aesthetic capabilities appropriately.

The concept of dignity has continuously undergone systematic refinement from the eighteenth century until today. At the center of this development are the concepts of autonomy and recognition—both influentially introduced by Rousseau. Following on from his ethics of autonomy,² Kant develops an influential concept of dignity based on a formula of humanity. The concept of recognition of the other plays an important role in the ethical thinking of Fichte and Hegel. It is paradigmatic of the ethics of recognition in the twentieth century, which concentrates on the dignity *in* difference as opposed to dignity as equality (cf. Taylor 1992, 37–51).

3 Self-Awareness and Dignity

Rousseau’s original insight that self-awareness indicates intelligent activity has considerable consequences for ethics in general and the concept of dignity in particular. For Rousseau, self-awareness is by no means the only evidence of self-activity, but rather an initial indication of the active nature of human behavior. Consequently, he is not prepared to subscribe to eliminative materialistic or scientific worldviews and insists on the primacy of the manifest worldview—that is, on the fact that the lifeworld of persons is not subordinate to the micro-mechanisms of scientifically constructed models. According to Rousseau (1969, 573–579), these models erroneously eliminate the certainties of self-consciousness and agency.

If self-awareness is not an insignificant epiphenomenon of physical processes, then we cannot disregard its potential to alter the course of events. For Rousseau, self-awareness indicates self-activity,³ which provides reasons for ethical consideration and recognition. In *Émile*, Rousseau discusses at length how human freedom does not disappear into arbitrariness, but rather leads to new obligations. These new obligations take the form of a normative order and are not an expression of heteronomy. Rousseau admits that its distance from natural constraints allows mankind at least from an epistemic and practical perspective

² Apart from Rousseau, Kant, Fichte, John Rawls, and Christine Korsgaard are considered to be the main representatives of the ethics of autonomy.

³ Cf. Rousseau 1969, 587: “Si l’homme est actif et libre, il agit de lui-même.” Kant developed a theory of the practice of self-consciousness in the *Transcendental Deduction* and the *Paralogisms* chapter of the second edition of the *Critique of Pure Reason*; see Sturma 2018, 143–146.

to become *roi de la terre* (Rousseau 1969, 582)—a doctrine he rejected in his earlier writings. He emphasizes that humans not only take it upon themselves to gaze at the stars, from which they remain infinitely distant, but are also receptive to systematic order, beauty, and virtue. For Rousseau, it is the system of moral and juridical laws that makes freedom and justice possible in the first place. He states that, in the absence of law, arbitrariness rules the day, and that only reference to a normative order with a comprehensible and compelling rationale constitutes a social space for freedom and justice. For self-conscious persons, the natural order is accompanied by a moral order. This remarkable epistemic and normative position of persons who experience the world in the perspective of possible self-consciousness is a source of dignity for both Rousseau and Kant.

4 Good Will and Duty

The subjective starting point for autonomy is the person's volitional attitude. Kant considers this to mean the capacity or ability of a rational being "to determine itself to action in conformity with the representation of certain laws" (*GMS* 427/39). The form of moral self-determination is the good will that gives Kant's ethics of autonomy its unique orientation. By definition, the good will alone is the only thing that never leaves the moral order:

It is impossible to think of anything at all in the world, or indeed even beyond it, that could be taken to be good without limitation, except a *good will*. Understanding, wit, judgment, and whatever else the *talents* of the mind may be called, or confidence, resolve, and persistence of intent, as qualities of temperament, are no doubt in many respects good and desirable; but they can also be extremely evil and harmful if the will that is to make use of these gifts of nature, and whose distinctive constitution is therefore called *character*, is not good. (*GMS* 439/9)

According to Kant, the good will is exclusively constituted by practical reason. The approach is indirect: a will can only be *considered* good in the absence of any restrictions. This concept of good will clearly marks a divergence from the positions of virtue ethics, consequentialism, naturalistic ethics, and value ethics. In contrast to the unconditioned good will, objects, effects, or functions of the will, as well as natural dispositions, depend on specific contexts and presuppositions and therefore are only *conditionally* good.

Contrary to popular belief, Kantian ethics is not a critique of human happiness. It is designed as an ethics for persons—for finite and morally fallible beings who have to lead their lives under contingent circumstances and are unable to act exclusively within the moral order. Even though happiness has no internal

reference to ethical justifications in the space of moral reasons, it remains of the highest practical interest in the life of individuals.

The good will manifests itself in duty, which provides normative constraints regardless of the specific intentions of persons. This moral determination derives from the principle of willing, which is independent of desire and intentions. Because of their freedom and independence from the conditions and contexts of their own lives, persons can access the space of moral reasons and its normative constraints: “Duty is the necessity of an action from respect for the law” (*GMS* 400/16). Duty is bound by the moral law, which is accessible to reasonable considerations. In acts from duty, persons follow the moral law and avoid authoritative demands.

Kant is interested in the conflict between duty and inclination primarily for methodological reasons. It is only when juxtaposed that their difference really becomes recognizable. It is far more difficult to tell the difference when duty and inclination coincide in a single action. Methodical differentiation between the two is an appropriate reaction to the easily overlooked fact that in everyday experience the relationships between reason and feeling, between good will and happiness, and between duty and inclination are extremely complicated: they can be indifferent to each other, work against each other, or support each other. Furthermore, conflicts between good will and happiness occur much less frequently in human life than is claimed in critiques of Kant. The criticism often confuses contingent states of happiness, which people come upon, as it were, from moment to moment, with a rational life-plan followed over time.

Duty reflects the moral aspect of autonomy. Kant uses the expression of respect for the law to explain its normative effect. The semantic profile of this expression is complicated. He first admits that respect is a feeling and then emphasizes the difference from all other psychological states. It does not describe an emotional state in the conventional sense. Kant does not “seek refuge in an obscure feeling” (*GMS* 401n/17). If the moral law is to be present in personal consciousness, it must manifest itself as normatively effective:

What I recognize immediately as a law for myself I recognize with respect which signifies merely the consciousness of the *subordination* of my will to a law, without meditation of other influences on my sense. The immediate determination of the will by the law and consciousness of this is called *respect*, so that it is viewed as the *effect* of the law on the subject and not as its *cause*. (*GMS* 401n/17)

Normative revisions can only take place in the field of inclinations and motives. If respect for the law is viewed from the perspective of its practical consequences, it is not far-fetched to call it an emotional state. In contrast to other emotional states, however, it lacks the immediate determinations of the senses. Respect

is “an effect on feeling and hence on the sensibility of a rational being” (*KpV* 5:76/63). The expression of respect for the law involves moral revision of maxims and actions. It connects the moral law with the standpoint of finite persons. Their sensibility shows “the finitude of such beings on whom the moral law imposes respect” (*KpV* 5:76/63).

5 The Fact of Reason

The result of Kant’s inquiry into the grammar of morality is the reconstruction of the internal relation between self-reference and normative constraints which determines the moral point of view. Moral evaluations made from the perspectives of the first, second, and third person are based on practical self-reference and recognition. Regardless of the central role of self-reference, there always remains a degree of uncertainty with respect to the assumed reasons for actions. Persons can never be sure that the reasons they thought they had while acting were really effective in the cases at hand. Moral agency and epistemic uncertainty are practically inseparable.

Moral evaluations are not indiscriminate. Persons experience normative constraints as independent of their situational attitudes and inclinations. They can override moral reasons practically but cannot force them to submit *normatively* to their intentions. Both Rousseau and Kant refer to conscience, in which they see an objective moral authority. Kant speaks of conscience as a moral shadow from which one can never completely escape.

In his conception of the fact of reason (*Faktum der Vernunft*), Kant provides the ethics of autonomy with a systematic interpretation of normative constraints. This conception does not refer to psychological states of conscience. The fact of reason is the consciousness of the moral law. It manifests itself as an “immediately lawgiving” (*KpV* 31/28) normative force and directly determines the motives and actions of persons. The doctrine of the fact of reason anchors morality in the life-form of rational nature.

According to Kant, the fact of reason is undeniable. Morality is not an illusion, but directly present in everyday experience. Skeptics may refer to the phenomena of moral fallibility and self-deception. However, they have to take into account that even when persons commit immoral acts, they are, as long as they are not driven by psychopathological impulses, still able to weigh up guilt and responsibility—even if it is only with the aim of exonerating themselves.

The fact of practical reason is by no means in conflict with the multicultural development of moral values. Although the lives of persons are largely dominat-

ed by social conditions, they always demonstrate a practical distance from their respective behavioral situations. We see moral consent and dissent in all forms of social life. When humans act as *persons* they are able to differentiate between better and worse states and to provide some kind of moral justification—irrespective of the specific cultural expressions involved.

Autonomy occurs as an action in the space of reasons. In most everyday cases, actions are indifferent to moral concerns—there is no need for constant consideration of whether our behavior is morally good or ethically justified. Typical cases of autonomy include life-plans in the sense of second-order desires and long-term moral interests. Autonomy becomes a normative ideal when the actions in question are thought to be solely morally determined. Under ideal conditions, actions composed in this way would merge into an integral unit. Within the framework of the ethics of autonomy, Rousseau's social contract and Kant's realm of ends represent the two important models of ideal autonomy.

It is characteristic of the ethics of autonomy that the self-determination of persons is not considered a direct result of subjective attitudes and desires, but expresses itself as the integration of moral consciousness and impersonality in the sense of all third-person perspectives. This idea of autonomy conveys that persons are both determined and determining in their morally oriented way of leading their lives. In moral deliberations, they define maxims underlying the moral law and the life-plans of themselves and others. Self-determination as autonomy thus assumes the formal structure of the categorical imperative, according to which persons should act only according to that maxim by which they can at the same time will that it becomes a universal law (see *GMS* 421/34).

Kant does not see the categorical imperative as an immediate help in specific deliberations. Instead, it is assigned the function of making ethical decisions about maxims or rules. Accordingly, a person acts autonomously when she detaches herself from her immediate impulses, orients herself by way of thorough evaluations of that which has always guided her behavior, whether consciously or unconsciously, and expands her subjective perspective for moral reasons to include the impersonal standpoint.

Kant's idea of autonomy avoids the obvious danger of circular self-positing. If autonomy is conceived as the law that a person imposes on herself as such, this can be understood as a process involving different practically intertwined relations and self-relations. Autonomy begins with practical self-reference: The person evaluates her attitudes and behavior. She shapes her rules and life-plans by assessing and, where appropriate, modifying or revising them on the basis of good reasons. The self-relations expressed here are all of a non-egological nature. They are neither set by a "self" nor do they refer to one. The self-crit-

ical person avoids simple subject-object models and confronts her attitudes and behavior with deeper, second-order reflections in the space of moral reasons.

6 The Space of Moral Reasons

The ethics of autonomy treats self-awareness and the moral law as equally constitutive elements of autonomy. Morality can only come about with both self-awareness and a moral order. Accordingly, it is impossible to characterize human behavior as moral if it does not emanate from a person who lives her life under the conditions of possible self-awareness. The irreducibility of practical self-reference is expressed from an ethical perspective in the categorical statement that there is nothing that can compensate for the loss of freedom, and that rational nature must consistently be understood as an end in itself.⁴

The experience of autonomy does not depend on profound discoveries about human nature, but is evident in the plain fact that persons are generally capable of differentiating between reasons and taking action for reasons, independent of their respective inclinations. The rules governing the connection between reasons and actions, if they are connected, follow the rules of reason and are not determined by random impulses, emotions or intuitions. Kant speaks of the pure self-activity of reason in this context (see *GMS* 452/3).

The phrase “pure self-activity of reason” does not signify that persons can initiate actions outside of their specific location in the spatio-temporal world. Rather, it seeks to emphasize that persons have the ability to act within a self-contained moral order. According to Kant, the rules of moral psychology do not govern *ethical* justification. Regardless of the difficulties and obstacles we have to face in leading our lives, he takes persons to be partly independent “from the determining causes of the world of sense” (*GMS* 452/62), and in this independence he identifies the source of freedom. This independence should not be understood in terms of complete detachment. Persons can exert influence over events in space and time without being overwhelmed by external forces. The extent to which they are actually acting *exclusively* on reasonable grounds remains epistemically hidden. Irrespective of the lack of transparency of her actions, a person appealing to the moral law sets herself in another order of things:

⁴ Cf. Rousseau 1964, 356: “Renoncer à sa liberté c’est renoncer à sa qualité d’homme, aux droits de l’humanité, même à ses devoirs. Il n’y a nul dédomagement possible pour quiconque renonce à tout.”

A human being who considers himself in this way as an intelligence thereby puts himself in a different order of things and in a relation to determining grounds of an entirely different kind, when he thinks of himself as an intelligence endowed with a will, and consequently with causality, than when he perceives himself as a phenomenon in the world of sense (which he actually is as well) and subjects his causality, according to external determination, to laws of nature. (*GMS* 457/66)

Persons lead their lives in the spatio-temporal world as beings who are susceptible to reasons. They are capable of generalizing from reasons, differentiating between reasons and acting in accordance with reasons. The space of reasons is a normative dimension that differs structurally from the realm of causes. Kant summarizes this by stating that while every object within space and time is subject to scientific laws, only persons have the ability to act in accordance with the *notion* of laws. Scientific laws and moral laws have to satisfy different standards of validity and manifest themselves accordingly in different forms of objectivity. However, this does not mean that one form eliminates the other or can claim primacy. The moral law is applied *insofar* as a person is of rational nature. Although the laws of science are formulated in the space of reasons, they appear as external constraints that have no regard for rational nature *as such*. Kant nevertheless assumes that nature allows for free actions within the lawfulness of its form.

The concept of autonomy is not ruled by the idea of self-positing or by narrow views of self-determination *qua* arbitrary choice. Rather, autonomy comes about under conditions of the “*form of law*” (*KpV* 31/28), which determines the structure and possible content of normative constraints (Korsgaard 1996, 107–113). The concept of autonomy is derived from an idea of morality with which, according to Kant, a new order of normative constraints arises. When we enter the space of *moral* reasons, we discover an “order of concepts in us” (*KpV* 30/27) with specific normative rules and commitments. Kant’s innovative approach consists in working with a conception of moral realism that is based on the form of law and not on reifications of value. His realism is a *nomological* realism (see Sturma 2019) that combines elements of internalism and externalism as well as of constructivism and realism (Rawls 1993, 102–107).

7 Ethical Objectivity

The ethics of autonomy analyses the inferential system of moral concepts, rules, and principles. Its normative innovation lies in the discovery of the autonomy of practical reason. Although persons always have to act under given conditions, ethical justification is solely dependent on inferences in the space of moral rea-

sons. The external factors which influence the execution and effect of an action do not change the moral predicates. But they can give reasons for an at least partial exculpation of false behavior.

The capacity for autonomy provides a decisive insight into the moral constitution of the rational life-form, which, according to Kant, stands apart from all other forms of existence on account of the capability to formulate ends for itself: “A rational nature is distinguished from the others by this, that it sets itself an end” (GMS 437/49). This end is independent of physical restrictions and not determined by effects and causes. Kant states categorically that rational nature exists as an end in itself. He takes this as the objective principle of the categorical imperative and develops a formula of humanity from it:

The ground of this principle is: *a rational nature exists as an end in itself*. That is how a human being by necessity represents his own existence; to that extent it is thus a *subjective* principle of human actions. But every other rational being also represents its existence in this way, as a consequence of just the same rational ground that also holds for me; thus it is at the same time an *objective* principle from which, as a supreme practical ground, it must be possible to derive all laws of the will. The practical imperative will thus be the following: *So act that you use humanity, in your own person as well as in the person of any other, always at the same time as an end, never merely as a means.* (GMS 429/41)

The categorical imperative is an ethical point of view that can *ideally* be taken up by any person. When a person adopts an impersonal point of view, she expands the perspective of the first person to include those of the second and third person. She evaluates her behavior by contextualizing her own subjective perspective within the system of all the perspectives of the ethical community. In this sense, the categorical imperative represents the self-determined transition by a *person* from a subjective to an impersonal point of view as the perspective of all persons. It manifests itself as a relation which determines the lives of persons by means of practical reason. Under the conditions of the categorical imperative, persons experience morality as an extension of their worldview and scope of action—not as an abstract entity to which they must submit.

The formula of humanity is developed in the first-, second-, and third-person perspective and contains an argument for the objective validity of morality. Only on the basis that I am a rational being able to deliberate and carry out activities independently of my situational inclinations morality can apply to me and, by extension, to all rational beings, as a normative constraint.

The constructive core of Kant’s objectivity argument is the step that we are compelled to take by forms of reciprocal respect and recognition. The other person is an end in herself in just the same way that I am. As a result of the step from the first-person to second- and the third-person perspective, I must ac-

knowledge that the end in itself which I respect in my own case does not differ in its formal characteristics from the one of other rational beings.

The concept of the end in itself unfolds in the subjective perspective and contains the implicit or explicit recognition of the moral perspective of other persons as a source of normative constraints. These constraints extend the moral reflection of the subjective perspective to include the second- as well as the third-person perspectives and referring these standpoints back to first-person attitudes. There are two aspects to this extension: a person demands of other persons to recognize her as an end in herself, and others can claim to be recognized in the same way as ends in themselves. Due to its structural equivalence to other points of view, the awareness of existing as an end in itself already includes a recognition of other ends in themselves. The reciprocity of the ethical objectivity argument is constituted by the structural equivalence of the moral points of view. It is this structural equivalence that ultimately enables constructive access to the realm of ends (cf. Korsgaard 2004) and to the new concept of dignity.

8 The Principle of Non-Instrumentalization

The limiting rules of the concept of autonomy find their expression in the principle of non-instrumentalization, which addresses the life of persons in its full spatio-temporal and social scope: “A human being is not a thing, hence not something that can be used *merely* as a means, but must in all his actions always be considered as an end in itself. Thus, the human being in my own person is not at my disposal, so as to maim, to corrupt, or to kill him” (*GMS* 429/41–42). In the social realm, this prohibition of instrumentalization aims to prevent or correct exploitative behavior of persons towards themselves and others.⁵ In protecting the autonomy of a person *and* her physical integrity, it paves the way to the modern understanding of dignity and human rights.

Kant does not say that persons must be treated *only* as ends in themselves. He simply points out that cases and situations in which persons are primarily used as objects, as means to ends which are not in their self-interest, are morally and ethically unjustifiable. Autonomy and instrumentalization are only compatible in justifiable forms of cooperation or labor division in which persons are still treated as ends. For Kant—as for Rousseau—autonomy in the form of the prohibition of instrumentalization is the systematic core of the concept of dignity: “Au-

⁵ It is of particular significance that Kant rejects not only the instrumentalization of others but self-instrumentalization as well. This criticism affects various forms of enhancement.

tonomy is [...] the ground of the dignity of the human and of every rational nature” (GMS 436; cf. Sensen 2011, 180–191).

Communities and societies in general are made up of systems of reciprocal and partial instrumentalization. In cases in which this reciprocity is transformed into extremely asymmetrical relations, the principle of non-instrumentalization is violated. When moral reciprocity fades, persons are simply treated as means to external interests and regress, as it were, to objects. In such cases, the standards set by autonomy and the principle of non-instrumentalization provide strong reasons for revision and social criticism.

The principle of non-instrumentalization is likely to be broadly accepted in ethical debates. Only consequentialist approaches and, in particular, utilitarian positions consider it to be conditional. They dispute the absolute validity of the principle as asserted by Kant. Under certain conditions, they accept restrictions on autonomy and dignity in favor of other values. They also criticize the notion that only human persons should be granted the status of addressees of ethical consideration.⁶ Regardless of these reservations, the principle of non-instrumentalization reveals the specific options for intervention offered by the ethics of autonomy. Above all, it is applicable to the field of medical bioethics⁷ and human rights. The critique concerning the conversion of the relation between ends and means has far-reaching practical implications. Moral violations are often only recognizable when social situations are contrasted with the standards of the principle of non-instrumentalization. Wherever social relationships are not symmetrical—for economic, political, religious, or ideological reasons—the respective conditions or situations are likely to be ethically unjustifiable. Any burden persons are expected to bear must remain compatible with their rational nature and standards of reciprocity. The ethics of autonomy is consistently and decisively an ethics *for* the person (cf. Horn 2004, 210–212).

9 In the Realm of Ends

The semantic and normative field of the Kantian concept of dignity is constituted by moral recognition as expressed in the formula of humanity and the corresponding principle of non-instrumentalization. This semantic profile places dignity at the center of a system of recognitions. All persons are *ideally* inhabitants

⁶ A Kantian theory of the ethical recognition of non-human life forms has been elaborated by Christine Korsgaard; see Korsgaard 2018.

⁷ Applying the standards of the principle of non-instrumentalization proves particularly difficult with regard to bioethical issues at the beginning and the end of the lives of persons.

of the realm of ends. In *reality*, under restricted natural and social conditions persons form an ethical community which consists of symmetrical and asymmetrical forms of recognition. The ethical community is composed of persons who are sources and addressees of normative considerations. Persons also belong to an ethical community even if they are not yet or no longer capable of active behavior in the social space. Explicit claims or demands are not prerequisites for presence in the ethical community—as is apparent in stages of minimal consciousness at the beginning and end of human lives. Asymmetric relationships of normative recognition even allow for the inclusion of animals with the capacity to organize their own lifeworld and environment (cf. Korsgaard 2018, 141–146). This would also be true of other forms of intelligence—if any such exist—and non-personal life-forms.

The realm of ends is the model of an ethical community of persons exclusively constituted by moral relationships: “For all rational beings stand under the *law* that each of them is to treat itself and all others *never merely as a means*, but always *at the same time as an end in itself*. But by this there arises a systematic union of rational beings through common objective laws” (GMS 433/45). Kant calls this union—in an ideal sense—a realm of ends. The realm of ends is the system of morality of the ethical community of persons *qua* rational nature. The realm of ends is not based on a two-world doctrine. Inhabitants of the realm of ends do not leave the social space or the realm of nature.

The concept of the realm of ends allows the paradox of dignity to be resolved. The latter consists of the fact that on the one hand the dignity of persons is identified as inviolable and on the other hand persons often have their dignity disregarded and are exposed to undignified situations and calculated cruelty. The concept of the realm of ends dispels this apparent paradox. Persons are equally subject to the constraints of the space of morality, the social space, and the realm of nature. Dignity cannot be lost in a normative sense, and the acknowledgement of dignity does not presuppose that its addressees must do or achieve something. Social conventions do not decide *morally* on dignity. As inhabitants of the realm of ends, persons possess dignity and, by extension, independent normative standards for evaluating actions and situations in the social space. The concept of dignity comprises the ethical standards of the formula of humanity and the principle of non-instrumentalization. With these standards, we can identify and reject suffering and injustice, thereby making a decisive normative contribution to their elimination.

The cornerstones of the realm of ends are autonomy, recognition, and dignity—all constituted by *moral* reasons. The normative constraints of the realm of ends have an impact on the world of events where other laws are effective as well. The realm of ends does not allow for violations of the dignity of persons.

As long as persons live, they are always inhabitants in the realm of ends—regardless of the disregard of their autonomy or violation of their bodily integrity. The source of dignity is not a speciesist quality or personal excellence, but the susceptibility of self-conscious finite beings to normative constraints. That is the reason why Kant speaks of “admiration and reverence” (*KpV* 161/129) for the starry heavens above me and the moral law within me, which are connected immediately with the consciousness of my existence.

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End in Itself and Dignity

Abstract: Two fundamental concepts in Kant's ethical theory are 'end in itself' and 'dignity'. Both pertain to human beings as rational and moral agents. This essay attempts to clarify both concepts, relating them to their source and justification as given in the *Groundwork*, and also to each other as fundamental value conceptions in Kantian ethics. 'End in itself' refers to the kind of motive rational beings can have for obeying a categorical imperative, and is also the ground of specific moral duties. 'Dignity' refers to an incomparable worth that may not be sacrificed or exchanged for anything else. Kant identifies dignity with the authority of the moral law and the autonomy of the rational will. The dignity of rational nature is what makes humanity an end in itself, but what is an end in itself is the rational capacity to set ends.

1 Kant's ethics is founded on the values present in persons

Two fundamental concepts in Kant's ethics are "humanity as end in itself" (*Menschheit als Zweck an sich selbst*) and "dignity" (*Würde*). Along with the related concept "person" (*Person*), they are virtually ubiquitous in the Doctrine of Elements section of Kant's Doctrine of Virtue. They ground both the major categories of ethical duty and the particular duties falling under them. As this implies, this derivation of duties proceeds from the second main formula of the moral principle: Humanity as End in Itself (FH). In the *Groundwork*, Kant merely *enumerates* the four example duties in relation to the first formula: that of Universal Law (FUL) or Law of Nature (FLN) (*GMS* 4:402, 421–424), but *derives* the same four duties from FH (*GMS* 4:429–430). Dignity is then developed in connection with the third formula, the Formula of Autonomy (FA) in its more "intuitive" version: that of the Realm of Ends (FRE) (*GMS* 4:433–435).

It is only in the *Groundwork* that Kant thematizes and explains the two crucial concepts of End in Itself and Dignity (*GMS* 4:427–429, 434–435). The explication of that account will be our task here. The concept 'end in itself' is a product of Kant's own ethical theory. The concept of dignity (*dignitas*), however, has a history before Kant, though Kant's use of both concepts is what has given them their importance in moral philosophy and also in popular moral thinking.

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The popular use of these concepts is an object of rightful suspicion. Both have a tendency to sound pompous and empty. Philosophers often think the only way to deal with ‘end in itself’ is to treat it analytically or criterially: we spell out the kinds of conduct that does and does not treat persons as ends in themselves. This clueless procedure, however, utterly ignores the role played by the concept in Kant’s theory; it also leaves the moral claims without any justification. “Human dignity” fares even worse. As used in popular moral theology, “dignity of the person” has corrupted the concepts of personhood and dignity at their very root. In the sixteenth through the nineteenth centuries, Catholic bishops in the American South, and in those countries that promoted the slave trade, defended the institution of slavery by appealing to the conception of human dignity. Today, the status of personhood is extended to groups of cells within the body of a woman that harbor a potentially independent life, and then employed to justify coercively enforceable rights against the woman herself, effectively depriving *her* of personhood by denying her the right to control her own body. Redistributing wealth in protection of the rights of the poor is attacked as a violation of human dignity comparable to slavery. Even Kant’s own use of these notions is suspect; he approved consigning women to a status of civil minority and Kant also developed an influential theory of race that was later used to defend white supremacy. A decent and thinking person, therefore, is likely to regard appeals to human dignity with skepticism, cynicism or even hostility. My present aim, however, is to explicate the concepts ‘end in itself’ and ‘dignity’ in their original Kantian theoretical context. At the end I will offer an explanation of why they are so problematic, and a suggestion about how these concepts can nevertheless retain their moral importance.

2 End in itself

What is the relationship between the Kantian concepts *Zweck an sich selbst* and *Würde*? Are these two names for the same concept, or are they two distinct concepts? If the former, what concept is it? If the latter, what is the relation between them?

Kant introduces the concept ‘end in itself’ in the course of deriving formulas of the moral law from the concept of a categorical imperative. A categorical imperative is a moral principle by which actions are rationally required apart from any end given in advance of the principle. Philosophers have often challenged this concept, insisting that reason can require actions only on the ground that they are means to some presupposed end. Kant agrees that the concept ‘action’ refers to something within the power of an agent that is chosen as a means to

some future state of affairs the agent intends to produce. Based on that thought, it is then objected that the concept of a categorical imperative is unintelligible, that there could be no possible motive for obeying such an imperative. Kant's reply is that this means-end relation is not the only kind of reason an agent can have for choosing an action. Actions can also be chosen for their own sake, in response to a reason that is independent of ends to be effected. This, he contends, is even the most basic reason for choosing any action on moral grounds. The concept "end in itself" is first introduced by Kant as the name for that special kind of reason. Any possible referent of the concept "end in itself" is therefore determined precisely by the conditions under which there could be a ground or reason to obey a categorical imperative.

An end, in the most general sense, is anything *for the sake of which* we act—that is, anything that gives us a rational ground to choose an action. An end can be thought of as a kind of rational norm: our ends give us reasons constraining our choice of actions. This clearly fits the case where I set an end conceived as a possible future state of affairs and then choose those actions that contribute to bringing it about. Kant calls that an "end to be effected" (*zu bewirkenden Zweck*). He contrasts this kind of end with an "independent" or "self-sufficient end" (*selbständiger Zweck*). This refers to a being already existing for whose sake we ought to act (*GMS 4:437*). We act not to bring such beings about, but to express our valuation. These ends are "independent" or "self-sufficient" because all ends to be effected are dependent on them, while self-sufficient ends are not dependent on anything further: specifically, they rationally constrain our choices independently of anyone's discretionary choice to set them as ends.

When I set an end to be effected, instrumental reason requires me to employ means to achieve it. All ends to be effected are discretionary (*beliebigen*) ends. They bind us rationally to act only to the extent that we actually choose to set them. If I had not set the end, or if I later abandon it (at my discretion) or subordinate it (again, at my discretion) to other discretionary ends, then the basic norm of instrumental rationality, while still universally valid, no longer applies to me in this case. This is true even of ends to be effected that duty requires us to set. Such a subjective ground of volition Kant calls an "incentive" (*Triebfeder*) (*GMS 4:427*). An end in itself could not be a future state of affairs to be produced, since the choice to set all ends of that kind would be discretionary, whereas a categorical imperative commands actions independently of any such choices. An end in itself, therefore, must be an *objective* end—a norm that applies in the same way to all rational beings and not conditionally on their desires or on the ends to be effected that they set on the basis of these desires. Ends in themselves impose normative requirements on us—give us reasons to do or refrain from actions—irrespective of our inclinations or discretionary choices.

Kant's term for this kind of objective ground of volition is "motive" (*Bewegungsgrund*) (*GMS* 4:427). That is why persons alone, as ends in themselves, can ground obedience to categorical imperatives.

Once we appreciate all this, we can see that the term "end in itself" as Kant means it has a quite different sense from another use of this same term that is perhaps more common and natural in ordinary speech. We might distinguish someone's *ultimate* end to be effected from intermediate ends chosen on the way to it, and call this ultimate end an "end in itself". If I put a coin in a slot at the subway station, my immediate end may be to get on the subway; I get on the subway as a means to the end of traveling from one place in the city to another; that further end may in turn be a means to getting home—which, in relation to this series of purposive actions, may be my ultimate end or (in that sense) my "end in itself". But my getting home is an end to be effected. It is grounded solely on my contingent desire to get home. It is an end only for me, and an end at all only because I chose to set it. It is a subjective, not an objective end, involves no categorical imperative. Therefore, it could not be an "end in itself" in Kant's sense.

Kant explains the concept "end in itself" tersely in a single paragraph. In the three successive paragraphs following this, he proceeds to identify the kind of being that might actually be an "ends in itself". The first paragraph does this *problematically*, in the form of a *hypothesis*, and does not yet even name the kind of being: "But suppose there were something whose *existence in itself* had an absolute worth, something which, as an *end in itself*, could be a ground of determinate laws" (*GMS* 4:428). The second paragraph then presents, in the form of a bare *assertion*, Kant's candidate for what the end in itself might be: "Now I say that the human being, and in general every rational being, exists as an end in itself, *not merely as a means* to the discretionary use of this or that will, but in all its actions...it must always be at the same time an end" (*GMS* 4:428). Kant then eliminates two other possible candidates for the end in itself: objects of inclinations and inclinations themselves (*GMS* 4:428). The third paragraph supports Kant's assertion with an *argument*:

The ground of this principle is: *Rational nature exists as end in itself*. The human being necessarily represents his own existence in this way; thus to that extent it is a *subjective* principle of human actions. But every other rational being also represents his existence in this way as consequent on the same rational ground as is valid for me; * thus it is at the same time an *objective* principle, from which, as a supreme practical ground, all laws of the will must be able to be derived. The practical imperative will thus be the following: *Act so that you use humanity, as much in your own person as in the person of every other, always at the same time as end and never merely as means* (*GMS* 4:429).

This argument is terse and puzzling; its interpretation is controversial. One source of perplexity is the second sentence: “The human being necessarily represents his own existence in this way.” What can Kant possibly mean by claiming that all human beings necessarily represent their own existence as an end in itself? How could he possibly know this? ‘End in itself’ is a philosopher’s concept, the concept of a special kind of value, even a rather novel one, which Kant has just introduced. But we know that some people, despairing of themselves and their lives, clearly do not think of themselves or their existence as having any value at all. So how can Kant make such a confident assertion about how people represent their existence?

Notice, however, that Kant’s claim could not possibly be referring merely *de dicto* to a way that people do in fact think about themselves. For it says that human beings *necessarily* represent their own existence as an end in itself. This is something they *must* be doing whether or not they realize they are doing it, and have to be doing even if they lack the concept ‘end in itself’. In the next sentence Kant goes even further, claiming that they do it based on a “rational ground.” He even claims that this rational ground is the same for all of them, so that it is a ground for me to represent the existence of every other rational being in precisely the same way as my own. This is clearly a *de re* use “representing as end in itself,” based on an *argument* that this is something rational beings *necessarily* do based on a certain rational ground that requires or guarantees that they do it. Most controversies about Kant’s argument, however they may be presented, are really about what Kant takes this “rational ground” to be. One thought is that the end in itself is “humanity” in Kant’s own technical sense of that term: Humanity is the (non-moral) rational capacity to set ends of inclination according to reason, and sum them up in the concept of happiness (*RGV* 6:27). A contrasting thought is that what makes people ends in themselves is something more directly involving their *moral* capacities.¹ We will return later to this controversy, and attempt to reconcile the two thoughts. But Kant’s argument at this point also contains a footnote, inserted just where the argument proposes to extend this rational ground beyond my representation of *my own* existence as an end in itself to representing *the existence of all others* in the same way: “This proposition [sc. that *all* rational beings are ends in themselves] I here set forth as a postulate. In the last section one will find the grounds for it” (*GMS* 4:429). The reference to the Third Section of the *Groundwork* is apparent

¹ Different versions of the former option are favored by me Wood 1999, 125–127, Wood 2008, 88–92, Wood 2017, 9–13, 60–68, and by Christine Korsgaard, Korsgaard 1996, 106–133. Examples of scholars who take one or another version of the latter alternative are Kerstein 2002; Dean 2006, Martin 2006, and Allison 2011, 204–237.

ly to Kant's argument in that "the idea of freedom must with a practical aim be extended to all rational beings" (*GMS* 4:448). So, whatever the rational ground is, it is supposed to be closely connected to freedom of the will.

It should be striking, even surprising, however, that in this argument we are never told precisely *what it is about human beings* that makes them ends in themselves. The argument proceeds from the claim that every human being must necessarily regard their own existence as an end in itself, and then claims that there is a rational ground for doing this. But it does not identify this ground, and the only hint—deferred for another twenty pages in the *Groundwork*—is that it is connected somehow to freedom. But we are not yet told what it is about *freedom* that makes all human beings ends in themselves.

Another puzzling thing here is that this formula gives us only a *negative* conception of the rational norm that is imposed on us by the "end in itself". We are told only that the end in itself constrains our actions in a way different from the way action is rationally constrained by an end to be effected to which the action is a means. What specifically and positively the end in itself rationally requires of us remains mysterious, at least for the moment. (That may be one reason why philosophers take the analytical approach to 'end in itself', misguidedly supplying independent norms governing how persons are to be treated.) The second mystery also seems connected to the first. For until we know what it is about persons that makes them ends in themselves, we can't reasonably be expected to understand what this implies about the way they should be treated when treated as ends in themselves. These are points to which we will also have to return.

In the meantime, there is something else which we are already in a position to grasp. Sometimes people discussing Kant's philosophy in English speak of the end in itself by saying: "I am an end in *myself*... you are an end in *yourself*... he or she is an end in *himself* or *herself*." This talk says something true, even something important, because of course it is the *person* who is the end in itself. But it also says something superficial and obscures the point that really matters. Above all, it most definitely *misunderstands* what Kant means by the phrase *Zweck an sich selbst*. If he had meant this phrase to refer to the *person* who is the end in itself, he would have said in German: *Zweck an mir selbst*... *dir selbst* ... *ihm selbst* ... *ihr selbst*; but he never uses such expressions. *Zweck an sich selbst* should always be translated 'end in *itself*.' The term always refers not to who or what the end is, but rather to the special *kind of end* that persons are—namely, the objective end found in the existence of those beings for whose sake there are categorical moral constraints on our actions.

3 The concept of dignity

Jeremy Waldron has emphasized that *dignity* was originally a legal concept: more precisely, a status concept (Waldron 2012). Status, he points out, can be a “sortal status”—being a patrician or a plebeian, an aristocrat or a commoner, a man or a woman (where women have a lower status than men), or a white, black or colored person (as in apartheid South Africa or white supremacist America); or it can be a “condition status”—a status that can be acquired or lost depending on what you do, or what happens to you, e.g. by being married or divorced, going bankrupt, being declared legally incompetent, joining or leaving the military or being convicted of a felony. (In white supremacist America, the criminal justice system often operates in such a way that the condition status “felon” often serves as a masquerade for the inferior sortal status “black.”) In Kant’s theory of public right, dignity is treated as a condition status identifying the powers that belong to the holders of offices within a government (see *ZeF* 8:344, *RL* 6:315, 318, 327). In Kantian ethics, however, dignity plays a different and less traditional role. It looks more like a sortal status that belongs to all and only human beings—or more precisely, to all and only *rational* beings. The concept of dignity here seems to have left behind the implications involved in its legal origins.

Just as the concept ‘end in itself’ is introduced in connection with (FH), so ‘dignity’ is introduced in connection the formula of the realm of ends (FRE). The realm of ends, Kant says, is the totality of rational beings regarded ideally as a community subject to common ethical laws (*GMS* 4:433). In the realm of ends, the worth of anything is the worth assigned it by the moral law (*GMS* 4:436). Kant distinguishes two fundamental kinds of worth something can have in the realm of ends: ‘price’ and ‘dignity’. “What has a price is such that something else can be put in its place as an equivalent” (*GMS* 4:434). The value of something with price is comparative; something with price may be rationally traded away or sacrificed in return for something else. Some things with price have a *market price*: it is rational to sell or barter them away if we get in return something of equivalent or greater value. Objects of taste have an *affective price*: they afford a satisfaction that may be compared and equated with another satisfaction (*GMS* 4:434–435). In contrast to price, ‘dignity’ is something that has a value “elevated above all price, and admits of no equivalent...that which constitutes the condition under which alone something can be an end in itself does not have merely relative worth, i.e. a price, but rather an inner worth, i.e. *dignity*” (*GMS* 4:434–435).

This terse formulation of the concept ‘dignity’ requires further explication. I make three points. First, what has dignity is *elevated above* that which has price, because what has price may be given up in exchange for an equivalent, but what has dignity may not. It may not be given up even in exchange for something else having dignity. As in the case of the concept ‘end in itself’, Kant’s formulation here is purely *negative*: It says only what we *may not* do with something having dignity, but it does not tell us how we *should* treat something that has dignity. Why is that? We need to return to this question.

Second, Kant says that what has dignity has *inner* worth. In Kant’s technical vocabulary, ‘inner’ always means: ‘in relation to itself’, in contrast to ‘in relation to something else’. This is how he explicates ‘inner’ in the Amphiboly of Concepts of Reflection (*KrV*: A265/B321). Thus ‘inner sense’ refers to those representations belonging only to *my own state*, resulting from my acts of self-affection, in contrast to representations relating me to things outside myself which affect me (*KrV*: B152–159). When Kant says that the moral worth of my person is an “inner worth” he means it is a worth I have not in comparison with other people but a worth measured only by the moral law that I give myself or by my own concept of virtue (*GMS* 4:397, 435). Accordingly, when I judge myself to have violated my duty, Kant says this results in “self-contempt and *inner* abhorrence,” because he is referring to a judgment I pass on myself (*GMS* 4:426). To say that dignity is an *inner* worth, therefore, is to refer to the fact that it is a worth that has no comparative standard outside it. Its only measure is its own dignity itself. That is why something having dignity may not be compared with or exchanged for *anything*, not even for something else having dignity. Again, the formulation is opaque and in need of further explication.

Third, Kant’s formulation relates the concept ‘dignity’ in a determinate way to the concept ‘end in itself’: Dignity “constitutes the condition under which alone something can be an end in itself” (*GMS* 4:435). This entails that ‘dignity’ and ‘end in itself,’ though distinct concepts, are also co-extensive concepts. What has dignity is an end in itself, and what is an end in itself has dignity. Both apply to all and only rational beings. Further, of the two concepts dignity turns out to be the more fundamental: dignity constitutes the condition under which something can be an end in itself. This last point takes us a bit closer to answering our earlier question: What is the rational ground that makes the existence of a human being an end in itself? The answer is: dignity. Nevertheless, a third puzzle now emerges: that whose existence is an end in itself is not dignity but *humanity*: the capacity to set ends, choose means to them, and combine ends into a whole under the name of happiness (*RGV* 6:27, *MAM* 8:114, *Anth* 7:322–324).

Now let’s see if we can’t make some headway with this and our two earlier puzzles: First what is it about humanity that makes it an end in itself? And sec-

ond, what treatment of human beings is required of us based on their being ends in themselves? If dignity is the condition under which alone something can be an end in itself, then if we learn what gives persons dignity, we ought to be able to discover what it is that makes them ends in themselves. When we know that, we might also find the solution to our second puzzle, and also the third puzzle: why is it *humanity* that is the end in itself?

What is it that gives the human being dignity? The value of anything whatever, as we have already seen, is the value determined for it by the moral law. From this proposition Kant infers directly that the law itself must have dignity. “For the legislation itself, which determines all worth, must precisely for this reason have a dignity, i.e. an unconditioned, incomparable worth” (*GMS* 4:436). But in Kant’s derivation of the third formula of the moral law (FA), he argues that a human being, may be regarded as legislator of the same law and be thought of as bound by the law only for this reason (*GMS* 4:431). Just as the law itself has dignity, therefore, so the rational being—regarding itself as the law’s legislator—must also have it. This is even the ground of the entire idea of dignity: “The *dignity* of a rational being that obeys no law except that which at the same time it gives itself” (*GMS* 4:434).

‘Dignity’ is thus the term Kant chooses for the supreme and foundational ethical value. Waldron’s account of the way the concept arises in the context of legal status may help us understand why. Anyone familiar with Kant’s philosophy knows that he is fond of—even obsessed with—legal or juridical concepts. He often uses them—always in a highly idealized form, and usually by way of analogy—as fundamental concepts of his philosophy. ‘Critique’ itself is one such concept, since ‘κριτής’ is Greek for ‘judge’. The critique of pure reason is a court (*Gerichtshof*) where reason passes judgment on its own claims (*KrV*: A 11–12). ‘Deduction’ is another (*KrV*: A84/B116); our transcendental justification for using a concept like ‘cause’ is analogous to the vindication of our right to a piece of property. Conscience too is an inner court in which I pass judgment on myself (*TL* 6:400–401, 437–440)—and it is *inner* because it is “the moral faculty of judgment, passing judgment upon itself” (*RGV* 6:186). *Dignity* was originally a legal or juridical notion, which Kant transforms into a fundamental concept of moral philosophy. This had already been done in various ways by earlier philosophers and theologians (See Lebeck 2002, 87–101);² but never more dramatically or radically than Kant did it.

2 Cf. Thomas Aquinas, *Summa Theologiae* IaIIae 29, 3.

4 Human dignity

Waldron speaks of the modern concept of human dignity as converting it from a condition status, or a sortal status based on noble birth, into a sortal status applicable to all human beings. He describes this process as a “transvaluation” of the entire concept of status (Waldron 2012, 32–36). But I would sooner describe what Kant did by borrowing a term not from Nietzsche but from Derrida: it can better be seen as a *deconstruction* of the traditional status concept *dignity*.

My former Cornell colleague Jonathan Culler says that we ‘deconstruct’ a text when we *first*, find in it some sort of hierarchy: the placing of one thing in a position of superiority over another; and then *second*, we devise or discover an interpretive procedure through which the hierarchy can be *inverted*, so that the inferior item achieves superiority over the superior one (Culler 1982).³ Deconstruction, according to Culler, thereby *subverts* the concepts, and also the assumptions of the discourse in the deconstructed text. Culler emphasizes that deconstruction does not entail nihilism about value (or superiority). Its aim is to find a new way of looking at a particular text, unsettling its presuppositions and also—this is crucial—enabling us to formulate *new* concepts, expanding the discourse in question.

In our present case, the discourse is about social status. The traditional assumption of this discourse is that some people have more dignity than others, and some have dignity while others have none. The hierarchy is that some have superior status and therefore authority over others. In relation to the dignity of offices within the political state, Kant fully accepts this traditional discourse. At a more fundamental moral level, however, he challenges the assumptions behind it. The traditional discourse using dignity assumes that in relation to the entire moral universe, values depend on an authority of a superior, the dignity of whose will gives it the authority to legislate to others. Kant, however, argues that the rational nature found in human beings enables every human being to regard itself as legislator of the moral law, and to consider itself as the author of that law (*GMS* 4:431). The law itself has dignity because it is the ground of all valuation; the human being, in regarding itself as legislator of the law, thereby acquires a status superior to that of any being traditional discourse assumed to be the natural superior of most or all human beings. Every human being therefore has *human* dignity, and this dignity is the same as the dignity of the moral

³ I freely admit that, as an outsider to that discourse, I may have failed to use the concept ‘deconstruction’ in precisely the sense Culler or Derrida or others think it should be used. If so, I beg their pardon.

law. Kant treats all valuation, therefore, all measures of price and even of dignity itself, as grounded on *human* dignity.

The concept ‘human dignity,’ however, directly inverts the hierarchy constituting the very concept of dignity as it functioned in the traditional discourse. Kant asserts that the lowliest human being—by any standard you care to assume: the stupidest, even the wickedest—has *human dignity* (*TL* 6:434–437, 462–468). This is ‘dignity’ in the special sense of that higher and incomparable worth in relation to which every other valuation must give way. The dignity of lords, earls, dukes, and kings is nothing at all in comparison to simple *human* dignity. All attempts to justify superiority—whether based on genetic (racial), or cultural, or even moral differences—are without validity. Even if the racists and imperialists were right on all the empirical questions, their claims do not even touch the basic moral issue.⁴ Even superiority in intelligence or learning fades into nothing compared with human dignity.⁵

According to the traditional status discourse, the supreme dignity was to be found in God. Kant wants to preserve as much of this discourse as he can, consistent with the dignity of rational nature as the basic moral value. Since God has a perfect or holy will, God is subject to no form of moral constraint, even self-constraint; so God has no duties. A human being, by contrast, considered as *sub-jectum obligationis*, can stand under the will of another human being who is the *auctor obligationis* of a duty owed that other (*TL* 6:417). Consequently, in the realm of ends God is the “supreme head”, since “as giving law it is subject to no will of another” (*GMS* 4:433–434). Further, in looking at things from a religious point of view, human beings recognize all their duties as divine commands and regard themselves as subject to the authority of God’s will (*RGV* 6:84, 153; cf. *KpV* 5:129, *KU* 5:460, *TL* 6:487–488, *SF* 7:36, *Poelitz* 28:997–999). None of this,

4 Of course, this does not mean that the truth or falsity of these claims is irrelevant to moral issues. On the contrary, when people accept such principles as human dignity and humanity as end in itself, their vicious prejudices then show themselves mainly in the way they misinterpret and misapply these principles. This is what shows itself in the traditional uses of human dignity that render this principle empty and pompous, and enlist it in support of all the wrong things. It is therefore important to dispute the false claims of those who try to take away the rights of others by asserting racial, gender or cultural superiority.

5 As Kant puts it in a frequently quoted early fragment: “I am myself by inclination an investigator. I feel a complete thirst for knowledge and an eager unrest to go further in it as well as satisfaction at every acquisition. There was a time when I believed that this alone could constitute the honor of mankind, and I had contempt for the ignorant rabble who know nothing. *Rousseau* brought me around... I learned to honor human beings, and I would find myself far more useless than the common laborer if I did not believe that this consideration could impart to all others a value establishing the rights of humanity” (Kant 2005, 7).

however, involves conceding that God has greater dignity or inner worth than a human being—even than the least—the most ignorant, most foolish, even most wicked—of human beings. *All* rational beings have dignity—supreme and incomparable worth.

We see this clearly in Kant's deliberately non-traditional (or, I would prefer to say, deconstructive) interpretation of the book of *Genesis*, especially in its conception of the moral relation of our first parents to God. The voice of God forbade them to eat of the tree of the knowledge of good and evil. But this is not a voice with moral authority. How could it be, since, being ignorant of good and evil, they could have no concept of moral authority? It is instead, Kant says, the voice of instinct, obeyed by all animals (*MAM* 8:111). The defiance by Eve and Adam of the command of instinct is therefore not a crime or sin, but an act of liberation, by which they begin to exercise their faculty of rational choice, choosing for themselves which fruit they will use to satisfy their hunger (*MAM* 8:111–112). Kant then explains how this act of liberation acquainted them with anxiety (*MAM* 8:112); how reason transformed their sexual instinct into a feeling of decency or propriety, giving them power over one another's impulses, and their own (*MAM* 8:112–113), how expectation of the future acquainted them with the need for labor and with death as their ultimate fate (*MAM* 8:113–114), and how they gained a sense of their own superiority to the rest of nature, and of their moral vocation to become the final end of nature (*MAM* 8:114).

Finally, Kant offers his deconstructive interpretation of *Genesis* 3:22: "And the Lord God said: 'Behold, the man is become one of us, to know good and evil.'" Kant's deconstructive interpretation of this is: "And thus, the human being had entered into an equality with all rational beings, of whatever rank they might be; namely, in regard to the claim of being himself an end, of also being esteemed as such by everyone else, and of being used by no one merely as a means to other ends" (*MAM* 8:114). Here the basic hierarchy of the traditional status-discourse has been inverted and thereby subverted. In this passage Kant uses the concept of end in itself; but the ground of that concept, as we have seen, is dignity—*human* dignity. Human dignity is the concept which unsettles the entire discourse about dignity, subverting all its concepts, assumptions and structures.

Kant's *Anthropology* begins with this famous declaration: "The fact that the human being can have 'I' in his representations raises him infinitely above all other living beings on earth. Because of this he is a person...through rank and dignity entirely different from things, such as irrational animals, with which he can deal and dispose at his discretion" (*Anth* 7:127). This passage is often misunderstood as if it were claiming that we are unconstrained by any duties regarding our treatment of animals. That's clearly not what it means, since of course

Kant does insist that we have such duties (*TL* 6:442). What the passage actually asserts is only this: Animals have desires and preferences, pleasures and sufferings, which may serve as inputs to rational decisions. But the animals themselves, being non-rational creatures, cannot be a party to rational decisions even about how *they themselves* are to be treated. It is the sole the responsibility of rational beings, as co-legislators in the realm of ends, to bind themselves to all duties, including those governing their treatment of animals.⁶

5 Autonomy

The dignity of rational nature is the condition under which a human being can be an end in itself. Dignity is grounded in autonomy: self-legislation. But what is ‘autonomy’ in the Kantian sense? In today’s moral discourse, ‘autonomy’ is often used to refer to the thought that people are, or should be, in charge of their own lives, should have the shape of those lives directed by themselves rather than chosen for them by others. This is of course also an important Kantian value, but in his vocabulary its name is not ‘autonomy’ but ‘external freedom’ or ‘rightful freedom’. ‘Autonomy,’ in Kant’s sense of the term, refers only to claim that every rational being can regard the idea of its own will as the legislator of the moral law. That claim is also very often misunderstood.

Kant distinguishes two kinds of normative laws: natural laws and positive laws. Positive laws (also called ‘statutory’ or ‘arbitrary’ laws) have an *author* (*Urheber, Autor*): A will that determines their content. They also have a *legislator* (*Gesetzgeber, legislator*), a will that offers sanctions (positive or negative) that serve as incentives to obedience by a will subject to the laws (*RL* 6:227). Natural laws,

⁶ This is also why our duties regarding (*in Ansehung auf*) non-rational animals cannot be duties *toward* (*gegen*) them. Non-rational animals have no capacity to be co-legislators of the moral law, hence no capacity to be an *actor obligationis*. For Kant, a duty toward a being is not (except contingently and as a consequence) a duty to *benefit* that being. It is rather a duty to subject your will in some respect to the rational will of that other rational being. It follows that a being *toward* whom a duty is owed has rational discretion in deciding whether, or at least how, that duty is to be fulfilled. The fact that we have no duties *toward* non-rational animals of course does not entail that their welfare is of no importance: on the contrary, it has precisely the importance assigned it by the moral law of which all rational beings are (and no non-rational beings can be) co-legislators. The responsibility of determining the importance of the lives and welfare of non-rational beings falls on the shoulders of rational beings—where of course we already knew it was. Obviously, people do not fulfill this responsibility as they should; but we do not remedy this failure by pretending that animals have moral standing they could not possibly have.

however, have no author and no legislator. Moral laws are natural laws: They therefore have no author and no legislator. We are not the author or legislator of moral laws, just as God is not their author or legislator: “No one, including God, is the author of moral laws, since they do not spring from the will, but are practically necessary” (*Collins* 27:282, cf. *ReflMe* 27:261–262). “God is... not author of the laws, since these lie in the nature of things... It lies in the essence of things” (*Vigil* 29:633–634).

What then becomes of the Kantian conception of autonomy—the thought that I am the legislator or even the author of the moral law that I obey? Here is the passage that introduces this thought: “All maxims are repudiated in accordance with this principle which cannot subsist together with the will’s own universal legislation. The will is thus not only subject to the law, but is subject in such a way that it must be regarded also as *legislating to itself*, and precisely for this reason as subject to the law (of which it can consider itself the author)” (*GMS* 4:431). What the passage says is not that I *am* the author or the legislator of the moral law, but that I may *consider myself* its author, and *regard myself* as its legislator. In Kant’s texts, such indirect ways of describing moral self-legislation far outnumber direct assertions that we legislate the moral law, and such assertions must always be read in light of that. The legislator of the moral law is not our finite, corrupt wills but “the idea of every rational will” (*GMS* 4:431)—that is, the pure rational concept of that will, to which no empirical instance can perfectly correspond. I can *consider* myself the author of the moral law because it proceeds from my own faculty of reason, my *personality*: the capacity to will according to pure reason, independently of sensible impulses, the very capacity I have to obey the same moral law (*KpV* 5:162, *RGV* 6:128, *TL* 6:434–435, *Anth* 7:324). This is the same capacity that is identical with freedom in the positive sense (*GMS* 4:447, *KpV* 5:33, *RL* 6:221, 223). I can *regard* myself as its legislator because I give myself the rational incentive to obey the law.

Human beings have dignity—absolute worth—which is not something conferred on them by themselves, or by God, or anybody else. They have it *essentially*: that is the sole and sufficient reason why everyone, even God, should judge them to have it (*GMS* 4:439). No being’s stances, attitudes, judgments or “legislative acts of will” are required for rational beings to have dignity or involved in their having it. Our autonomy is not infringed by the moral law’s objectivity, which, in Kant’s words, “lies in the nature of things”. For Kant it is false to say that the moral law is “constructed” by us. To put it in the very language the constructivists themselves are so fond of rejecting: For Kant the moral law

is “out there”; it is even based on an “independent realm or order of values.”⁷ We ourselves, as beings with dignity, *are* that very realm (of ends): *we are* that independent order of values “out there”.

6 Treating rational beings according to their dignity, and as ends in themselves

In his ways of talking, Kant does not always keep the dignity of personality distinct from humanity as end in itself. But human dignity and humanity as end in itself are necessarily co-extensive. The co-extensiveness justifies Kant in speaking, as he often does, of “humanity in persons as end in itself” and also of the “dignity of humanity.” But these two distinct value properties nevertheless belong to distinct features (Kant calls them “predispositions” [*Anlagen*]) of our rational nature: dignity belongs to *personality*, while it is *humanity* that is an end in itself.⁸ We would do well to keep them distinct in trying to understand them.

Dignity belongs to human beings when they are regarded as autonomous, and also as co-legislators in the realm of ends. It is in that context alone that the concept of human dignity is introduced (*GMS* 4:433–434). To say that dignity, as distinct from price, may not be exchanged for anything is *not* to say that we should in our deliberative calculations place an incomparably high value on, for example, the life of a person. That would only be to reduce *dignity* to a kind of *price*: perhaps an infinite price, thus rendering any deliberative calculations nonsensical. Rather, to regard every rational being as having dignity as a co-legisla-

⁷ This is the phrase John Rawls used in rejecting that characterization in favor of what he called “Kantian constructivism”. (Rawls 1999, 307) Rawls’s “Kantian constructivist” followers use similar phrases for what they reject. My present point is that all these intelligent people are getting Kant exactly wrong. He is committed to precisely the realist metaethics from which they are mistakenly trying to distance him.

⁸ Some scholars have taken a footnote in the *Religion* (*RGV* 6:26n) to claim that there are, or at least that there could be, beings having humanity but not personality. But that argument claims only that humanity and personality are distinct concepts, hence distinct *predispositions*: The distinct concepts of these two distinct predispositions must be co-extensive because setting ends according to reason is an act of freedom (*TL* 6:381), so that humanity—the capacity to set ends according to reason and the end of one’s own happiness—requires freedom in the negative sense (the capacity to will independently of alien causes, i.e. empirical impulses); and freedom in the negative sense depends on freedom in the positive sense (the capacity to will according to a maxim having no other object than itself as universal law, i.e. the moral law as the Formula of Autonomy) (*GMS* 4:447, cf. *KpV* 5:33).

tor of the moral law, is precisely *not* to make any rational being merely an object of our deliberative calculations: whether about our own welfare, or that being's welfare or everyone's welfare. It is instead to regard every rational being as a co-deliberator in any calculations that are to take place when morality is at stake. In this sense, it is even misleading to speak of human "equality", for that suggests that an equivalent value (an equivalent price) must be set on all human beings, or that we ought to distribute something of equal value (equal price) to each of them, whether this be wealth, income, total welfare, average welfare, opportunities, capabilities, or what-have-you. For that presupposes a single deliberative standpoint of which all human beings are reduced to *objects* of calculation. Properly understood, human dignity, does not provide an answer the question "equality of what?" but rather commands us to stop asking that question, and to ask instead how we are to include all rational beings, all beings with dignity, in both the asking and the answering of whatever questions are to be posed.

Fundamentally, to behave toward another human being as someone having human dignity is not to *treat* them in any way at all. For to *treat* someone in this way or that is for them to be an *object* of *your* treatment. But human dignity elevates every human being decisively above the status of any object; it gives him or her instead the status of a subject—more precisely, of a co-subject of legislation in the realm of ends. At the same time, however, insofar as another human being is inevitably an object of our conduct, this does entail a certain kind of treatment, as a corollary: namely, treatment with *respect*, grounded on our *recognition* of him or her as having the status of co-legislator (*TL* 6:462). The *treatment* of human beings is therefore, grounded on their dignity, as dignity is the ground of their being ends in themselves. Therefore, treatment of all rational beings—oneself as well as others—is directed not to their personality but to their humanity. A duty *toward* a being is a way of treating that being as having a rational will that requires us to *subject* our will to it in some respect (*TL* 6:418), either by furthering that rational will or by bringing our will into harmony with it (*GMS* 4:429, *KpV* 5:87, *MAM* 8:114).

I mentioned earlier that in Kant's argument for FH at (*GMS* 4:429), it is controversial what it is that is an end in itself and what constitutes the rational ground each person has for regarding him- or herself as an end in itself. Some readers of Kant (I am one of these) claim that it is *humanity*, in the sense of the capacity to set ends according to reason and combine them into a comprehensive end under the name of one's own happiness, that is the end in itself. This would make the end in itself our non-moral rationality. Other readers (a larger number by my count), insist that the end in itself must instead be our moral nature (our personality). I will now try to identify the element of truth in

this latter view, while nevertheless insisting that the former view is the correct one.

That element of truth is that, as we've already seen, dignity constitutes the condition under which alone something can be an end in itself (*GMS* 4:435). In relation to Kant's terse argument for FH, that condition is human dignity, the dignity of personality grounded on autonomy. The dignity of personality is that mysterious "rational ground" of which Kant speaks, that makes it necessary for every rational being to represent its own existence as an end in itself (*GMS* 4:429). The ground remains mysterious at that stage of the argument because Kant has not yet introduced the concept of dignity, which is grounded only in FRE and is then identified, in the Third Section of the *Groundwork*, with positive freedom, the capacity to obey a law of autonomy. That's why freedom is the rational ground, mentioned in Kant's footnote, for extending the concept 'end in itself' to all rational beings (*GMS* 4:429n, cf. *GMS* 4:448).

That's the element of truth in the view with which I disagree. I nevertheless disagree, because there is a distinction between the *ground*: the dignity of personality, and *what it grounds*: humanity as an end in itself. This goes along with the fact that FA results from *combining* of the *form* of the moral law (presented in FUL and FLN, *GMS* 4:421) and the *matter* of the law (presented in FH, *GMS* 4:429). Or to put it another way: The *form* of moral legislation is universality, the universality of reason, which makes us persons and able to regard ourselves as self-legislators; but unless the moral law commanded us to treat humanity, the capacity to set ends according to reason, as an end in itself, the law would have no *content*, and also no motive for our obedience to it. In fact, the *matter* of the law of autonomy is *exhausted* by the command to treat humanity in persons as the end in itself.

7 The open-endedness of human dignity and humanity as end in itself

We can see in the *Groundwork* that it is FH from which all our ethical duties are derived (*abgeleitet*) (*GMS* 4:429). In relation to FLN, the general duties in Kant's four examples are merely "enumerated" (*GMS* 4:421) without even being explicitly stated. They are stated, and also derived from, FH. This derivation is not deductive, as if we could *deduce* them from some analysis of the concept "humanity" or the concept "end in itself." Instead, they are *interpretations* of what different kinds of conduct express—whether positively or negatively—regarding the value of humanity or rational nature, that which is the sole objective end,

the end in itself. These must be interpretations of *what* humanity or rational nature is, and also *why* rational nature is valuable as an end in itself. Humanity is the capacity to set ends according to reason and combine them into an idea of happiness. We treat humanity as an end in itself by valuing this capacity, and treating beings that have it in ways that exhibit this valuation. (*GMS* 4:429–430). Examination of Kant's derivation of ethical duties in both the *Groundwork* and the *Doctrine of Virtue* (*TL* 6:417–474) reveals that all of them are derived from FH: they depend on what humanity is, that makes it an end in itself, and on how our conduct values humanity for as an end in itself, or fails to do so.

I have argued that we can distinguish the kind of respect we owe the *humanity* of another from the kind of respect we owe the *dignity* of the same person. To respect the *dignity* of another is to share with them the task of determining the communal laws and the common ends of the ideal realm of ends or moral community. It follows that we must treat the *personality* of others in certain ways, chiefly by regarding their dignity (or incomparable worth) as setting limits to our own self-esteem (*TL* 6:448, 462; cf. *KpV* 5:73–77).

Your humanity is your capacity to set discretionary ends and pursue your happiness on your own conception of it. I respect your *humanity* when I respect *your choice* regarding how to live, what ends to pursue, what to count as belonging to your happiness. As long as your ends do not violate the rights of others or the moral law, I have reason to help you promote them, even if my tastes and preferences are such that I do not necessarily share them. Within limits, it is up to me to determine what place to give your ends and happiness in the range of my wide or imperfect duties. By contrast, to respect your *dignity* is to respect your share in *our choice*, your part in the collective deliberations of all human beings about the demands of morality.

Here we can see how respect for human dignity is the foundation of respect for humanity as end in itself, but also how humanity as end in itself is something distinct from it. Respect for your humanity focuses on the *difference* between persons, and the ways I must permit you to live your own life, or even assist you in living it. Respect for your dignity focuses on our common life as rational beings, and on the ways I must attend to your claims and arguments about moral truth, which I ought to use (as Kant puts it) as a *criterium veritatis externum* (*Anth* 7:128).

What the moral law commands us to do is dependent on what has value, and on the kind of value it has.⁹ The interpretation of these values marks the

⁹ Henry Allison rightly says that *as a reason* for regarding humanity as the end, it would be beside the point to say that human beings should be valued not only as morally virtuous but also

point at which, in Kant's terminology, the fundamental principle of morality, which is *a priori* or "metaphysical", can be distinguished from what it demands in its application or interpretation, which is empirical or "anthropological" (*GMS* 4:388, *RL* 6:217–218). This explains why values like human dignity and humanity as end in itself are so commonly vulnerable to abuse. For their application depends on traditions of interpretation. Consequently, there is a strong tendency for received interpretations—backward and unenlightened interpretations, serving the authority and interests of entrenched power and prejudice—to co-opt these fundamental moral values. But we are constantly learning about humanity or rational nature: often through the sciences, but even more often through the arts, religion, literature, and perhaps more than anything else, through the thinking and practice of progressive social and political movements.

This learning process can result in progressive re-interpretation. And in fact, it has. Moral progress since Kant's day has consisted in our changing understandings of humanity and dignity. This is most conspicuous regarding commonality-in-diversity of cultures and races, in women having the same human dignity as men, in the deepening appreciation of the importance and variability of sexuality in human life, and perhaps most of all, the relations of our absurdly rare and anomalous species to the vastness of nature surrounding it, and to its own precarious and self-endangered future. Just as Kant could not have anticipated these developments, so his philosophy cannot, even by its own standards, be limited to his own necessarily short-sighted interpretations of humanity and dignity. And neither can ours. We must never be complacent or self-satisfied either with received interpretations or with those newly achieved. The progress in understanding the meaning of human dignity, and of humanity as end in itself, can be expected to go on indefinitely in the future, in ways that no one can predict. It is an endless historical task, whose Kantian name is: the human moral vocation.

as beings who set non-moral ends (Allison 2011, 212–213). He criticizes my position because he takes me to be saying that we value humanity because we value our discretionary ends, ignoring the basis of FH in our moral dignity. My inference in fact goes from saying that humanity is the end in itself to concluding that we are to value all the (morally permissible) ends human beings may set. It is not beside the point to say that rational nature an end in itself in these non-moral functions because the end in itself not *personality* but rather *humanity*. Along with other scholars cited in Note 1, Allison holds that it is only on the ground of the moral capacity of human beings that they are to be considered ends in themselves (Allison 2011, 218–220). These scholars fail to address the question why the rational nature of human beings is to be valued in all its functions and not only in its moral function.

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The Heuristic Use of the Concept of Dignity in Kantian Philosophy

Abstract: Historically, the notion of dignity was incorporated into the legal system as a legally protected interest after the Second World War. Structurally, however, it is a moral concept based on autonomy and “absolute inherent value”. As a moral term, dignity implies that autonomy fulfills a constitutive function in the creation of a moral world; and it commands the subject which institutes and preserves this moral world that lies at the foundation of the legal system. The concept of dignity is, thus, found within a multi-layered structure of law and morality. On that basis, the essay situates Pufendorf as a precursor to Kant’s understanding of dignity, and shows that Kant fundamentally adopts Pufendorf’s concept of dignity, which may be summarized with the phrase “I am sure not a dog, but a man as well as you”. Violations of dignity are, therefore, of particular significance for Kant. Dignity assumes the function of discovering grave social problems that are causes for such violations. These are distortions of the legal system which the concept of dignity may disclose and point out. If one calls this the heuristic use of the concept of dignity, then the typical example is that of the “child murderer”. By reinterpreting this example on the basis of Pestalozzi’s treatise on the topic, it is shown that the concept of dignity is not a residue of honor ethics, but, on the contrary, fulfills a political function in the “public sphere”.

1 The contemporary pluralization of the concept of dignity

One may say that a modern understanding of dignity characterized by defining it as absolute value has already—to some extent—gained currency. Without doubt “when one imagines dignity to be an inalienable and absolutely valid characteristic, one immediately thinks of Immanuel Kant” (Sensen 2017, 157). A typical example may be easily found in the following claim: “To attribute dignity to every

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human being as a human being means to respect her in her very “being”, in her “nature” as human. This commanding, “inherent” dignity *must* be [...] considered to be an *absolute value* which may not be relativized in any respect or under any “aspect of comparison”, i.e. an inclusive and unalienable value of every human being as human being. There cannot be any serious alternative to this definition of human dignity. It is [...] anchored in an interculturally acceptable self-understanding of man and can be situated in the broad horizon of the Kantian question of “what one must be to be a human being”. It is well known that “being a human being” may have many meanings, but one thing is certain: it means to be a worldly-being of “unconditional” absolute value [...]” (Konhardt 2007, 195 f.).

According to Sensen,¹ however, Kant’s concept of dignity, contrary to expectations, stands in continuity with the traditional understanding of dignity since Cicero, while, the latter’s understanding stands in contrast with the current conception of dignity. The above statement must therefore be misleading in terms of both Kant’s and the present concept of dignity. But is this really the case? If we look at the history of the “honor-dignity relation” from Hobbes to Kant (i.e. limiting ourselves to the modern history of the concept), the discontinuities are more conspicuous than the continuities Sensen claims to exist. In particular, we can detect a clear break between the “honor-dignity relation” in Hobbes and that in Kant. The latter equalizes or interiorizes the concept of dignity. He therefore sees dignity as “true honor” (*RL* 6:336) and characterizes it as “absolute self-worth” based on the universal self-legislation of autonomy.² That means Kant transforms Hobbes’ external concept of dignity which relies on the evaluation by others, into an inner concept of dignity which is conceived as an absolute concept, that is not comparable, not measurable, not ponderable. However, it was Pufendorf who in fact took this step first.³ Kant, in this sense, only followed the path that Pufendorf had pioneered. Yet, it is undeniable that he completed it theoretically. Thus the comparative explanations in his *Groundwork of the Metaphysics of Morals* (hereafter: *Groundwork*, cf. *GMS* 4:434 f.), in which he contrasts dignity with value have also to be read in the context of such a discontinuity with Hobbes’ positions. Moreover, this discontinuity in turn demonstrates the close continuity between his conception and the present conception of dignity.

1 Cf. Sensen 2017, 154 f.; see also Sensen 2011.

2 Kant’s stance to identify “true honor” with dignity is, for example, reminiscent of Hubmann’s theory of honor. According to Hubmann honor is made up of two elements, the first element is human dignity, and the second is value of personal achievements. Cf. Hubmann 1953, 224.

3 Cf. Kawade 2002, 7.

What, however, must be considered in relation to the present in Kant's concept of dignity is not that he characterizes dignity as an equalized, interiorized "true honor" and thus as an absolute value that cannot be measured. Rather, the problem is in the point that through such a characterization the Kantian concept of dignity acts as an "argument stopper" in applied ethics, while at the same time it fails to give an adequate answer to the present situation, i.e. the pluralization of dignity. In the present dignity has become diversified and pluralized,—with conceptions ranging from the "dignity of life", "the dignity of the creature" to the "dignity of the elderly" and the "dignity of the disabled" etc. If dignity is a basic concept indispensable for the present pluralistic, democratic society, then this plurality should be structurally contained within the concept of dignity.

The focus here is therefore on this plurality or pluralization. One appealing strategy that has been proposed to address the problem is splitting the concept of human dignity, and distinguishing a strong concept that implies inalienable moral rights from a weaker concept that calls for a weaker form of respect.⁴ The "[...] prohibition of a instrumentalization for other ends" (Birnbacher 2004, 256) which is contained in the "strong concept" thereby invokes the formula of an end in itself from Kant's categorical imperative, while the second weaker concept is measurable and unrelated to Kant's concept of dignity. Yet, it is this second term that has an important function with regards to the pluralization of dignity. While it tries to adapt to the pluralization of dignity, this conception at the same time distances itself from the Kantian conception.⁵ The Kantian concept of dignity would have been nothing more than a brief moment that paved the way for the present conception of dignity, and would have become nothing more than an old relict of an overly conservative "argument stopper". In this case, however, the notion of dignity in its strong meaning, which is oriented towards Kant, is undermined in its very foundations, and it eventually will have to be limited in its validity. Is it therefore impossible to discover in Kantian philosophy itself a conception that can correspond to the pluralization of dignity?

Let me give a preliminary answer: Although Kant's conception of dignity as absolute value is clear and unequivocal, the absoluteness of value not only fails to allow for the pluralization of the concept of dignity, but on the contrary may even inhibit it. Instead, one clue may be found in the question of how the principle of dignity functions in society or how it is employed. Thus, by using the idea of dignity "heuristically" as a principle, corresponding structural social problems—structural injustice—are discovered. A new function is then added

⁴ Cf. Birnbacher 2004, 259.

⁵ Cf. Quante 2010, 37f.

to the dignity concept, in the form the “human dignity of x”, e.g. the “human dignity of women”, in other words, the “dignity of x as human beings [Würde der X als menschliche Wesen]”, e.g. the “dignity of women as human beings [Würde der Frauen als menschliche Wesen]”. Its heuristic use makes the pluralization of the notion of dignity possible. In the case of Kant, the concept of dignity is thus not pluralized through multiplication; rather, it is the use of the concept that enables pluralization. This is what I want to demonstrate in this essay by analyzing the example of the “child murderer” in *The Metaphysics of Morals*. I will explain how dignity is defined as “absolute intrinsic value” in *Groundwork* and further, how *The Metaphysics of Morals* indicates a possible way to pluralize the concept.

To pursue this task, the essay will proceed as follows. In the next section the transformation of the “honor-dignity relation” shall be clarified. Kant’s concept of dignity was decisively influenced by Pufendorf. Pufendorf strove for a dramatic paradigm shift of Hobbes’ conception through the concept’s equalization and interiorization. On the basis of this paradigm shift Kant’s conception of dignity will then be discussed. As in Pufendorf, Kant’s concept of dignity functions as foundation of a moral norm which demands that man be regarded as an end in itself and which prohibits her use as tool or slave. However, the two thinkers completely differ in their way of validating the concept. Pufendorf internalizes dignity directly in man in the sense that dignity is something “nature gave him [man]” (Pufendorf 1927, 43). This is not the case with Kant. Dignity is primarily associated with morality; it is only secondary to man or humanity. The third section examines the social implications of “a mother’s murder of her child (infanticidium maternale)” on the basis of Pestalozzi’s analysis. Finally, in the light of this analysis, it shall be verified how Kant reads this example as a paradigmatic case of the violation of dignity and how he uses the notion of dignity as a positive heuristic principle in his interpretation. Through its heuristic use, the concept of dignity acquires new functions appropriate to the contexts in which new social problems are identified. Thereby the concept not only becomes pluralizable and fulfills a moral function at the same time, but it also fulfills a political function with regard to the creation of laws to solve social problems.

2 From Hobbes to Kant, or the internalizing, equalizing turn of the concept of dignity

2.1 The concepts of dignity and honor in Hobbes

In chapter X of the first part of *Leviathan* titled “Of power, worth, dignity, honour, and worthinesse”, Hobbes relates dignity to value and honor and defines it in the following way:

The *Value*, or WORTH of a man, is as of all other things, his Price; that is to say, so much as would be given for the use of his Power: and therefore is not absolute; but a thing dependent on the need and judgement of another. [...] And as in other things, so in men, not the seller, but the buyer determines the Price. For let a man (as most men do,) rate themselves as the highest Value they can; yet their true Value is no more than it is esteemed by others. / The manifestation of the Value we set on one another, is that which is commonly called Honouring, and Dishonouring. To Value a man at a high rate, is to Honour him; at a low rate, is to Dishonour him. But high, and low, in this case, is to be understood by comparison to the rate that each man setteth on himselfe./The publique worth of a man, which is the Value set on him by the Common-wealth, is that which men commonly call DIGNITY. And this Value of him by the Common-wealth, is understood, by offices of Command, Judicature, publike Employment; or by names and titles, introduced for distinction of such Value (Hobbes 1996, 63f.).

What the quote reveals about the honor-dignity relation in Hobbes are the following three points: (1) the value of a person is principally shaped through the reciprocity of self-esteem and the external esteem by others. If the rate of the latter surpasses that of the former, honor is granted, in the opposite case it is violated. However, it is esteem by others that plays the crucial role for Hobbes. As man also depends on evaluations by others to check his own value, the value of man is ultimately based on esteem by others. In addition, (2) honor is the basis of power, and as the higher one's honor the more power one gains, the process of gaining honor is a power struggle.⁶ Precisely for this reason, the desire to seek honor and glory, ambition, is classified as one of the three causes of quarrel, which are seen as part of human nature; and consequently (3) it is necessary, through a turn to civil honor which the sovereign in the common-wealth confers monopolistically, to adequately control the ambition inherent in human nature, thereby preventing quarrels.⁷ “Political honors” such

⁶ Cf. Hobbes 1996, 88.

⁷ Cf. Kawade 2002, 7.

as names and titles then form the core of dignity in Hobbes. In this sense, Hobbes' concept of dignity is grounded in the external esteem of the state as other. It can therefore be characterized in principle as a relative extrinsic value, as external honor, while it also means civil excellence. What has to be noted here is that if this kind of "dignity" ultimately forms the core of the "value" of man, then it is based on the same principle as "price", which is determined by the external evaluation by a "buyer", and in this sense man is not any different from "other things". In other words, except for the point that the "buyer" is limited to the state, the "dignity" as "civil excellence" in Hobbes, implies the same structure of evaluation as is applied to all "other things", and consequently both man and "other things",—in the same sense—have a "price". "Dignity" then is nothing more than a "price" set by the state. The two terms "dignity" and "price" are therefore commensurable with each other.

2.2 The concepts of dignity and honor in Hume

While Locke does mention dignity,⁸ here I want to focus on Hume's short essay "Of the Dignity or Meanness of Human Nature". As regards the understanding of dignity a deep gap prevailed in England of the time⁹ as Hume points out at the beginning of the essay: "THERE are certain sects, which secretly form themselves in the learned world, as well as factions in the political; and though sometimes they come not to an open rupture, they give a different turn to the ways of thinking of those who have taken part on either side. The most remarkable of this kind are the sects, founded on the different sentiments with regard to the *dignity of human nature*" (Hume 1964, 150 f.). On the one hand, there was a school of thought that denied the ontological superiority of man to animals, emphasizing the artificiality of civil society and morality or law on the assumption of human selfishness. On the other hand, there was a school which, departing from the Creation, saw in God the source for a benevolent human nature, and which claimed the existential superiority of man and the natural harmony of civil society. The contradistinction, then, was whether human nature should be understood as selfish or benevolent. Hobbes and Locke belonged to the first group, the second was represented by Hutcheson. Hume, over against both these, argued that the dispute between the two schools was not caused by "any fixed unalterable standard", but by external evaluation based on comparison. It was a

⁸ Cf. Locke 2010, 23.

⁹ Cf. Kondo 1989, 126 f.

problem of “imagination”. In his theory of perception, perceptual content such as images and ideas are tied to emotions and passions. Because the natural world was thus seen as a civic world, a world of values and meanings conceived by human imagination, external evaluations based on “comparison” were equally made within this social world, which was therefore also the basis for such contrasting world views as those represented by the two opposing schools each. Value was nothing more than something external and relative; it could be subordinated neither to the object nor to the subject of evaluation. If this was omitted, however, the value is seen as an essence inherent to the object of evaluation. Thus, “dignity or disgrace”, for example, is falsely defined as an intrinsic value of human nature itself. To Hume then human nature could mean either dignity or disgrace, but this simply depended on the type of worldview and the human image which man conceived of within the value-creating social world.

In his essay Hume connects the problem of ambition with vanity, which he defines as the disposition “to love the fame of laudable actions” or “to love the glory of virtuous deeds”, but dignity, too, ultimately depends on the kind of image of man which people conceive through “comparison”. What might be added here, however, is that Hume differs from Hobbes in the point that, as he assumes that “to love the glory of virtuous deeds is a sure proof of the love of virtue” (Hume 1964, 156), he does not see in vanity a reason for quarrel. In any case, it can be seen that in Hume both dignity and honor (what he calls “fame” or “glory”) are relative, external values based on comparison.

2.3 The concept of dignity and honor in Pufendorf

While in British empiricism dignity was generally understood as an external, relative value, in his eight-volume *The Law of Nature and Nations (De Jure Naturae et Gentium Libri Octo)* and in *On the Duty of Man and Citizen (De Officio Hominis and Civis juxta Legem Naturalem Libri duo)*, in which he gives an outline of *De Jure Naturae et Gentium*, Pufendorf offered a perspective different from that of Hobbes and Hume.

Pufendorf defines dignity according to the natural state in which natural rights have effect:

Even the word man is thought to contain a certain dignity, so that the last and most effective argument in repelling the insolent contempt of others is this: “I am sure not a dog, but a man as well as you”. Inasmuch then as human nature is the same for all alike, and no one is perfectly willing or able to be associated with another, who does not esteem him as at least equally a man and a sharer in the common nature (Pufendorf 1927, 42).

According to Pufendorf, dignity is inherent to man. It is at the same time interiorized as it is “given by nature” (“Nature gave him [man]”) (Pufendorf 1927, 43), and equalized as it is interiorized. Thus, the notion of dignity was uncoupled from the context of external evaluation and comparison of a person’s rank of merit. Dignity expresses the original value inherent in every human being, and demands that all people be treated fair and equally. As dignity is limited to humans, it essentially means only human dignity. From this understanding of dignity, the obligation commanded by natural law that “each esteem and treat the other as naturally his equal, that is, as a man just as much as himself” (Pufendorf 1927, 42) can then be deduced. In Pufendorf the insult of unfair or unequal treatment by another means a violation of one’s dignity. By adding the viewpoint of natural liberty (*libertas naturalis*)—one of the fundamental rights of man in the state of nature—that “unless there has been some previous act of man, everyone is understood to be his own master, and subject to the authority of no man” (Pufendorf 1927, 90), Pufendorf situates the problem of submission of individuals, i.e. one’s own submission to others, or the submission of other individuals to oneself, at the core of the violation of dignity. A single violation of dignity almost suffices to rob one of one’s dignity. The sentence “I am sure not a dog, but a man as well as you” aims at this problem of individual submission. The concept of dignity which is thus equalized and internalized as “natural” is proposed as an effective weapon that weaker individuals can use to protest against unfair and cruel submission.

In contrast, honor in Pufendorf concerns the precedence, preeminence or excellence of a person’s achievements. It then refers to the problem of reputation (*existimatio*):

1. Reputation in general is the value of persons in the common life, according to which value they are capable of being placed on an equality with other persons, or compared with them, and either preferred or postponed to them. / 2. It is divided into the simple and the intensive. Both are considered with reference to those who live in natural liberty, or to those who is ready to live with others according to the precept of the natural law (Pufendorf 1927, 133).

When simple reputation and the intensive reputation, are applied to the matrix of the state of nature and the state, this yields four divisions. The simple reputation of the natural state is acquired by respecting the natural laws, the simple reputation of the state is acquired by upholding the civil laws and being “considered of some account” (Pufendorf 1927, 133) by the state. One example could be that of a “minister” (Pufendorf 1927, 134). By contrast, the intensive reputation is the honor which people confer upon each other by acknowledging each other’s excellence. In particular, the intensive reputation of the state

means titles of distinction awarded by the sovereign. The important point is that “[...] simple reputation, or natural honor, cannot be taken away from a man by the mere will of the rulers” (Pufendorf 1927, 134). Here, the simple reputation differs fundamentally from the intensive reputation which can be taken by the sovereign, and yet it still can be lost if the person willfully violates the natural law or the law of the state.

In terms of the “honor-dignity relation” Pufendorf has thus fundamentally changed the meaning of dignity. By equalizing and interiorizing it, he essentially uncoupled it from honor, splitting the latter into simple and intensive reputations. He thus divided the value of man into dignity, simple reputation and intense reputation. Because dignity is inherent to human nature, it is unrelated to external evaluation and comparisons of merit. More, since simple reputation derives from respecting the law, while it is also a naturally immanent reputation, it is not tightly connected to the problem of dignity. Therefore, external honor, which is recognized as precedence or excellence by external judgment and comparison, is limited to intensive reputation. And because intensive reputation within the state means state-awarded titles and other honors, it coincides with the “dignity” of which Hobbes speaks. In Pufendorf’s context Hobbes’ dignity is therefore limited to a concept of honor, namely the intensive honor of the state, and as such relativized. In other words, considering that the content of Hobbes’s “dignity” is “civic honor”, the paradigm shift of dignity was triggered by the separation of dignity from civic honor and its interiorization/equalization by Pufendorf.

Pufendorf’s intensive reputation corresponds to the present so-called social honor—if one uses the provisional definition that within the total value of a person it is “the individual, personal value that the individual has acquired on his path of self-development and maturation through his own achievement” (Hubmann 1953, 224). However, social honor is an important legally protected interest of the individual today, and although her intensive honor only constitutes an “imperfect right” (Pufendorf 1927, 134), it is nevertheless instituted as a legally protected interest. For this reason, he also considered the problem of the so-called injury to one’s honor and defined the conditions for such an injury as follows:

6. A greater sin still is committed, if one show contempt for others by outward signs, acts, words, countenance, a laugh, or any kind of slur. And this sin is to be rated the worse, in proportion as it excites men the more fiercely to anger and lust for revenge. So much so, that many are found who prefer to expose their lives to immediate danger,—much more to break the peace with others,—than to let an insult go unavenged. For this damages reputation and esteem, upon whose maintenance and strength depends all their inward pleasure (Pufendorf 1927, 44).

The violation of honor mentioned here by Pufendorf can be related to the case of violation of intensive reputation. In addition, he particularly points to the importance of social forces which cause violations of honor. With the expression “sin” he emphasizes that this involves the danger of disturbing social relations. However, violations of honor are not serious compared to cases of violation of dignity, where the painful outcry “I am sure not a dog, but a man as well as you” decries that an individual is unjustly being forced into submission, and her existence of the individual in society is fundamentally called into question. Social relations or human relationships are disturbed when a person’s sentiment of honor has been violated, her social esteem is diminished, and she may lose her social standing and status for some time. Even if her honor is violated, the person can still “break the peace with others”, because she is not in a state of submission in which even this is impossible. However, it should be noted that Pufendorf focuses solely on the submission of an individual.

While Pufendorf thus distinguishes dignity and honor in principle, he also establishes a fundamental difference between a violation of dignity and one of honor. He therefore naturally also distinguishes the conditions for such an injury. In the case of violations of honor, external values such as the social standing, status, and merits of a person become targets of injury. In a violation of dignity, on the other hand, the absolute intrinsic value of an individual’s personality itself is violated,¹⁰ and consequently the main difference between the conditions

10 This distinction is similar to Hubmann’s theory which divides honor into human dignity and personal value based on achievements (which is closely related to social standing and status etc.) as well as Baston-Vogt’s conception which distinguishes “internal honor” and “external honor” and identifies the former with human dignity. Compare Hubmann: “While the name embodies the uniqueness of one’s individuality, one’s specific intrinsic value by which one differentiates oneself from other persons in the public sphere, honor represents the total value of individuality, the sum of its inherent values. Corresponding to the nature of the moral personality, honor is composed of two main elements: one element is the human dignity inherent to each individual, which he shares with all other persons. It is heightened by the individual, personal value that the individual has acquired through own efforts on his path of self-development and maturation” (Hubmann 1953, 223 f.), and Baston-Vogt: “Honor is generally considered to consist of two elements. External honor is understood to be the standing of the holder of rights as he is judged by his fellow human beings, his value in the eyes of others, his reputation, in short, his social prestige, while internal honor is the attitude of the individual to himself, that is his self-esteem. The internal honor of a man is not based on his behavior, his disposition, qualities and abilities, but simply on his dignity as a person. Unlike the so-called external honor, it does not need to be achieved, but every human is entitled to it, simply by virtue of his personhood” (Baston-Vogt 1997, 419). As I will explicate below, Kant identifies “true honor” with human dignity, which can be argued to be similar to “internal honor”.

for both is whether a state of submission exists or not which makes it impossible to exercise any kind of freedom.

2.4 The concepts of dignity and honor in Kant

Kant's concept of dignity theoretically presupposes the paradigm shift accomplished by Pufendorf, and moreover resembles Pufendorf in the problematic of his ethic of duties. But both differ decisively in the frame of their understanding of dignity. If they agree in their approach, Pufendorf's duties by natural law are made up of three types of duties: "the Duty of Man towards God", "the Duty of Man towards Himself", "Mutual Duties". "The Duty of Man towards God" is supposed to be the first and most fundamental duty. Kant's Critical Ethics, on the other hand, remove "the Duty of Man toward God", and limit it to two duties, "the Duty of Man towards Himself" and "Mutual Duties". That is, Pufendorf posits the existence of God as a theoretical precondition and characterizes dignity as "dignity conferred by nature", thereby explaining already the normativity of this dignity. Kant, on the other hand, does not presuppose the existence of God, but seeks to formulate the concept of dignity unconditionally and normatively by linking it to "the Duty of Man towards Himself".

In *Observations on the Feeling of the Beautiful and Sublime* (hereafter: *Observations*), Kant already writes about "the feeling of the dignity of human nature". He suggests it to be "a ground of universal respect", linking dignity and respect while also taking into account the relationship between dignity and principles (cf. *GSE* 2:217). The term "the feeling of the dignity of human nature" is reminiscent of Hume, but the association with "principles" also implies a distancing from him. Nevertheless, in his *Observations* Kant, like Pufendorf, hardly strove for a complete paradigm shift.

By contrast, in his *Groundwork* Kant introduces dignity as a basic concept and seeks a new justification for it:

In the kingdom of ends everything has either a *price* or *dignity*. What has a price can be replaced by something else as its equivalent; what on the other hand is raised above all price and therefore admits of no equivalent has a dignity. / What is related to general human inclinations and needs has a market price; that which, even without presupposing a need, conforms with a certain taste, [...] has a *fancy price*; but which constitutes the condition under which alone something can be an end in itself has not merely a relative worth, that is, a price, but an inner worth, that is, *dignity* (*GMS* 4:434f.).

Kant thus fundamentally distinguishes dignity and price. Compared with the chapter X of *Leviathan*, the significance of this distinction becomes even more

conspicuous. Dignity cannot be the same as price for a number of reasons. Kant thus breaks with Hobbes' understanding of dignity which postulated the equivalence of dignity and price, instead insisting on sharing Pufendorf's understanding. That is, the concept of dignity is situated at the extreme point of interiorization and equalization¹¹ as a "value unconditionally rejecting any comparison" (*GMS* 4:436) or as "absolute inner value" (*TL* 6:435). In the above quotation the criteria for the distinction are mentioned. These relate closely with each other, thereby giving shape to the peculiarities of the Kantian concept of dignity. Thus, Kant's dignity "admits of no equivalent", is an "end in itself" and "an inner worth" or "absolute inner value". This is the main content of the concept of dignity in the context of the "Duty of Man towards Himself".

This is because: "The basis of such obligation is not to be found in the advantages we reap from doing our duty towards ourselves, but in the dignity of human nature. This principle does not allow us an unlimited freedom in respect of our own persons. It insists that we must reverence humanity in our person [...]" (Kant/Menzer 1925/1963, 150 f./121). If Kant posits that "our duties towards ourselves constitute the supreme condition and the principle of all morality" (Kant/Menzer 1925/1963, 151/121), then the statement, that duties "relate only with the dignity of human nature" becomes directly related to the problem of "autonomy". The reason for this is none other than that "*Autonomy* is therefore the ground of the dignity of human nature and of every rational nature" (*GMS* 4:436). Autonomy means "autonomy of the will", "the sole principle of morals" (*GMS* 4:440). To clarify the reason why this "autonomy" is the basis of dignity, in my opinion it is especially important to consider Kant's following statement:

It is nothing less than the share it affords a rational being *in the giving of universal laws*, by which it makes him fit to be a member of a possible kingdom of ends—as free with respect to all laws of nature, obeying only those which he himself gives and in accordance with which his maxims can belong to a giving of universal law (to which at the same time he subjects himself) (*GMS* 4:435).

The will of man or of a rational existence, therefore, is "[the] capacity to give universal law" (*GMS* 4:440). Man gives herself the laws that determine this will. With respect to this universal lawgiving, Kant argues that "[...] the lawgiving itself, which determines all worth, must for that very reason have a dignity, that is,

¹¹ Kant claims that "[...] he [a human being] possesses a *dignity* (an absolute inner worth) by which he exacts *respect* for himself from all other rational beings in the world. He can measure himself with every other being of this kind and value himself on a feeling of equality with them" (*TL* 6:435), and promotes the equalization of dignity just as Pufendorf did.

an unconditional, incomparable worth” and that the expression “respect” is fitting for dignity as such absolute value (cf. *GMS* 4:436).

If such universal lawgiving carries dignity, two important elements can be pointed out. These are the will to give law, and the principle of a “universal lawgiving form” (*KpV* 5:29). Both are objects of “respect”. From the definition: “Immediate determination of the will by means of the law and consciousness of this is called *respect*, so that this is regarded as the *effect* of the law on the subject, and not as the *cause* of the law”, is to be understood that respect means primarily “respect for the law”, but at the same time it can be traced back to “respect for a person” (cf. *GMS* 4:401, note). At the heart of the fact that universal lawgiving has dignity is consequently the “respect for the law”, and therefore the law can be instituted in the first place. This law is a practical law, which is a moral law. The moral law’s “purity” (*GMS* 4:405), “strictness” (*GMS* 4:405), “its holiness and strictness” (*TL* 6:436) etc. are mentioned as its characteristics, but as they are attributed to dignity as “absolute intrinsic value”, which is formed through an attitude of respect, these characteristics are also defined as “its [dignity’s] holiness” (*GMS* 4:435). This structure then is expressed by the formulation that universal lawgiving has dignity. Kant expresses this also directly as the “dignity of the law” (*KpV* 5:147).

The “paradox of a kingdom of ends” (*GMS* 4:433f.) which Kant proposes points directly to this structure. What we are initially confronted with is the immoral world of a “kingdom of nature”. Because that is so, the paradox arises that even when we are confronted with the immoral world, the moral laws demand unlimited validity.¹² In connection with this paradox, he asserts that “[...] a world of rational beings (*mundus intelligibilis*) as a kingdom of ends is possible, through the giving of their own laws by all persons as members” (*GMS* 4:438), and tries to break through this paradox through universal self-lawgiving. Through such universal self-lawgiving, a “kingdom of ends” is created from the “kingdom of nature”, and only then can “morality” and a “personality” sustaining this morality can emerge. It is to these two that support the formation of a kingdom of ends to which dignity appertains. That is, “[...] morality, and humanity insofar as it is capable of morality, is that which alone has dignity” (*GMS* 4:435). This means, however, that, with respect as intermediary, dignity primarily belongs to “morality”.

In Kant, the attribution of dignity is not fully consistent. Depending on the context, it is attributed to humanity, man and personality, and finally to the state. In most cases, however, dignity is mentioned as “human dignity”.

¹² Cf. Schönrich 1994, 96f.

“Human dignity” can be understood as a substantive formulation which expresses most coherently the existential primacy of dignity, and answers in the most fundamental way to the question of what or who retains it. As I have just pointed out, however, the attribution depends on the condition that “it is capable of morality”, humanity (hence: “man”) is thus only a secondary attribution to dignity.¹³

As seen above, dignity is primarily a matter of “morality”. Kant himself compares “us” to the “moral law” according to his value theory. He emphasizes that our moral value is nothing worth pursuing, and the focus of the problem is then all the more directed at the moral law, and it is ultimately the moral law which sustains an absolute intrinsic value. However, it must be asked what it means that this moral law sustains dignity. In this case, Kant’s explanations of “morality” provide information on this issue:

[...] morality is the condition under which alone a rational being can be an end in itself, since only through this is it possible to be a lawgiving member in the kingdom of ends (*GMS* 4:435).

That is, even in moral law, “the formula of the end in itself” is of crucial importance for the constitution of dignity.¹⁴ In Kant’s *The Metaphysics of Morals*, in

13 The condition “as long as it sustains morality” is also significant for Darwall’s interpretation of Kant. In Kant’s understanding of dignity, Darwall distinguishes between “appraisal respect”, and “recognition respect” which he interprets as standing in opposition to each other. The former is found in *Groundwork* and *Critique of Practical Reason*. Here dignity means real moral achievements, and depends on it. The latter, by contrast, is developed for the first time in *The Metaphysics of Morals*. It is an idea of equal dignity which had great influence on the modern concept of dignity. According to Darwall, Kant’s limitation that human nature has dignity as long as it can sustain morality means nothing else but “actually” obeying moral laws. Dignity is therefore the same as or at least depends on the moral achievement of moral acts, i.e. of “actually” acting according to moral laws. That a person is an end in herself therefore also depends on that person “actually” obeying moral laws. In other words, dignity is nothing but a form of evaluation of actual moral achievement. Of course, Darwall’s emphasis is on “recognition respect”, but even so, I do not think that this “dignity as evaluation” can be found in *Groundwork*. For when Kant stipulates that dignity is attributable to “human nature as long as it can sustain morality”, he immediately reminds us that: “they [actions] present the will that practices them as the object of an immediate respect [...]. This estimation therefore lets the worth of such a cast of mind be cognized as dignity [...]” (*GMS* 4:435). In other words, the object of respect is not the performed moral act, but the will to act according to the moral laws. It is thus the moral disposition of the will which is valued as dignity. The focus of dignity’s attribution to “morality” is limited not to achievements of moral actions but to the moral law itself. Cf. Darwall 2008, 176 f.

14 According to Kant, “[...] all rational being stand under the law that each of them is to treat himself and all others *never merely as means* but always *at the same time as ends in themselves*. But from this there arises a systematic union of rational beings through common objective laws,

fact, this “formula of the end in itself” is directly related to dignity and the concrete content of dignity is explained by means of this formula (cf. *TL* 6:462). For example, in the case of the “recognition of a dignity (dignitas) in other human beings”, the “other dignity to be performed” (*observantia aliis praestanda*) means nothing other than the “recognition of a worth that no price, no equivalent for which the object evaluated (*aestimii*) could be exchanged” (*TL* 6:462). Such form of recognition means that the other is treated as an end, and that therefore the end itself cannot be replaced by any other means. However, since in Kant’s framework the “duty to oneself” takes precedence, this of course also applies first and foremost to oneself. That is, “[...] a human being cannot be used merely as a means by any human being (either by others or even by himself) but must always be used at the same time as an end. It is just in this that his dignity (personality) consists, by which he raises himself above all other beings in the world that are not human beings and yet can be used, and so over all *things*” (*TL* 6:462). “Human dignity” also expresses such an existential primacy of man, but the moral law that directly commands that all people shall be treated as an end in themselves, is nothing but “the formula of the end in itself”. Consequently, this existential priority also arises from the holiness and strictness of the moral law.

As shown above, by producing a “kingdom of ends” out of the “kingdom of nature” by means of a universal self-lawgiving in order to exist as an “end in itself”, man creates his own existential priority vis-à-vis other existences, one which is based on moral law. For this reason, universal self-lawgiving possesses dignity.

Thus, we can understand the meaning of Kant’s statement that “morality, and humanity insofar as it is capable of morality, is that which alone has dignity”. That dignity belongs to “morality” means that in the “kingdom of ends”, created by self-lawgiving, all human beings are structurally respected and recognized as ends in themselves. In this point, the notion of dignity is constitutive for the “kingdom of ends”. Further, “humanity” which sustains dignity points to the place of the subject responsible for effectively instituting dignity in such a moral space or network of the “kingdom of ends”, a subject that can commit to the realization of such a kingdom to a large extent. What connects “morality” and “humanity”, or moral law and man, is duty (cf. *GMS* 4:432). As already stat-

that is, a kingdom [...]” (*GMS* 4:433). In other words, “the method of the end in itself” has a decisive significance for the establishment of the “kingdom of ends”. Borrowing Kant’s formulation in *Groundwork*, the “method of the end in itself” means to “act that you use humanity, whether in your own person or in the person of any other, always at the same time as an end, never merely as a means” (*GMS* 4:429).

ed, within the duties the “duty to oneself” is the bond and principle of morality, and the only duty related to human dignity.

Consequently, this duty plays the most important role in relation to the problem of dignity in the “kingdom of ends”. At the same time, it determines the content of what is treated as an end in itself. Therefore, Kant writes that “this duty with reference to the dignity of humanity, within us, and so to ourselves, can be recognized, more or less, in the following examples” (*TL* 6:436), and subsequently provides such “examples”. These examples, in fact, supply important information on the dignity problem. “Be no man’s lackey—Do not let others tread with impunity on your rights” can be singled out as a first example. The following points can be extracted from it:

(1) Since the example is an example intended to demonstrate the moral duty that “a human being cannot be used merely as a means by any human being (either by others or even by himself) but must always be used at the same time as an end”, it is necessarily expressed in the imperative. However, it is not formulated in the affirmative form “thou shalt”, but in the negative form of prohibition: “you cannot”. The target of this prohibition is behavior that violates the self-esteem of oneself or another when oneself is “not treated as an end in oneself” or is “treating another not as end in herself”.

(2) Dignity is also defined as an “idea” (*GMS* 4:434); that the above indicated example is articulated in the negative form of prohibition is not a coincidence, but is connected to the “idealistic” aspect. This is because the “idea” usually functions in negation of or critically to reality. From the perspective of its concrete reality, this example implies that the “idea” of dignity can only be approximated or implemented through the negative form. When it is addressed as a real problem, dignity thus can only be described by way of its negation. In other words, as a concrete, real problem dignity can only be approached through its violation. That is, the “idea” of dignity has the function of seeking, discovering and determining violations of dignity in concrete reality, i.e. it has a heuristic function.

(3) Dignity is the normative principle which, on the basis of an appropriately respectful attitude, prohibits one from treating oneself or another as a mere instrument or slave. If one considers the example together with Kant’s other examples, they by no means constitute an ensemble of cases which Kant extensively discusses and systematically summarizes. Nevertheless, it can be judged that this case expresses the most concrete and typical example. One can say that it overlaps with the present understanding of dignity.¹⁵ A violation of dignity,

15 Although the example does not fully overlap with them, one may conclude that it does imply

then, means a case in which a person is in the position of being unfairly forced into submission, in which she is unable to exercise her own freedom at all; this is also the condition for acknowledging that her dignity has been violated. The “idea” of dignity thus through its heuristic employment reveals such cases and identifies them as social problems. Since the contexts in which it is heuristically employed can differ greatly, the concept of dignity is pluralized according to this diversity. This means, for example, that it is pluralized in the form of the “human dignity of woman”, still, it does not mean that a multiplicity of concepts of dignity emerge.

The “kingdom of ends” possesses a system of moral order that universally conforms to the moral law. Based on that order within, rational existence, or man, is acknowledged as an end in herself, her dignity is respected and protected. The “kingdom of ends” is therefore nothing more than a moral space in which dignity is respected. Further, its foundation, i.e. that of a “constitutional state governed by the rule of law (*Rechtsstaat*)” is established by an “original contract”. As a result, its “morality” is fundamentally reflected in the order of positive law of the constitutional state. Consequently, the problem of dignity is also related to the legal system of the “rule of law”. However, in reality it often happens that the legal system of the “rule of law” is not adequately based on “morality”. In these cases, the legal system can structurally suppress a man’s life, steal her freedom, and even threaten her existence. Such oppression of life then manifests itself as a violation of dignity. This will then be identified as a new social problem that cannot be resolved with the current legal system, that is, as a structural injustice that collectively affects a multitude of people who are in the same situation; the “idea” of dignity is then again being called for.

Next, let me briefly turn to Kant’s concept of honor. In his *Religion within the Limits of Reason Alone* and *The Metaphysics of Morals*, he defines honor stating, for example, that “[...] the man of honor is acquainted with something that he values even more highly than life, namely *honor* [...]” (*RL* 6:333f), and thereby arguing in the line of honor ethics. Yet, honor is not mentioned as often as dignity, and unlike Pufendorf Kant does not give the term particular importance, as he does not differentiate “simple reputation” and “intensive reputation”.

most of the content of the five rights which are implied by Birnbacher’s concept of human dignity in the strong sense: “1. The right to be spared from violations of dignity like defamation and humiliation”, “2. The right to a minimum of freedom of action and choice”, “3. The right to being helped in cases of emergencies which are no fault of one’s own”, “4. The right to a minimum of quality of life in the sense of freedom from suffering”, “5. The right not to be instrumentalized without consent and for other purposes in a manner that has to be deemed grave”. Cf. Birnbacher 2004, 254f.

In his *Observations*, Kant distinguishes dignity and honor, addresses the problem of honor by distinguishing “the feeling for honor”, “lust for honor”, and “the love of honor”, analyzing these different ways of referring to honor as tendencies that are distributed among all human hearts (cf. *GSE* 2:227), and linking them negatively to “demeanor [of actions] in the eyes of others” (*GSE* 2:218). In his *Groundwork* he takes over the arguments from the previous work using the expression “the inclination to honor”. There, he assumes that the tendencies themselves “have no true moral value” (*GMS* 4:398). This can be described as an altogether rather cool treatment of the topic. What is more interesting is that in his discussion of honor violations in *The Metaphysics of Morals*, Kant not only considers honor an important legally protected interest for the individual living in society (cf. *RL* 6:332f.), but also for the dead (cf. *RL* 6:295f.). Kant and Pufendorf share the argument about honor as legally protected interest. With regards to violation of honor, Kant takes up the “verbal injury” which he discusses as follows:

– Now it would indeed seem that differences in social rank would not allow the principle of retribution, of like for like, but even when this is not possible in terms of the letter, the principle can always remain valid in terms of its effect if account is taken of the sensibilities of the upper classes.—A fine, for example, imposed for a verbal injury has no relation to the offense, for someone wealthy might indeed allow himself to indulge in verbal insult on some occasion; yet the outrage he has done to someone’s love of honor can still be quite similar to the hurt done to his pride if he is constrained by judgment and right not only to apologize publicly to one he has insulted but also to kiss his hand, for instance, even though he is of a lower class (*RL* 6:332).

Kant tries to apply “the law of retribution (*ius talionis*)” to the case of the honor violation. The main focus lies on how “equality” is substantially ensured if the perpetrator is rich and the victim is poor. In the case of a wealthy perpetrator a “fine imposed for a verbal injury” is insufficient. Kant therefore suggests that “judgment and law” enforce that the offender’s pride is hurt “publicly”. Thus, in the case of honor violations it is important that (1) the victim whose honor has been violated is by no means in a state of submission, that is, fundamental equality is emphasized. This means that a formally equal relationship is maintained even if there is a huge wealth gap between the perpetrator and the victim, and also that (2) the damaged honor of the victim can be restored by “judgment and law”, that is through the existing legal system, and that finally honor violation is entirely a problem that concerns the individual. Consequently, violations of dignity and of honor are similar, but differ crucially in these three points: whether or not the victim falls into a state of subordination, becomes unable to exercise her freedom and is threatened in her own existence, and whether

the victim is a single individual or there are a number of victims in the same conditions who form a particular social group, and whose state of subordination is therefore structural, and lastly whether or not the existing legal system can respond to this situation. While structural social problems are included in the trajectory of the violation of dignity, this is not the case with violations of honor. The focus here is on the individual, because the problem is individual achievements and the position or status based on them.

In the next section, I want to focus on one attempt by Kant to actually employ dignity heuristically in order to reveal violations of dignity and to identify them through a political process as structural social problems. The example is that of cases of infanticide committed by young mothers, the example which has also been discussed by Elizabeth Anderson. First of all, however, I want to clarify the historical background of these cases on the basis of Pestalozzi's analysis.

3 Pestalozzi and the problem of child murder

In 18th-century Germany, child murder committed by young mothers, which was sanctioned with severe punishments, became such a social problem that writers such as Goethe and Schiller devoted themselves to the subject. What did the problem consist in?

In his *On Legislation and Child Murder* (hereafter: *Child Murder*) (Pestalozzi 1930), Pestalozzi analyzes the circumstances and causes of infanticide and proposes legal measures to overcome them:

Europe! In vain the blood of your child murderesses is shed! Let your rulers remedy the cause of their despair, and you will save their children. / Your sword killed many, but I only want to tell the story of the first one murdered I heard talk about (*Child Murder* 9:8).

Pestalozzi first describes how the seducer deceives an innocent girl, and goes on to discuss the circumstances of the infanticide committed by the girl:

God! You know she was created for the purest motherly joys, to hang on the child of her heart with the bliss and love with which she clung to the criminal whom she believed noble and good. But the seducer has opened to her the abyss of all human abominations, and has thrown the inexperienced she was, into its depths, into misery and sorrows, so that during her pregnancy her heart trembled, quivered and pounded, shaking and trembling more than he trembled, quivered and pounded on the day of her beheading. Throughout the months, the miserable was pursued by the image of the seducer whom she had given her heart, and whom she cursed in her abominable woe. Humanity's support crumbles in the girl who must curse the youth whom her heart clings to, all her hope dies, and

every thought of motherly joy is staggering misery for her; like a carbuncle that threatens death and ruin, the child of the criminal grows within her; she bears it and yet does not have a mother's sentiment, she does not feel, that the child of her heart is nevertheless God's holy gift and also her child; she only feels the horror of the father, and fear of the crowd, and the terror of what to expect. Thus the miserable passed her months; she languished for help and advice, but in every moment the despair in her heart took her strength to take decision, and thwarted every intention to salvation; Shame and anxiety and the heart's inner tremor stifled her mouth; she must not talk;—she would never dare to open her mouth and talk to her playmates, to her pious mother; Ten times she tried, and she wanted to lament about her distress to her dearest friend; but always the word became stiff on her tongue; she could not speak; Tears flowed from her staring eyes and rolled over her pale, cold cheeks, then she would escape her playmates; she escaped from the sight of her dearly beloved mother, and the eye of the dreaded priest, she bore it alone, she wanted to tell, but every time she put it back.—And suddenly it had arrived, the hour of a mother's pain; and the hour of last despair;—it strengthened her mother's arm! Throwing the child, stomping with her foot against his heart;—It seemed to her, that she swore by God in the hour of death; as if she strangled the criminal with her hand, and stamped her foot against his heart. Now it had happened; the child of her heart was dead; she saw it and wailing death she fainted and fell with the first sentiment of her being mother and murderer! (Child Murder 9:8f.).

Pestalozzi mentions eight reasons for the mother's child murder after extra-marital pregnancy and childbirth. These are (1) the deceit and betrayal by the seducer, (2) punishment for sexual misconduct, (3) poverty, (4) the environment of servants who were employed in the city or at court, (5) fear of parents, relatives, guardians, (6) hypocritical decency, (7) both inner and external result of a perpetually corrupted life, (8) external circumstances of childbirth. These reasons are, however, intricately interwoven, and push the young mother into "despair", thus robbing her of "the last feeling of humanity" (Child Murder 9:12f.) and driving her to infanticide, because "[...] the miserable only murders because she despairs [...]" (Child Murder 9:12).

Pestalozzi emphasizes (1) "the deceit and betrayal by the seducer", (2) the "punishment for sexual misconduct", and particularly the problem of legal regulation of the latter.¹⁶ Not only did the state's legal system and its agents not help the young mothers and protect them, they drove them into "despair":

The picture of which I speak is dark, but even darker than the harshness of public laws, and far more depressing than the,—praise God!—rare secret paths of the perjuring and partial courts are for the seduced the catchy snares of the law experts, who are employed by

16 What Pestalozzi sees as another problem in this context is a feudalistic "family honor [Ehre des Hauses]" (Child Murder 9:18).

the rich and venerated in the country to decoy and oppress the miserable (Child Murder 9:15).

Pestalozzi accurately points out that while the girls are in a situation where they can no longer exercise their freedom and come to correct judgments, they are caught in the trap of the law and those who are familiar with it. The law is applied in favor of the strong; for the weak, the young women, it is inhumanly oppressive. The “desperation” Pestalozzi emphasizes means the unjust situation that is the submission of the young women. Here, Liedtke’s interpretation of Pestalozzi proves to be illuminating. Liedtke correctly analyzes Pestalozzi’s essay in the sense that: “First, [Pestalozzi] denies that the freedom necessary for grave culpable conduct existed at the moment of the act. Secondly, he denies that the death penalty has any deterrent effect considering the constitution of the women at the moment of the act” (Liedtke 1968, 89). The state of bondage of the mother killing her child, which Pestalozzi has worked out, is even more merciless than the tragic dilemma that William Styron recounts in his *Sophie’s Choice*. Sophie, who has been taken to Auschwitz with her son and baby daughter, is forced to make an extreme and horrifying choice by the SS military doctor who makes the selections for the gas chambers. He concedes her the “privilege of choice”, to choose one of their children to be saved:

You may keep one of your children”, he repeated. “The other one will have to go. Which one will you keep?”/ “You mean, I have to choose?”/ “You’re a Polack, not a Yid. That gives you a privilege—a choice”. / [...] “I can’t choose! I can’t choose!” She began to scream. / [...] Send them both over there, then”, the doctor said to the aide, “nach links”. / [...] “Take the baby!” she called out. “Take my little girl!” (Styron 1992, 529).

In the choice she is forced to make, Sophie thus chooses her son. The situation she finds herself in is more than tragic, but she still has the minimum of freedom necessary for making a choice, even if it is a forced one. On the other hand, the child murderess is driven into a situation in which the freedom necessary for such an action is no longer given at all. In this her fate is even harsher than Sophie’s. Sophie could still choose to send her daughter to her death, but the child murderess cannot. Pestalozzi emphasizes that the problematic of child murder lies in the shortcomings of the judicial system, which deprives the mother of her freedom of choice and drives her to murder: “The mere natural consequences of illegitimate intercourse do not lead to child murder: [...] she murders because she despairs; [...] / In this view of the matter, I think a very crucial aspect of the weakness of criminal legislation of this and perhaps other crimes is revealed. / Here the youth is the murderer and leaves untouched; the girl rages and is slaughtered; so visible is error in the tenets of many death sentences” (Child Mur-

der 9:109). Those who really should be tried are not. In that, the problem of child murder can be attributed to the failure of legislation and justice. It is thus not a personal problem of a specific young mother, but a matter of structural social injustice.

According to Pestalozzi (cf. Child Murder 9:37), the “justice of the state” is “blind justice” with regard to child murder, insofar as it contains “clear errors” and “particular defects”, and it has an oppressive effect towards the weak, without emending its defects. A “justice of the state”, which does not respond to the legally vulnerable groups or the “others” of law, is not worth its name.

However, the significance of Pestalozzi’s argument does not only consist in this finding. He also proposed a reform of the justice system and a new legislative principle:

The legislation which seeks to counteract the sources of child-murder, therefore, must do nothing else but make adequate preparations to relieve these unfortunates of their children, and in every way to aid the concealment of their sad circumstances. I consider one of the prime pillars of the bliss of nations that the state is, in the true sense of the word, the father of the sages (Child Murder 9:38 f.).

Here Pestalozzi passes criticism on the “justice of the state”, and pushes for a change of legal principles. He advocates introducing the Christian humanist principles of care and mercy instead of the sanctioning legal principle of present law which inflicts disgrace in order to prevent “dishonor” and “despair”. He also advises to establish forms of pedagogical legislation or new legal institutions such as a “secret high tribunal of mores” or “conscience councils” etc.

Pestalozzi’s discussion may then be summarized in the following points:

(i) He analyzes the child murders from different perspectives and in its different aspects, including that of the problem of poverty. But he focuses particularly on the problem of “despair” which the young mothers fall into, and understands it as a state of submission in which freedom cannot be practiced. From this, he extracts a structural defect of the legal system as most important factor of the cases. When he criticizes the “justice of the state” as “blind justice”, he points out that the conventional legal system is contradicted by the fact that, through its own crucial deficiency, the young men who are the murderers remain unpunished, while the innocent young girls are punished with death, which of course means that the problem is that the legislative principle is violent and oppressive to the legally weak. The problem of child murder by young mothers is mainly seen to be the fault of the state; the true core of the problem is nothing but the “honor violation” by the state in the name of “justice”.

(ii) By positioning itself on the side of the “people”, Pestalozzi’s analysis opens up a dimension in which the state can be criticized, and as it detects a

difference between the topoi of “justice of the state” and “happiness of the people” it veers towards an enlightened reform of the “justice of the state” and legislation. As can be seen from the statement, “Does humanity need to be protected from the laws—/ And Jesus Christ’s teachings from the arm of the authorities?” (Child Murder 9:59), his “enlightenment”, however, is based on Christian charity or Christian humanism. Also, Pestalozzi proposes a pedagogical instead of a sanctioning and punitive principle as legislative principle, one which stands in for tolerance and care such that the honor of the mothers is preserved. If his discussion of child murder can be summarized as above, what position did Kant take in this matter? In the following section I will analyze Kant’s interpretation.

4 Kant’s analysis of child murder and the heuristic use of dignity

In his *The Metaphysics of Morals* Kant refers to cases of child murder by young mothers in the following way:

There are, however, two crimes deserving of death, with regard to which it still remains doubtful whether *legislation* is also authorized to impose the death penalty. The feeling of honor leads to both, in one case the *honor of one’s sex*, in the other *military honor*, and indeed true honor, which is incumbent as duty on each of these two classes of people. The one crime is a mother’s *murder of her child (infanticidium maternale)*; the other is *murdering a fellow soldier (commilitonicidium)* in a *duel*.—Legislation cannot remove the disgrace of an illegitimate birth [...]. So it seems that in these two cases people find themselves in the state of nature, and that these acts of killing (*homocidium*), which would then not have to be called murder (*homocidium dolosum*), are certainly punishable but cannot be punished with death by the supreme power. A child that comes into the world apart from marriage is born outside the law (for the law is marriage) and therefore outside the protection of the law. It has, as it were, stolen into the commonwealth (like contraband merchandise), so that the commonwealth can ignore its existence (since it was not right that it should have come to exist in this way), and can therefore also ignore its annihilation; and no decree can remove the mother’s shame when it becomes known that she gave birth without being married. [...]—What, now, is to be laid down as right in both cases (coming under criminal justice)?—Here penal justice finds itself very much in a quandary. Either it must declare by law that the concept of honor (which is here no illusion) counts for nothing and so punish with death, or else it must remove from the crime the capital punishment appropriate to it, and so be either cruel or indulgent. The knot can be undone in the following way: the categorical imperative of penal justice remains (unlawful killing of another must be punished by death); but the legislation itself (and consequently also the civil constitution), as long as it remains barbarous and undeveloped, is responsible for the discrepancy between the incentives of honor in the people (subjectively) and the measures that are

(objectively) suitable for its purposes. So the public justice arising from the state becomes an *injustice* from the perspective of the justice arising from the people (RL 6:336f.).

Anderson sees in this text the influence of an ethics of honor, and concludes that “they [Kant’s accommodations to the honor ethic] reflect the fact that Kant’s ethic of personal dignity emerges out of the ethic of honor that it has not left entirely behind” (Anderson 2008, 142). Interpreting the two examples as corresponding to each other, she has pointed out a major problematic in Kant’s ethics. In fact, her interpretation may be valid for the inner workings of a “group of people” such as the army, in which “honorable death” is taken for granted. However, if one instead focuses on the expression “true honor”, one will notice that the example of the military does not apply to it. In his *Anthropology*, in the context in which reference is made to “true honor”, Kant discusses the example in a negative sense when he writes: “Turning a blind eye on the duel is a terrible principle on which the head of state has not reflected on properly” (*Anth* 7:259). Adding this judgment to our consideration of the above quote, it becomes clear that in the case of the military the traditional, feudal concept of honor applies rather than “true honor”. The example of the military is therefore not entirely suitable for a discussion of the latter. Kant does not give a direct reason for this. However, if one considers the statement that “in every punishment there is something that (rightly) offends the accused’s feeling of honor, since it involves coercion that is unilateral only, so that his dignity as a citizen is suspended, at least in this particular case” (RL 6:363, n.), one realizes that “true honor” ultimately means dignity as such. The example of the military does not apply to the problem of dignity.

It is therefore only to the example of child murder that the problem of “true honor”, i.e. the problem of dignity, applies. Should one, however, assume that the mother, like the military, belongs to a specific “group of people”? If a family or a clan is involved, as is the case with the honor killings that have become a problem in Pakistan etc., then the problem concerns the honor of the family or the clan and the target of the killing is the mother. This implies a feudal concept of honor as in the example of the military. In the cases of child murder, one cannot determine a particular “group of people”, the entire society is concerned. As Pestalozzi’s detailed analysis shows, at the time the cases had become a serious social problem, i.e. one of enormous structural injustice which affected a particular group in society. What Kant tries to express with the formulation “state of nature” is precisely the seriousness of the situation. This certainly applies as well to contemporary social problems such as poverty and class distinctions, as well as to discrimination.

Here I want to summarize Kant's arguments regarding the mothers who committed child murder:

1. That the mother killing her child is in a "natural state" means that, because the mother is not treated as an end in herself, i.e. her treatment is structurally unfair for the "civil state", and because she is abandoned "outside the protection of the law" as a person whose social life is suppressed by the present legal institution or as the "other" of the law just as her child, the injustice inflicted on her cannot be corrected through the present legal institution, and her dignity is gravely violated. Thus, what Kant, by citing the "state of nature", tacitly puts a focus on is the grave fact of structural injustice that by becoming the "other" of the law the mother is hurt in her dignity. This goes so far as to throw the mother in a state of submission which prevents her from exercising her freedom, robs her of the ability to make appropriate judgments, and leads her to the murder of her child; which is even harsher than the tragic fate of Sophie. Thus, the problem is not a violation of honor, the target of which is the external value of an individual measured, for example, by social rank or status. Such violations can already be adequately addressed by the present legal institution which may restore the honor. In this point, Anderson's diagnosis already misses its target. The "true honor" of this example does not problematize any traditional concept of honor. With the term Kant questions a new concept of dignity, which has been developed by Pufendorf, and brought to fruition by Kant,—not a traditional concept of honor, as Anderson assumes. This also means that the violation of dignity in Kant does not concern individuals but social structural injustice.
2. After criticizing the death sentence against the mothers as unjust, Kant therefore explains the basis for his criticism to be the "incentives of honor in the people", but its real basis is "true honor", that is, "human dignity" which as a human the mother does not lose even if she is thrown into a situation of illegality, into the "natural state". Or, to put it more precisely, one can say that from the perspective of dignity Kant has discovered a grave case of structural injustice and thereby identified a new social problem. The "the public justice arising from the state", which is supposed to preserve public peace, not only fails to do this, but violates it and makes it impossible to maintain formal and qualitatively equal personal relationships between people. The statement that "the public justice arising from the state becomes an *injustice* from the perspective of the justice arising from the people", points exactly to this fact. That is, through the perspective of dignity, a grave "injustice" is discovered and redefined within the social text. The idea of dignity is systematically applied as a principle and functions heuristically. Here, in my

opinion, a heuristic use of the dignity concept can be distilled. If so, then the case of the mother's child murder can be read as a typical example of the use of dignity.

3. Kant also seeks a social solution to the problem of child murder from the point of view of dignity. More, he discusses the essence of the problem in relation to the question whether one should enforce the "penal justice" and "cold-heartedly" execute the mother, or if one should change the "penal justice", become "indulgent", and respect her dignity. Kant determines the latter to be the proper solution. That means that the "justice of the country" and the "justice of the people" stood in opposition to each other as to whether the shame that "penal justice" inflicted was just. This contradiction is not one between a certain positive law and another positive law, or between different kinds of legal justice, but it is the contradiction between legal justice and moral justice. One might also say it is a contradiction between law and morality in relation to "justice". If "justice of the state" concretely means the system of valid positive law, then "justice of the people" is rather "morality" which is outside of positive law. It is nothing but "human dignity", because in this case dignity is structurally even more violated and many citizens are collectively abandoned in a "natural state", if the "justice of the state" is stubbornly enforced. Kant employs the point of view of dignity to make out problems, and to revise and transform the system of positive law. Responsibility will "be taken by legislation". But insofar as this opens up a political process aimed at a new legislation to solve the social problems affecting the mothers, this also implies that the concept of dignity assumes a political function.

In summary, there are many substantive similarities between Kant's arguments about "honor" and "disgrace", but also about "structural injustice", and Pestalozzi's, and there is no denying the possibility that he was influenced by Pestalozzi. However, I want to examine the difference between the two along the following two arguments: (I) Kant proposes "morality" or "human dignity" as basis for the reform of the legal institution or system, while Pestalozzi insists on Christian charity or Christian humanism as such a basis. Therein, they seem to resemble each other at first glance, but in fact there is a fundamental difference. As Kant's conception of morality erases particular religious or cultural contents, it principally aims at a form of universalism. By contrast, Pestalozzi's point of view is based on a particular religious content, it renounces universality. Further, a concise analysis would show that, (II) there is a difference in what they oppose to the "justice of the state". For Kant, it is the "justice of the people". For Pesta-

lozzi, however, it is simply the “happiness of the people”.¹⁷ Regarding the problem of child murder, Kant points out that the norm of justice lies in the “justice of the people”, he criticizes and condemns the “public justice of the state” as “injustice”. If the source of “justice” is not monopolized solely by the state, it is also implied that a “public” dimension that is not fully grasped by the “state” opens up. Kant’s stance that consists in radically criticizing the “justice of the state” from the perspective of dignity as the “justice of the people”, amending the deficiencies of the legal institution through legislation, and integrating the “other” of law, is thus nothing other than a “public use of reason”¹⁸ which tries to reach out to the “other” of the legal institution. Here the “people” or the citizens who carry out this “public use” are the subjects who recognize dignity as something worth preserving and who actualize it effectively. By contrast, “happiness of the people” does not evoke the possibility or the dimension of another “justice”, which fundamentally resists that “of the state”. Pestalozzi bases justice solely on the dimension of the state and attempts to correct the principle of “justice of the state” by relying on care and protection. It must be stated, however, that because Pestalozzi, although having a systematic approach and presenting a structural analysis full of humanism, merely wanted to point out that “state justice” was blind to the “happiness of the people”, he himself was blind to the possible creation of a new concept of the public. Thus, for him the “people” are no more than an object of care and protection, an object of education. He does not consider the “people” as a principle of resistance against “state justice”.

17 Medicus also reads the first edition of *Über Gesetzgebung und Kindermord* as a theory of happiness. Cf. Medicus 1927, 67f.

18 The “private use of reason” sees the present institution as a given, and obeys its frame of rules; as it is therefore not tolerated that the system or its rules are questioned, there is no self-critique possible, and in this sense “arguments are not permitted”. Moreover, as long as the institution is a means to realize the “justice of the state”, the “private use” is under the control of the state and serves only as a tool to receive orders by the state. In the case of “private use”, this space is therefore nothing more than a “domestic homogeneous [häuslich] gathering, no matter how large it is”. In this space, those excluded from the legal system remain invisible. Kant, on the other hand, urges for a change in the attitude towards reason. This is the “public use of reason”. Its significance lies in the criticism by a public which holds unrestricted freedom of critique. “The public in the strict sense, that is, the world” which this “public use” is confronting, is but the others who were excluded from the “domestic homogeneous gathering” of “private use”. “Public use” is thus the attitude that reason takes towards these “others” of institutions; it is the attitude to respond to those “others” whose social life is suppressed by the present legal institution (cf. *WA* 8:37f.). In the case of the mother killing her child, it is not the mother that uses reason “publicly”.

As seen above, the example of the mother killing her child is not a remnant of the ethics of honor. It is intrinsically linked to the “public use of reason”, and in this respect it refers to the problem of the “public”. For this reason, Kant employs the expression “justice” and aligns the “justice of the people”, which resists the “justice of the state”, essentially with dignity. He does not advance a traditional concept of honor. If the idea of dignity is used systematically and heuristically as a principle and thus a serious “injustice” can be discovered, then a new social context is also revealed. If, in the case of this example, laws are devised according to Kant’s expectations and women’s rights are properly protected by law, then “human dignity of women” is added as a new meaning to the concept of “human dignity”, and women are structurally respected as ends in themselves. At the same time, this implies that women are recognized as morally responsible subjects who earnestly strive for the realization of the absolute value of dignity, and that the network of “morality” of the “kingdom of ends”, which forms the basis of the state, becomes more sophisticated and perfected. On the basis of this heuristic usage, then, the diverse contexts to which the concept of dignity applies are discovered, and the scope of the concept is extended in the form “human dignity of x”, in other words, “dignity of x as human beings [Würde der X als menschliche Wesen]”. New bearers are added and the concept is thereby pluralized as absolute intrinsic value. This, for example, results in the “human dignity of the disabled”, or the “dignity of the disabled as human beings [Würde der Behinderten als menschliche Wesen]”, and the “human dignity of the elderly”, or the “dignity of the elderly as human beings”. It does not mean multiplying the concept of “human dignity” itself.

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Karl Ameriks

The Fate of Dignity: How Words Matter

Abstract: In recent years, Kant views on dignity have been challenged by a wave of attacks from authors, outside and inside of philosophy, who criticize his remarks for their connection with serious evils such as racism and anti-Semitism. I compare and contrast two recent critiques along this line—one by Michael Lackey, on how Kant’s terms were used by H.S. Chamberlain and the fascists, and one by Paul Franks, who puts several of Kant’s distressing comments in the context of German Idealism and anti-Judaism in general. I also draw on insights by Charles W. Mills and Lucy Allais, which point toward a diagnosis of the kind of “cognitive blindness” that Kant and others have exhibited on these issues. After taking into account his surprising attitude toward people in North America, I argue that Kant’s errors are not simply a matter of racism but should be understood as rooted in broader blindnesses about cultures (even ones that he takes to be of the same race) outside his northern European Protestant background.

1 A Beclouded Fate

Despite the growing positive interest in Kant’s work, many philosophers continue to decry his appeal to the notion of human dignity because of a variety of what can be called relatively moderate objections. This notion, like many of the other staples of Kant’s Critical philosophy, such as equal rights, absolute freedom, and idealism, is often criticized, even by partially sympathetic readers, for its vague generality¹ as well as its stress on purity, which can seem to distort the highly complex nature of human development and action.² Important as these frequently voiced (but, I believe, also manageable) worries are, now is the time to face a more radical kind of objection, one that has only grown in significance ever since it was forcefully expressed in Charles Mills’ bold accusation of 1997: “Kant is also the foundational theorist in the modern period of the divi-

My thanks to the editors and also to participants at a NAKS workshop at the University of California at San Diego.

¹ See, e.g., Griffin 2008, Beitz 2013, Waldron 2017.

² See, e.g., Rosen 2012, Bieri 2017. There are many Kantian responses to these kinds of charges. See, e.g., O’Neill 1989, Hill 1992, and Wood 1999.

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sion between the *Herrenvolk* and *Untermenschen*, persons and subpersons, upon which Nazi history would later dwell” (Mills 1997, 56).³

One especially provocative argument along this line is by a professor of literature, Michael Lackey, in a chapter of his *The Modernist God State: A Literary Study of the Nazi's Christian Reich*, called “The Making of Hitler and the Nazis: A Tale of Modern Secularization or Christian Idealism?” (Lackey 2012). His remarks are philosophically underdeveloped and extremely polemical but nevertheless worthy of scrutiny by all Kant scholars. This is especially because of his eye-opening research concerning the dire “philosophical influence”⁴ that the English Germanophile and Aryan supremacist Houston Stewart Chamberlain (1855–1927) appears to have exerted, in part because of discussions of Kant, on fascism in general.

Chamberlain was a major influence on Kaiser Wilhelm II, eventually married Richard Wagner’s daughter, and wrote admiringly to Hitler, who in turn was flattered by the chance to meet the aged author and the Wagner family and claim their blessing. Chamberlain’s discussion of Kant’s “idealistic” conception of the person is undeniably central to his turn-of-the-century best-seller, *Foundations of the Nineteenth Century* (which eventually went through 24 editions), as well to its two-volume follow-up work on Kant in 1905 (Chamberlain 1910, Chamberlain 1914).⁵ Chamberlain’s writings received worldwide attention at the highest level, scholarly (e.g., from Vaihinger and Natorp) as well as from the general public—even occasioning a witty critical review by none other than the former U.S. President, Theodore Roosevelt (Roosevelt 1913, 233).⁶ Because of its references to the surprisingly frequent mention of Kant by Chamberlain—and the fact that Kant is also mentioned even by Hitler as well as other leading fascists, such as Rosenberg and Goebbels⁷—Lackey’s discussion raises issues that require

3 Cf. Mills 1998 and Mills 2017. For a reaction to these kinds of charges, see Kleingeld 2014, Al-lais 2016, and Ameriks forthcoming b.

4 This phrase is in quotes because whether this is a case of the genuine influence of *philosophy* is precisely the main issue.

5 The *Foundations* appeared at first in German in 1899, and then, with Chamberlain’s help, was given an English translation, and an introduction by Lord Redesdale, an important British diplomat and cousin of Swinburne.

6 It should not be forgotten that beliefs in some version of white supremacy can also be found in the attitude, at some point in their life, of renowned figures such as even Abraham Lincoln, Woodrow Wilson, Harry Truman, and the English theologian Hastings Rashdall.

7 See, e.g. Rosenberg 1970, 187 and Goebbels 1934, 29. The level of distortion by these writers can be gathered from Goebbels’s fabrication: “Kant once said: ‘Act as if the principle of your life could be the principle for your entire nation.’” Kant’s statements of the moral law were never limited by reference to any nation.

close philosophical examination. This is not only on account of its citation of several disturbing and relatively little-known passages, but also because of how it dramatically interweaves these quotations with a variety of harsh allegations—for example, that Kant’s rationalist ethics and race theory rule out respect for disadvantaged or supposedly inferior groups⁸—that are familiar from discussions elsewhere and are independent of claims concerning fascism.

It is impossible in this context to begin to do full justice to any one of the highly complex ethical issues that have arisen in the aftermath of Kant’s work. My main aim here will be primarily to highlight a general *hermeneutical* point, namely, that it is important, especially in controversial matters like this, to work carefully with the technical terminology and full systematic context of complex writers such as Kant, so as to focus attention on what is truly most relevant and to discourage repetitions of unfortunate misconceptions that can cause trouble and needlessly give philosophy a bad name. This kind of hermeneutical investigation is a relatively small step to take, one that can hardly resolve the larger social issues that are involved, but it is a first step that deserves the effort of philosophers in particular. Looking closely at a few test cases of interpretation can help create an awareness of the significant difference between harsh charges that overlook key distinctions and carefully articulated objections that warrant further serious reflection. Keeping this distinction clearly in mind can then encourage progressive social developments all the more effectively in the long run.

The consideration of any popular attack such as Lackey’s (in section two) indirectly raises the perplexing broader issue of what to make *in general* of highly influential readings that obscure crucial complications in the works of major philosophers.⁹ This difficult problem can hardly be treated in its full range here,

8 See, e.g., the objections in Wolterstorff 2008, 325–333, and see below, note 18, on Kant’s notion of basic human capacities. What I mean by a “basic capacity” includes what Kant had in mind when he spoke of the “seeds” that allow members of a species to be what they distinctively and essentially are, and especially the “original” capacity for the good possessed by all human beings in their fundamental feature of “personality” (*RGV* 6:26 and 44), despite their being “radically evil” in practice. For Kant, in the human case this is more than mere rationality or inherent language ability; it involves the presence of the faculty of pure practical reason, that is, the real potential to appreciate the moral law as such. Hence it is part of the original nature of even impaired or not yet developed human beings, since from the start they are in this way unlike members of other species—which is why all human beings always deserve respect.

9 This becomes an especially worrisome problem if one argues, as I have, that a distinguishing feature of late modern philosophy (especially in Europe) has been its tendency, in a kind of historical turn in methodology and along the lines of a suggestion in Kant’s aesthetics, to rely on a sequence of creative “exemplary” interpreters who build directly on, but radically modify, the impact of masterworks of the past. See Ameriks 2012, chapter 15. Radical changes have been

but the troublesome fate of Kant's work shows that the problem is not restricted to obviously inflammatory philosophers such as Marx and Nietzsche. Another complication is the fact that some of the more radical conclusions about Kant by non-specialists such as Lackey can appear to gain support from *seemingly similar* critiques by scholars such as Paul Franks, one of the top experts on German philosophy in general. Franks also makes the claim (discussed in section 3) that several remarks by Kant fit a dangerous "idealist" pattern, but he backs his claim with a detailed scholarly analysis of exactly how Kant's work, "perhaps unwittingly," embodies a "long-standing" attitude of extreme "hostility" toward "Judaism" in a way that could understandably lead to cataclysmic consequences (especially when connected with more extreme expressions by other German Idealists as well) (Franks 2009, 262).

There are, therefore, methodological as well as substantive reasons to compare Lackey's and Franks' stylistically quite different treatments of Kant, and to begin to assess the implications of these *kinds* of critiques in general for the Critical doctrine of human dignity. These matters are especially significant now because—unlike what one usually finds in Kant literature and much of contemporary philosophy in general—in this case there clearly appears to be a close connection between statements made by a highly systematic philosopher and concrete issues that still concern large numbers of people in their daily life. In earlier decades, it might have been tempting to focus simply on the technical details of Kant's Critical system and not worry so much about relatively popular readings of seemingly incidental passages that can appear highly improper to contemporary readers. Just as Rousseau cannot fairly be blamed for the later excesses of the French Revolution, or Hegel for the later excesses of nationalism or totalitarianism, it seems inappropriate to worry about judging Kant's philosophy primarily by vague references to it centuries later by horribly irresponsible figures. After all, any good idea can be made to look like something awful by the wrong kind of interpreter, especially when there is considerable complexity in the original idea. We now live in a time, however, when suddenly all sorts of powerful movements throughout the world employ highly effective expressions that are frighteningly similar to aggressively racist notions popular a century ago in the era that spawned fascism. Therefore, if Kant—and even his central notion of dignity—is in fact to be understood in some ways that are essentially linked to similar regressive notions, this is a problem that must be confronted with great care. In addition, precisely because in so many ways it still seems,

managed in good art and science as well, but philosophy is not quite art or science, and so it must find its own way in sorting out what is genuine over time.

to many philosophers, that Kant's thought is one of the best bulwarks we have for supporting enlightened rather than regressive movements, it is important to give his critics a fair hearing and to see how he ultimately is to be best understood, that is, when his words are taken in their full context and without either hasty antipathy or unjustified defensiveness.

2 Lackey's Attack

The conclusion of Lackey's interpretation is a direct attack on the effects of Kant's discussion of dignity: "While Kant's philosophy of moral and intellectual autonomy is calculated to secure and affirm the *dignity* [my emphasis] of the human, it actually set the stage for one of the most dehumanizing systems to afflict the West"—and it did so because "Kant, via Chamberlain, was certainly one of the most important influences on National Socialism" (Lackey 2012, 236 and 276). This "stage setting" remark is tied to a claim by Lackey that "if it can be shown [as he implies that according to Kant it can] that a certain being 'by nature' cannot experience 'the autonomy of his freedom,' then it would follow that this being would not qualify as full-fledged human and therefore could be used as a means" (Lackey 2012, 239). By a "certain being" here Lackey (Lackey 2012, 238) is referring to statements by Kant about blacks, who at one point (but not untypically) are characterized as "by nature" [NB] lacking "finer feelings" (*GSE* 2:253), as well as about non-European natives and Jews, who Lackey says Kant regards as "people fundamentally incapable [NB] of behaving as autonomous moral agents" (Lackey 2012, 241).¹⁰

This is a stunning claim—that Kant, the philosopher best known for a doctrine of human autonomy and dignity under universal moral law (see, e.g., *RL* 6:434–435), in fact systematically denied autonomy and dignity to huge portions of humanity. Fortunately—although this does not settle the matter—the grounds given by Lackey turn out to rest in large part on a serious, although fairly common and understandable, confusion about Kant's moral anthropology and the development of his philosophy. Lackey cites passages from Kant's early *Observations on the Beautiful and Sublime*, a highly popular work composed in 1763, right before Kant's intense study of Rousseau led him to *radically invert* his philosophy

10 Citing *RGV* 6:116. I take Lackey's conclusion about *incapability* to be a misleading expression of Kant's position—which is not to deny that Kant believed human beings in different cultures tend to vary considerably in their *degree* of moral *development*. See below, notes 12, 18, and 23, for points bearing on Lackey's misconception of Kantian autonomy.

by switching from a compatibilist metaphysics to a serious concern with ethics and a firm (although slowly developed, because of the need for new metaphysical foundations) advocacy of the doctrines of absolute free choice and universal human equality.¹¹ In reflecting on Rousseau, Kant became convinced that it is a serious mistake (one that even Rousseau's terminology can obscure) to speak of human beings primarily in terms of "nature." This is because the most fundamental feature of human beings is precisely a *capacity* for free moral choice, which gives us all dignity and in a sense places us, in principle, above¹² nature in a way that is not endangered even by the universal predictive successes of modern exact science (which had at first preoccupied Kant). It is true that *demonstrating* this very substantive point requires working through the tortuous complications of Kant's mature Critical system but, fortunately, Kant held that common people themselves never need to develop such a demonstration. Recourse to the system is required simply in academic contexts as a counterattack on the dogmatic "schools" and their authoritarian allies, which an enlightened society will eventually learn to put in their place. Unlike traditional Cartesianism, Kant did not rest his libertarian view on claims to metaphysical, theological, or psychological insight but was instead persuaded by what he took to be a common-sense and universally valid moral stance, found even in the uncontaminated attitude of a "Savoyard vicar" or young child. He came to presume (perhaps all too quickly) that this broadly-based pure moralism is the only alternative to anti-egalitarian intellectualistic or sensualistic understandings of human capacities as simply a function of predetermined natural powers—understandings that Kant, after Rousseau, saw as gaining increasingly unfortunate influence on account of the vanities and confusions of modern culture.

One reason why readers have misunderstood Kant's Critical view here—in addition to their being overly influenced by pre-Rousseauian or casual remarks in unpublished or merely popular statements—is that, alongside his system, Kant simultaneously developed a highly questionable theory of race, one that held to a common origin for humanity but identified four distinct races that it claimed could be ranked on the basis of supposedly significant differences in natural talent and cultural abilities.¹³ Several passages in lectures and incidental

¹¹ Cf. Ameriks 2012, chapters 1 and 2.

¹² Cf. Sensen 2011 for an account of how central this "elevating" feature is to Kant's notion of human dignity, at an individual as well as a species level.

¹³ Cf. Sloan 2014. Kant was part of a significant change, in the biology of the time, to classifying species and races by means of a causal account rather than on the basis of appearance characteristics, although he still put an emphasis on (inherited) differences in skin color. Sloan notes that Kant did not take racial distinctions to be constitutive of the very identity of persons, but

works repeat harsh stereotypes about how various groups commonly *misuse*, or do not get to effectively use, their basic capacities (*GTP* 8:174–176, *Pillau* 25:843, *V-NR* 25:655, *MK* 25:1187). Nonetheless, the fundamental *doctrine* of Kant’s Critical system is that human beings are *all* autonomous persons with dignity in the basic sense of having the *capacity* to act with *free* and fair motivation (*GMS* 4:435). This doctrine about a *universal basic capacity* is consistent with his view that we also all have self-inflicted and socially reinforced *strong tendencies* that, especially in highly unjust circumstances, *in fact* go against our duties to properly exercise and develop our moral capacity.¹⁴ Along this line, Kant agreed with the common thought that so-called “primitive” societies, in either overly indolent or chaotic conditions, are naturally characterized by practices that strongly inhibit (although they do not make *in principle* impossible) the “finer feeling” typical in a flourishing moral life.¹⁵

It is precisely for this reason that, at least in his last writings, Kant was clearly concerned, as scholars such as Pauline Kleingeld have shown (Kleingeld 2014),¹⁶ with hastening the day when aggressive European colonial powers would avoid exploiting “primitive” societies and would make way for a turn toward democratic governments and just institutions for all. Here it is especially important to note that the critique Kant made against slavery¹⁷ and imposed treaty “contracts” (*RL* 6:353), even with tribes whose indolent or “savage” behavior he (like the United States Declaration of Independence) harshly criticized, presupposes that he still regarded the members of such groups as persons with an inviolable dignity that does not allow their being treated as a mere means.

Kant was among the many theorists who thought that the mixing of races can lead to degeneration of cultural abilities—a point that Chamberlain picks up on (Chamberlain 1910, 258).

14 On the problem of the “radical evil” in these “strong tendencies,” see Wood 1999, Allais 2016, Allais 2017, and Ameriks forthcoming b.

15 In popular works such as the *Observations* and *Anthropology* there are numerous now very embarrassing passages about stereotypes in European societies as well, which Kant probably took to be harmless play in the style of his day. One shudders to think how future generations will look upon our attempts to keep up with the latest styles.

16 Some of the limits in Kant’s cosmopolitanism are criticized in Ameriks forthcoming b.

17 Compare already in Kant’s “Remarks” (*BBS* 20:88), written right after reading Rousseau, in Frierson/Guyer 2011, 125: “Now, there can be nothing more horrendous than that the action of a human being shall stand under the will of another. Hence no antipathy can be more natural than that which a human being has toward slavery.” Also *V-NR* 25:582: “Still, about the misuse of freedom: for example, one must not always infer that a former slave would misuse it and for this reason give him no freedom at all. He will surely learn to avail himself well of it.” Similarly, on Baltic serfs, cf. *Mron* 25:1300. I take slavery to be ruled out from the start by Kant’s principle of freedom as “our only one innate right” *RL* 6:237; cf. *RL* 6:283, on the relation of a master of a household to his servants: “he can never behave as if he owned them.”

What must be kept in mind above all here—and against objections still made by many analytic philosophers as well—is that Kant’s theory is grounded in a metaphysical view about our *basic* capacities, as beings that all from the start possess a universal moral “compass,” somewhat similar to our all having pure categories and essentially the same kind of original spatiotemporal forms of intuition and universal language and judgmental capacity. This is not at all a matter of needing to be especially intelligent, mature, or reflective, and so, contrary to many caricatures, Kantian autonomy in its most basic sense, as a general inner capacity (*Anlage*) *in principle* to be sensitive to the moral law, is not a matter of an individual or group’s particular choice or “achievement.”¹⁸ It is therefore not even something that has to turn out to be *in fact* naturally exercisable in a healthy life—and hence even a severely impaired child or a person in a deep coma still has this original capacity, like the rest of its distinctively human equipment, and is worthy of respect on this account, quite unlike any other animal (or so Kant held; if additional species have this gift, this of course would hardly undermine his point about human beings). This is why, if some kind of remarkable medical reversal happens to take effect on disabled or undeveloped human beings, we say that these persons are being restored to what they have been or would naturally be when properly functioning, and not that a different being has been created.¹⁹ Moreover, although Kant limits “moral worth” and unconditional goodness to the additional feature of a character with proper motivations, this hardly means that this is the only value he recognizes; pain or even unexperienced indignities and death still matter enormously in his system, as in common life.²⁰

18 The fundamental distinction in Kant’s moral theory between dignity, which attaches to every being that has basic human capacities (*Anlagen*, which often is translated as “predispositions” or “constitution”—but the former seems to me in this context to sound overly contingent and the latter overly extensive), and particular talents and achievements, which can vary widely, is stressed in O’Neill 1989, 76, Hill 1992, 166–167, and Hampton 2007, 122; cf. Ameriks 2013. This distinction is overlooked in criticisms, such as Jackson 2005, 44, which falsely presume that Kantian dignity is something one needs to “achieve” over time. Basic capacities in this essentialist sense are also to be distinguished from what some philosophers speak of as capabilities, which are higher-order powers, such as good health, relevant to persons being able to flourish in various (still rather elementary) ways but not necessary for having dignity at all. Cf. Beitz 2013, 9.

19 Cf. Kain 2009.

20 This point meets some of the concerns raised in Rosen 2012 and Tasioulas 2013, 17 that our notion of dignity should include respect for the deceased, and in Griffin 2008, that avoiding pain is an important part of well-being. An appreciation of these values is presupposed in Kant’s postulates and conception of the highest good.

Complications concerning the pivotal notion of the freedom presumed to underlie this capacity are crucial in evaluating Lackey's discussion of Chamberlain's relation to Kant and then to the later evil figures that the *Foundations of the Nineteenth Century* may have inspired. Chamberlain agreed, in *letter*, with one idea that truly is central to Kant's Critical view, namely, that however important the achievements of modern science are, science does not exhaust our access to truth because it cannot reveal what he too *called* the human capacity for freedom (Lackey 2012, 243). The key complication here is that this *verbal* agreement does not at all amount to a true agreement in *substance*, because Chamberlain did not rely on Kant's Critical notion of absolute *libertarian* freedom. Instead, he (like many other writers) used the term in a *determinist* sense, and connected it to the kinds of special talents and contingent liberties that his racist doctrines reserved for elite *Herrenvölker* (master nations)—not a term that Kant himself used or would have ever condoned. Thus, one finds that, on Lackey's own account, Chamberlain accepted and even stressed the idea that “peoples and countries are mechanistically determined by their environment” (Lackey 2012, 246). Jews in particular were then singled out for being “materialists [who] never exercise negative or positive freedom” (Lackey 2012, 251).²¹ That is, although like all beings in nature they lack the freedom asserted in traditional or transcendental libertarianism, according to Chamberlain's additional racial theory they are further characterized as “materialist” in the specific bad sense of being constantly determined by and concerned with crass egoistic drives. They lack the (so-called) “idealistic” anti-materialism that nature has bestowed on the higher Aryan peoples, who alone have a heroic “love of the fatherland” of the kind eventually stressed in “Hitler's political vision” (Lackey 2012, 253), that is, fanatical racist German nationalism.

Lackey's reference to Hitler is not far-fetched because it rests on notes from 1919 in which, in a discussion that clearly appears to reflect terms taken from reading Chamberlain, Hitler stressed a fundamental conflict between positions that are called “idealism” and “materialism” (Lackey 2012, 254).²² The misleading fact about these notes, however, is that, just like Chamberlain, they employ these “isms” simply in a popular *political/psychological* sense that opposes crude selfishness, which it identifies with “materialism,” to unlimited devotion to community, which it identifies with “idealism.” This kind of popular meaning for the term “materialism” can be found in casual English as well, but it has nothing to

²¹ Cf. Lackey 2012, 253: “Jews are materialists who lack freedom.”

²² Citing Maser 1974, 283. Similar remarks were made by Paul Lagarde, a popular anti-Semitic, anti-Christian, anti-Slavic Orientalist whose work was studied by the young Hitler. See Watson 2010, 673.

do with the core *metaphysical* and *epistemological* meanings that are standard in philosophy, including in Kant's usage, where "materialism" signifies the view that physical matter alone exists, or at least that its elementary structure entirely determines our thinking. Like Chamberlain, Hitler insisted, furthermore, on the absurd and evil assumption that this naturalistic and psychological contrast of "idealism" and "materialism" maps onto a distinction between races that are Aryan and good, and races that are non-Aryan and bad, the former alone supposedly understanding that "duty means [NB] serving the community rather than the self" (Lackey 2012, 255).²³ Similar themes were expressed by Goebbels, as in a passage cited by Lackey from the novel *Michael*, where the "godly virtues" are defined as "honor, work, the flag (Lackey 2012, 274)"²⁴ and "honor" is understood in terms of the fanatical soldierly duties of German nationalism rather than anything like the moderate virtues of classical or Christian thought.²⁵

It should be painfully obvious that by this point any *genuine* relation to Kant's *philosophy* has been long lost. To count as a Kantian, it is hardly enough to merely invoke terms such as "idealism," "duty," and "anti-selfishness." Kant did indeed speak positively when using these terms, but with a meaning that implies (as true successors such as Hermann Cohen and Ernst Cassirer well understood) absolute freedom, categorical moral obligation, and hence an anti-selfishness that is defined by egalitarian justice and *universal* benevolence rather than aggressive nationalism or any kind of absolute devotion to a local community or race simply as such—in other words, the very opposite of what Chamberlain and his ilk had in mind.

Similar seriously misleading uses of terminology also infect the claims that Lackey and others make when they attempt to connect Kant and fascism by reference to *religious* notions. Lackey is correct in noting that Hitler often played the religious card (like cynical American politicians) and invoked the term "God" in his tactical efforts to gain support from all sorts of conservative factions.²⁶ Issues here become especially complicated, however, because of what can *seem* to be a

23 In a deep misconstrual of Kantian terminology, Lackey at one point even calls such a merely socially defined notion of duty "moral autonomy" (Lackey 2012, 256)—as if the connection of thieves in a community would make them moral.

24 Cf. Koonz 2003.

25 According to Rees 2012, 103, Goebbels held that Christian virtues "crippled all that is noble in humanity." Cf. Kershaw 1998, 661.

26 Cf. Steigmann-Gall 2003, 61 on Hitler's cynical admiration for how some Viennese politicians knew better than others how to exploit Catholic voters. A similar view of phony Nazi religious appeals is repeatedly confirmed in Victor Klemperer's trenchant on-site observations of party statements during the Nazi era (Klemperer 1998).

strikingly *parallel* way that Kant referred to Jews, religion, and God. It is true—although sometimes forgotten—that Kant held both the negative thesis that “original” Judaism, because of an improper (supposedly merely “statutory”) sense of duty, was not a genuine religion with a proper God concept (RGV 6:125–126),²⁷ and also the positive thesis that a different kind of religion, with a proper God concept, is still needed. Similarly, the Nazis proclaimed (though in viciously harsh action) both the negative thesis that Jews lack a proper notion of duty, religion, and God, and also—at least some of the time—the positive thesis that some kind of God concept is still needed.

Despite the truly disturbing initial similarities in appearance, the *meaning* of Kant’s statements, negative as well as positive, is directly *opposed* to that of the Nazi statements. Kant’s negative attitude toward what he understood as defining “original” Judaism was part of his general opposition to *any* kind of tradition—hence centuries of Christendom as well—with norms and practices that appear to be based *heteronomously*, as for instance solely on allegiance to *mere* institutional or allegedly supernaturally dictated commands in contrast to the autonomous self-legislation of the categorical imperative of pure practical *reason* (RGV 6:115).²⁸ Similarly, when Kant went on to endorse a positive concept of God and religion in line with his moralistic reading of the New Testament, he argued for a pure form of religious life that would lead to an *eventual* dissolution of *any* heteronomous reliance on traditional church practices and institutions, and especially on any kind tied to the whims of political authorities. He called this the religion of “the teacher of the Gospel,” but in so doing he was just approving an internal moral ideal inspired by, but not limited to, the Lutheran and Pietist notion of the “priesthood of all believers,” and he by no means meant thereby to endorse any permanently established Christian church or traditional Trinitarian beliefs about a supernatural messiah.

In sum, in direct contrast to the meaning that Kant’s statements have because of their ground in a *pure, rational, and universal* notion of duty, the Nazi statements regarding Jews, God, and religion have their ground in a *naturalist, racist, and German nationalist* understanding of duty, one defined in terms of an absolute commitment to a local and contingent community led by the Führer’s unchallengeable will. Hence, in insisting, *negatively*, that the Jews lack a proper sense of God and religion, the Nazis were contending (in a way

27 Cited in Lackey 2012, 240 and Franks 2009, 263.

28 The historical inaccuracy of Kant’s understanding of “original” Judaism is of course another issue, for Kant appears to have been all too accepting of the harshly anti-Judaic treatments of the “Old Testament” by Protestant theologians in his era. I have seen this point documented best in Goldenbaum, 2013.

that, ironically, can be understood as a significant kind of unintended compliment) that they could not be counted on to be devoted to the absolutist Nazi state (a self-fulfilling belief, since the Nazis antecedent libel and terrorization of Jews would make any such devotion from them especially irrational). In other words, whereas Kant's worry, in his critique of what he understood as original "Judaism," concerned an apparent heteronomy of being *too closely tied* to contingent social institutions, the Nazi worry was just the opposite, for it concerned a *failure* to be closely tied to (what Kant would call) the heteronomous duty of worshipping the tightly unified but contingent social complex of a particular state, race, and dictator.

The *positive* Nazi call for commitment to a fascist Erastian sense of "God" and religion was also in sharp contrast to Kant's positive call for understanding "religion within the bounds of pure reason alone." There is, to be sure, a residual negative similarity here, because Kant, like the Nazis, did not want to grant lasting authority to any traditional churches as such, and (in this case like most Enlightenment thinkers) especially not to the church of Rome. But Hitler's positive notion of religion itself, if it can be called that, was simply an acknowledgement of omnipotent "Providence," in the crude sense of a feeling of awe in the face of the global battle between warring species and races, with an outcome entirely determined by the most powerful amoral and supra-individual forces of nature.²⁹ In a speech to party leaders in 1941, Hitler's main assistant, Martin Bormann, stated this view clearly:

National Socialist and Christian conceptions are incompatible. The Christian churches build upon men's ignorance; by contrast [National Socialism] rests upon *scientific* foundations. When we speak of belief in God, we do not mean, like the naïve Christians and their spiritual exploiters, a man-like being sitting around somewhere in the universe. The force governed by natural law by which all these countless planets move in the universe, we call omnipotence or God.³⁰

This is the very opposite of Kant's ideal of an eventual condition of "perpetual peace," supported through the growth of an "ethical commonwealth," with free agents holding to charity to all as well as postulates about a divinely grounded path toward the highest good—a path that would build on, but go beyond, the legal stability achieved by a plurality of genuinely democratic and just

²⁹ Hence what Hitler admired was not soft Christian love but a merciless combination of what he called the "idealist" (!) forces of "brutal fist" and "genius"; see Hitler 1971, 299, cited in Lackey 2012, 257.

³⁰ Quoted in Fest 1970, 132–133. Sharp rejection of the traditional biblical doctrine of a creator God was a common feature of Nazi thinking. See Chamberlain 1910, 218 and Rosenberg 1970, 116.

states. Given all these clarifications, it should be obvious how misleading it can be to directly link the rise of fascism to Kant's philosophy rather than to contrary movements, such as nihilism or the wholly anti-religious and crude versions of Darwinism and Nietzscheanism that became so popular by the end of the nineteenth century.

Insofar as Hitler directly commented on Christianity in this context, his most revealing attitudes may have been his early decision to avoid "wasting time" by thinking through what "religious reformation" might involve (Watson 2010, 673), and his statement, near the end of *Mein Kampf*, that he agreed with what he took to be "Kant's complete refutation...of the dogmatic philosophy of the church [NB]" (Hitler 1971, 720).³¹ It is significant that these remarks indicate no more than a naive impression that, supposedly, it was shown by Kant that there is no strictly rational ground for Catholicism, and also that there is no point in even trying, as Kant did, to work out a pure new form of Protestantism. All this is consistent with also saying Hitler believed politics needed a "religious" basis, in the vague sense of some kind of global rather than traditional "party" vision, but it is crucial that this requires the immediate qualification that, as Lackey admits, what Hitler took to be "God's law" for human beings was simply the power of race (Lackey 2012, 232).³²

Similar qualifications must be made concerning Lackey's general claim, against what he goes so far as to call "profoundly dishonest...or totally blinded readers," that fascism was not a result of "modern secularization" but instead a form of specifically "*Christian idealism*" (Lackey 2012, 230). We have already seen what the Nazis' odd "idealism" actually signifies, and Lackey's attempt to connect it conceptually with Christianity collapses similarly on the grounds of even his own quotations. He cites Rosenberg, for example, as espousing a view that is to be held "in spite of all [NB] churches" (Lackey 2012, 229), just as he cites Chamberlain as endorsing "reproaching the churches" (Lackey 2012, 252). Furthermore, the Nazi leaders were well known for going so far as to treat Jesus himself, as Chamberlain had, as Aryan, and to reject Paul and Augustine.³³ But what could a "Christianity" be that is independent of *all* churches, of all its original *leaders*, and of all its *centuries* of self-understanding (as having roots going back to Abraham and Moses), while also being, as was just noted, opposed to "pure" rather than naturalist and nationalist and racist morality?

³¹ Cited in Sherratt 2013, 20.

³² Cf. Steigmann-Gall 2003, 29.

³³ Cf. Field 1981, 307 and Steigmann-Gall 2003, 117.

Lackey's final strategy is to rely on the Nazis' own words, the mere fact that many of them *said* they were "Christians," and even said they were following Jesus, albeit an invented and not-at-all-Jewish Jesus. But words are pointless without a specified meaning, and any honest look at what the Party really meant in its actions, at all that its leading ideologues truly held, and at all the evidence Lackey offers does not amount to even the beginnings of a plausible argument for a *warranted* philosophical or theological connection to a recognizable form of either genuine Christianity or Critical philosophy. One might, after all, mount a similar argument against morality, by noting that the Nazis—and many other evil groups—have repeatedly *said* they were acting precisely as "moral" people. This is, to be sure, a disturbing problem, for the fact is that there was such a thing as what the title of an informative recent book has called the "The Nazi Conscience" (Koontz 2003).³⁴ The perpetrators of great evil, including many kinds of racist fanatics, can be evil precisely in large part because they do not understand themselves as evil but rather, in a kind of sincere but condemnable delusion, clothe themselves in popular terms such as "morality," "religion," "science," or "socialism." But this just means that these perpetrators are very confused and wicked, and not at all that we must regard the genuine referents of these terms as evil.

Nonetheless, there is at least one obvious way in which the Nazis' superficial references to religion, and to Christianity in particular, had a powerful nefarious function. This is because in simply requiring, in the way that they did for a long time (but not toward the end),³⁵ some kind of public Christian identification, they were insisting on a move that they knew that Jews in particular could not make, given the Nazis' purely racist restriction of what was allowed as "Christian." Of course, their revolutionary way of doing this in practice, their insistence on making a particular kind of *racial* background a necessary condition for even the possibility of public religious recognition and social acceptance, flies in the face of the history of Christianity, which, as such (in contrast, admittedly, to the actual practice of many political actors that *called* themselves "Christian"), has

³⁴ This is not to deny that there were renegade theologians who supported the party (every religion has its heretics—but, by definition, they are not what define it), and prominent party leaders who regularly attended church (Steigmann-Gall 2003, 6)—for the same might be said about the ritual of mafia members attending church funerals, without proving any coherent overlap in ideology. This is also not to deny that all too many Germans (unlike those who resisted the official "German Christians") went along with being encouraged to take occasional inflammatory statements from long ago by genuine church leaders, such as Augustine or Luther, to license aggressive discrimination and worse in the current age. Cf. Bergen 1996.

³⁵ Cf. Steigmann-Gall 2003, chapter 7.

stressed being open to persons of all races and nations (and, at least originally on its own part, to keeping some distance between church and state).

And yet: Despite the limitations of Lackey's account, there still might be senses in which, especially in the German context, there are *significant* interconnections after all between *strands* of Kantian or Christian *thought* that can be understood as encouraging fascism and anti-Judaism in particular. For a further consideration of this serious issue, there is no better place to look than Paul Franks' essay.

3 Franks' Foresight

Franks' discussion exhibits a deep knowledge of the Jewish philosophical and theological tradition as well as a specialist's insight into the technicalities of all the main German Idealist systems and the Critical philosophy. His overall assessment is that these Idealists went astray not because of devotion to traditional church doctrines but because of "prejudice and ignorance" concerning Jewish traditions in general (Franks 2009, 276). One could add that none of these philosophers had the inside experience of their own culture being marginalized and worse for centuries by mainstream German society, and in general they did not show appreciation for how anything less than a truly sensitive treatment of any minority could have ugly repercussions. It is, after all, one thing for someone from a background connected with an established church to point out flaws within the establishment system; it is something else for someone with the power of that background to allege flaws in a culture lacking that status. Hence, as an addendum to my earlier observations, it should be added that although it is true that Kant, like many Idealists, was very critical of *all* kinds of traditional religious *institutions*—as were also several Jewish writers by his time—it still matters that any critical remarks he made of minority cultures would have an extra bite and could easily have unfortunate consequences, especially in reinforcing bad tendencies already within the broader public.

This point is especially relevant in regard to the offensive passages Franks cites that look forward to a "euthanasia" of Judaism (*SF* 7:53)³⁶ and encourage an overthrow of anything in its practice that goes beyond its "sublime" reverence for law (*KU* 5:274).³⁷ It is true, of course, that Kant's philosophical opposition to

³⁶ Cited at Franks 2009, 263. Compare Kant's disparaging remarks about contemporary Jews in Poland as an "entire nation of nothing but merchants" (*Anth* 7:206).

³⁷ Cited at Franks 2009, 261.

all sorts of traditional “isms” was different from intending disrespect for any particular persons, and he was well known for showing special public respect for Jews—in particular his student Marcus Herz, as well as Moses Mendelssohn upon a visit to Königsberg. Kant repeatedly stressed that one should not rush to make judgments about the inner worth of other persons, and that the respect owed to their human dignity is in any case independent of agreement with their ideas or actions. Nonetheless, even if in general one can make a philosophical distinction between presenting a critique of various *cultural practices* and encouraging attacks on *individual persons*, that would be a quite inappropriate point to stress here because, in the relevant historical context, all persons within the minority, whatever their own attitude and individual situation, would remain vulnerable to the threats of whatever culturally destructive attitudes the powerful majority might support. So, even if some features of Kant’s thought amount to a similar position on non-Jewish religious institutions and traditional practices in general (he goes so far as also to call anything *like* traditional Christian church services, or *Gottesdienst*—which he stayed away from as an adult—a form of *Afterdienst*, a kind of vulgarly counterfeit service), it could only be expected that, in the violent context of European history, his ominous choice of words might eventually be followed by especially harmful consequences for Jews in particular.

One can therefore only agree with Franks’ foresight in observing that “Judaism may not be Kant’s primary target, but it all too easily becomes the focal point of the criterion of autonomy, whether in his or others’ hands” (Franks 2009, 262). This worry is especially understandable given that Kant’s *Religion*, despite its many anti-traditional features, repeats a fairly common story (found also, by no accident, in Hegel’s early *Life of Jesus*) about Jesus coming to *replace* a *dogmatic* view of the moral law (as arbitrarily commanded from on high, and being like the burden of an imposed body) as presented in what has been called the Old Testament. Although Kant also placed emphasis on the story of Job, praising it for proto-Critically combining genuine faith with humility about human powers of comprehension (RGV 6:265–267), he was still far from aligning himself with those who were open, for example, to understanding Jesus as coming more to *fulfill* than to replace the law of the earlier Jewish community.³⁸

At the same time, looking at the *Religion* alone, it seems fair to note a point that Franks does not stress, namely, that Kant’s critiques there are directed large-

³⁸ Cf. Franks 2009, 261, which distinguishes (relatively moderate) “Prefigurationism” and (hostile) “Preconditionalism.” Chamberlain sharply rejects speaking of Christianity as any kind of development incorporating values in Judaism. Chamberlain 1910, 213.

ly against what he took to be the Jewish faith as “originally” established (*RGV* 6:128), and so this *by itself* does not imply that he needed to have been against those who follow modern rationalist versions of that tradition as inspired, for example, by Philo and many others.³⁹ Moreover, given the serious respect that Kant showed for Mendelssohn’s work, especially in the *Orientation* essay, where his position was definitely favored over Jacobi’s, one could argue (as have Hermann Cohen and others) that overall Kant’s Critical position is *philosophically* sympathetic to (even if he did not show much positive interest in) the rationalist and reform Jewish thinkers of his time.

All this makes it all the more surprising, therefore, that at one point Kant suggested that Jews should be granted citizenship—something of a revolutionary idea in his country—if they accepted “the religion of Jesus” (*SF* 7:53). I take it that Kant did not mean this proposal in a sectarian confessional spirit but rather meant, by this “religion,” basically his own anti-establishmentarian notion of a pure moral attitude (the term “religion” originally signifies a manner of personal being, not an institution). All the same, it is obviously offensive, to say the least, to single out a particular minority group upon which to oppose an explicit political requirement like this, especially one that conflicts with that group’s understandable traditions of maintaining useful customs of its own, and especially since Kant seems to have understood the requirement as bringing along with it a total elimination of the “garment” of those particular traditions and therefore of their cultural group identity altogether. Moreover, if Kant simply meant his condition to be taken as basically an internal requirement, this was hardly a matter that, on Kant’s own view, could ever be appropriately monitored. Kant was adamant, for example, in criticism of setting theological “loyalty tests” in the training of Lutheran ministers, or in general of making special moral tests a condition of legal activities.

4 Final Evaluation

If we now look in an evaluative way at the full record, at all the obviously prejudiced and injurious remarks already cited as well as those in Kant’s *Anthropology* and other places,⁴⁰ it becomes impossible even to begin to “save the man,” in contrast to the core of his system, with respect to the foreseeable effects of his words on later German readers. In addition, even though it is true that almost all

³⁹ See, e.g., Fraenkel 2012, 108–122, on “Judaism as a philosophical religion.”

⁴⁰ Cf. also Malter 1990, 446–447.

other well-known thinkers in that era held what we now regard as at least as offensive views, it is significant that Kant sometimes expressed, or implied, surprisingly negative attitudes about the actual talents and tendencies of an unusually large *variety* of peoples and not just typical minority groups. This can make Kant's prejudices look at the same time both a little better and a lot worse. That is, one can see that Kant was not locked in a particular fanatical racist obsession in a way that amounts, as with typical supremacists, to a *direct disrespect* of the dignity of one group of other human beings. But then one also has to admit that Kant's problem becomes not "mere" anti-Semitism but a host of worrisome prejudices, and although these prejudices do not *aim* at disrespecting dignity, in practice their mere expression can certainly *lead* to serious disrespect and damage.⁴¹

The extent of Kant's prejudices has still not been fully appreciated. It is noteworthy, for example, that the few remarks he bothered to make about North Americans in general are strongly negative.⁴² Focusing on dramatic reports about various tribes that he singled out for their savagery, Kant totally passed over commenting, for example, on the remarkable generation of American citizens that was constructing an Enlightenment-inspired government, with a sophisticated republican constitution worked out right during the heart of his Critical period.⁴³ Like many European intellectuals then, Kant may have had reservations about a country that still accepted the practice of slavery, but given the general European awareness of the achievements of international figures such as Franklin, Paine, Washington, Jefferson, and Adams, as well as the closeness of their ideals—especially anti-colonialism—to that of the Critical philosophy, Kant's lifelong silence seems very odd. He regularly discussed current events with close friends who had very good connections with the English-speaking world, and yet for decades he lectured in exhaustive detail on exotic traveler's accounts of the rest of the world while ignoring the trailblazing principles and founders of the United States. Kant's surprising neglect in this instance is worth keeping in mind because it shows that even philosophers who are very concerned with trying to be cosmopolitan may still have *all kinds* of serious blind spots—apart even from race, religion, and gender—that keep them much

⁴¹ For an insightful Kantian account of how insulting expressions and actions can involve an "appearance of degradation," or "diminishment" of human dignity, although, short of extinction, they cannot destroy it, see Hampton 2007, 122.

⁴² For more detail, see Ameriks forthcoming b.

⁴³ It is striking that Franklin suggested replacing Jefferson's initial term "sacred" with the word "self-evident," as the backing for the Declaration's claim about our all "being born equal". See Jackson 2005, 43.

too closed up against not only traditional outsiders but also *even very similar* parties elsewhere that they should have easily appreciated as natural allies.⁴⁴

Given all these complications, whatever might be said in the way of personal apologetics for Kant can only go far. It is true that we should not forget the long self-critical trajectory of Kant's work, his dramatic Rousseauian movement away from intellectual elitism, his late taking back of some racist views concerning blacks,⁴⁵ and his short but surprising final publication, in which he went out of his way to make an eloquent quasi-Herderian brief for the value of small and endangered cultures and languages (*NS* 8:445).⁴⁶ His focus there—which he presented as only one possible example—was on the attitude of some local Lithuanian friends that he contrasted favorably with the character of Germans. Nonetheless, even this piece is a reminder that, unlike his student Herder, Kant did not go on to say anything similar concerning the Hebrew language and nearby Jewish culture, which was newly flourishing but still also constantly endangered.⁴⁷

In sum, although it is highly inappropriate to propose, in a hasty Lackeyan style, anything like a near-identity of Kant's system with that of the writings of Chamberlain and the fascists, even a sympathetic perspective on Kant's entire career cannot exculpate the way he expressed his attitudes toward Jews and other groups. When one adds in Kant's own view that all human beings are riddled by radical evil, there is all the less reason to expect him, as a person, to be without significant fault.⁴⁸ Ironically then, in concluding with an acknowledgement of the seriousness of his prejudiced expressions, we are in a sense also endorsing all the more strongly the relevance of his own principle of categorical respect for universal human dignity, as well as his insight that all human beings, especially in a world still filled with unjust and corrupting structures, are evil enough to have a deeply entrenched tendency to encourage violations of that principle. Even if Kant's philosophical doctrines can be said to have been funda-

44 More than a century later, Rilke—and Heidegger—famously worried that even an American apple could not be as earthy as a European one. German militarists, in two wars, made a similar but much more destructive underestimation of the bountiful power of the United States, a mistake that also seems to have rested on bizarrely stubborn cultural provincialism rather than racial prejudice. The United States, of course, is capable of practicing its own kind of provincialism.

45 Cf. Kleingeld 2014 and Allais 2016.

46 Cf. Shell 2010 and Ameriks forthcoming a.

47 Cf. Gjesdal 2017 on the broader cosmopolitanism of Herder—and its limitations as well.

48 For an argument that Kant's discussion of self-deception in his work on religion can be especially valuable in understanding and overcoming instances of prejudice and injurious "cognitive blindness" (including his own), see Allais 2016 and Allais 2017.

mentally misunderstood and misused by the horribly effective racist politicians of later Germany, it is a feature of the unfortunate actual *Weltgeschichte* that turned out to be Germany's *Weltgericht*, that Kant's now well-documented prejudiced expressions stand in the way of concluding that he was entirely blameless with regard to what the worst of his later countrymen chose to make out of him.

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The dignity of the state in Kant's Doctrine of Right

Abstract: This chapter examines Kant's neglected denomination of the state as a bearer of dignity in the Doctrine of Right. I begin with a preliminary specification of state dignity as grounded in the state as a particular kind of—coercively authoritative—moral agent. I then go on to delimit the dignity of the citizen from the dignity of the person before asking how, according to Kant, the dignity of the citizen relates to the dignity of the state. I conclude with some reflections on the limited applicability of Kant's conception of state dignity to contemporary, liberal democratic states.

1 The Dignity of the State

In Part II of the *Doctrine of Right* Kant speaks of the dignity of the state (RL 6:315).¹ He distinguishes between three branches of government; he calls them the 'trias politica' and attributes distinctive qualities to each branch: the will of the legislator is 'irreproachable', that of the executive power is 'irresistible', and that of the highest judge is 'irreversible'. (RL 6:313) The state's dignity is thus associated with the irreproachable quality of its law-making, with the irresistible coercive authority of its executive, and with the irreversibility of its juridical pronouncements. Thus characterized, state dignity assumes rather brooding overtones. Kant at one point invokes the metaphorical authority of God: the accolade that 'all authority is from God' (RL 6:319) reflects, he claims, an implicit acknowledgement of the state's dignity as a coercive, hence absolute or highest, juridical authority. Granted, this accolade refers to 'the state in the idea', not to actual states. But insofar as 'the state in the idea' is that which actual states seek to emulate, we must think of actual states, too, as potentially possessing a dignity whose defining qualities include the irreproachability, irresistibility, and irreversibility in judgement of the three state authorities.

These days, we do not usually predicate dignity of the state. The predominant view, generally associated with (an albeit rather narrow) reading of Hobbes,

¹ Page references are to the Prussian Academy edition. Except where otherwise stated, Kant citations in English are from *The Cambridge Edition of the Works of Immanuel Kant: Practical Philosophy*, translated and edited by Mary Gregor (Cambridge: Cambridge University Press 1996).

is of the state as the lesser of two evils: the state keeps us from killing each other and the permanent threat of the state's own abuse of its coercive powers is on balance a price worth paying. There have of course been repeated attempts throughout the history of the modern state alternatively to construe it as a kind of political community, including numerous recent attempts. These seek to minimize the element of coercive power by way of emphasizing notions of political participation, collective self-legislation and feelings of political belonging. (Rawls 1993, Sangiovanni 2007, Stilz 2011) I am not sure how plausible it is to characterize the modern state as a political community. Perhaps the state makes possible some kind of political or civic community; however, the state itself is always also more than that—it is always also a territorially based political power and its relation to its citizens is always essentially coercive.²

A second, non-communitarian alternative to the narrow Hobbesian reading of the state as a politically necessary evil of sorts is to cast it as a set of institutions that enable us to do and to obtain things which it would not be possible for us to do or obtain absent these institutions.³ The state is useful in that it makes collective action possible, including the collective production of goods that it would not be possible for us to produce individually or in small bands. Granted, the state is not necessarily unique in this respect—any economic corporation is also a type of collective agent that makes possible the collective production of goods. However, the state is able to operate at a certain scale. Once again, however, it is able to achieve this largely on account of its capacity to get us to cooperate even against our wills. While other forms of economic and even of political organization may have similarly succeeded in achieving enlarged will formation and agency, the modern state manages to elicit co-operation among formally equal members in an impersonal, routine, large-scale, yet ultimately also coercive manner.

2 Kant himself distinguishes between community (*Gemeinschaft*) and civil society (*Gesellschaft*). He associates the state with political society, not with community. A community is a contingently evolved social association—such associations can be found in the state of nature; a civil society is an explicitly established, juridical and therefore coercive association. For a very good recent broadly Hobbesian restatement of the necessarily coercive nature of the state as a distinctive type of political association, see Nagel 2005.

3 Of course, this instrumental conception of the state also plays a role in Hobbes; however, it is more explicitly in evidence in, e.g. John Locke's idea of limited government as a device that overcomes the inconveniences and inefficiencies of self-government in the state of nature: 'The great and chief end of men uniting into commonwealth, and putting themselves under government, is the preservation of their property; to which in the state of nature there are many things wanting.' (Locke 1984, 180, Bk. II, chp. 9). In contemporary political theory, the instrumental view of the state is mostly associated with utilitarianism.

Neither the view of the state as a kind of political community nor the view of it as an instrumentally useful set of social institutions attributes a distinctive personality to the state—a personality it has independently of those of its constituent members. By contrast, Hobbes does treat the state as an awe-inspiring, all-powerful agent in its own right. Kant, meanwhile, predicates *moral* personality of the state.⁴ Given that he views dignity as an attribute of moral personhood in general, it is then not surprising that he speaks of the state's dignity.⁵ The dignity of the state is nonetheless that of a *coercively* moral person, so differs from the dignity of natural persons as moral agents.⁶

2 The Dignity of the Person

Historically, anyone who had dignity ascribed to him was expected to behave with self-restraint. A 'dignitary' was a natural person who represented the public office he held—dignity attached to the office, not to the natural person of the office holder. The office holder was expected to treat his role with respect: he was expected to understand and to be mindful of the difference between himself and his office, including attendant duties and privileges. This was the Roman law meaning of *dignitas*, itself influenced by more general Stoic notions of self-discipline. It is well known that Kant in turn transposed elements of Roman legal thought back into the domain of private morality, or ethics. (Schneewind 1996, 285–302) Kant's ethics is law-governed and to that extent 'legalistic': the virtuous agent is expected to legislate moral law to herself;⁷ in the domain of ethics,

4 Cf. Hobbes 1982, 227: The Commonwealth is 'the generation of that great Leviathan, or rather, (to speake more reverently) of that *Mortall God*, to which wee owe under the *Immortal God*, our peace and defence'.

5 Moral personality and personhood amount to the same thing for Kant, so from now on I will use these terms interchangeably.

6 Although I cannot here discuss this in detail, it is worth noting that Kant's conception of state coercion differs from that of Hobbes. For Hobbes, the coercive authority of the state is a consequence of its overwhelming physical power—in a sense, the Hobbesian state merely has a threat-advantage over its citizens. Kant's notion of coercion is more formal and focused on its specifically juridical function. Coercive authority in the juridical sense is the authority to direct another's will. Public laws are coercive, for Kant, merely in virtue of emanating from a source other than the wills of the persons whose actions these laws direct. For an excellent discussion of the distinctiveness of Kantian juridical coercion, see Ripstein 2004.

7 This formulation, though widespread, is misleading: strictly speaking, the agent does not apply 'the moral law' to herself as though the latter were independently given. She rather asks herself what, in her judgement, she ought to do, where the type of 'ought' at issue demands possible universalizability of maxim. The moral law is whatever the agent judges she ought in a

she thus occupies something like the role of a public office holder vis-à-vis herself.⁸

In prescribing moral law to herself, an agent exercises two distinct forms of self-restraint. First, she disallows subjective inclinations as the determining ground of her will. Here, the ‘noumenal self’ restrains the ‘phenomenal self’: ethical self-legislation is not a form of self-expression or self-realization so much as a kind of moral self-discipline through which the agent restricts or controls her permanently implanted natural impulse towards self-love. (But see Korsgaard 1996, Korsgaard 2009) This restraint of the phenomenal self by the noumenal self is a well-known feature of Kant’s ethics. Secondly, however, the requirement of self-restraint applies equally to the agent as legislator, which is to say, it applies to the noumenal self. The agent’s noumenal self as ethical legislator must show restraint towards her phenomenal self as subject. Self-governance is not a form of self-tyranny—the legislating agent must remain mindful of permanent human frailties and cannot ask more of herself than that which she is capable of doing. This second kind of legislative self-restraint is less widely acknowledged in the interpretive literature on Kant’s ethics. We can, however, plausibly read it back into *Groundwork* given Kant’s emphasis on the requirement of legislative self-restraint in his *political* morality. There, as indicated above and further developed below, the state has dignity ascribed to it on grounds of its threefold coercive authority; however, the ascription in fact serves to remind these authorities of the requirement of self-restraint in relation to those subject to its coercive authority. To act in a dignified manner is to know not to overstep the mark.

Although the Roman and Stoic influences on Kant are well-known, recent interpretations of Kant on human dignity nonetheless often take their cue from more contemporary human rights theorizing. Indeed, there is a tendency to read back into *Groundwork* a conception of dignity mistakenly attributed to Kant in the human rights literature more generally. Human rights theorists

given situation to do. For a lucid reconstruction of Kantian moral (ethical) judgement, see Velleman 2006. However, though misleading in its interpretive detail, I shall here nonetheless speak of the ethical agent as a kind of moral self-legislator, since what interests me here is the Stoic-Roman root of Kantian dignity in the idea of public office and law-making.

8 I shall generally distinguish between morality and ethics; while morality is the more comprehensive terms that comprises the domains of ethics (virtue) and law (right) under it, ethics is the narrower terms that refers to persons’ striving for good will and to their capacity, in that particular respect, to act in a legislative mode towards themselves. Ethics is the domain of inner freedom, i. e., freedom as autonomy or self-legislation; law is the domain of outer freedom, i. e., the domain of public lawmaking.

often argue that dignity attaches to persons merely in virtue of their humanity. This particular source is widely associated with Kant's 'humanity formula' in *Groundwork*. Yet by 'humanity', human rights theorists typically mean not Kantian moral personhood but membership in the biological species. According to the latter view, a human being has dignity merely in virtue of being human, not in virtue of her moral agency. This re-interpretation of Kant's conception of the dignity has rightly been criticized by Oliver Sensen for its failure to tie dignity to the capacity for or exercise of moral agency. (Sensen 2015) Yet even where the link between dignity and moral (ethical) agency is acknowledged, there is a tendency to treat ethical self-legislation as a form of individual self-realization. The notion of self-legislation as a form of self-realization can be traced to Rousseau.⁹ For the Rousseau of the *Second Discourse*, the unreformed social self—the self of *amour propre*—is alienated from itself; Rousseau's proposal in the *Social Contract* accordingly is for each to give himself to the whole in order thereby to regain himself transformed: 'what man loses by the social contract is his natural liberty and his unlimited right to everything he tries to get and succeeds in getting; what he gains is civil liberty and the proprietorship of all he possesses'. (Rousseau 1973, 178) Neither on the Stoic / Roman account nor on Kant's understanding of (self-) governance as the source of our dignity do we morally *transform* ourselves through our exercise of our legislative capacity—we simply act with self-restraint in relation to our permanently implanted human frailties.

Let me quickly take stock. I have suggested that if we accept the Stoic / Roman roots of Kantian dignity in his ethical writings, then the dignity of the natural person is a function of her capacity for and exercise of ethical self-legislation and not of her biological membership in the human species. But if it is a function of legislative capacity along Stoic / Roman lines, nor will ethical self-legislation issue in transformative self-realization along the Rousseauian model. It will instead be predicated on a permanent relation of reciprocal restraint between a person's phenomenal and her noumenal self. The dignity of the natural person in her capacity as ethical self-legislator then consists in the legislative authority which her noumenal self exercises over her phenomenal self—a kind of authority that simultaneously requires the exercise of self-restraint on the part of the noumenal self.

Having sketched the Stoic-inspired idea of the dignity of the state and that of the dignity of natural persons in a preliminary way, one might now go on to in-

⁹ There is also conception of self-legislation as self-determination that points forward to John Stuart Mill and that is different again from that of Rousseau in its emphasis on individual moral sovereignty in contrast to Rousseau's emphasis on self-realization within participatory moral community.

quire into the relation between them. Doing so would be premature, however. It is not evident that, for Kant, the primary relation is between state and natural person. To the contrary, the primary relation appears to be between state and citizen. The status which a person has as citizen is distinct from her status as an ethically good agent. Moral personality may be a necessary condition of citizenship but it is certainly not a sufficient condition: just as mere biological membership in the species does not suffice for the ascription of moral dignity to persons, so moral personality does not suffice for the ascription of citizenship to a person. Kant accordingly ascribes a kind of dignity to citizen that is distinct from their dignity as moral persons in general. The specification of the dignity of the citizen requires a detour via Kant's idea of the general united will.

3 The General United Will

Kant's idea of the general united will in the *Doctrine of Right* is inspired by Rousseau's *volonté generale*.¹⁰ Despite its centrality to his *Social Contract*, the precise status of Rousseau's *volonté generale* remains unclear in that work. Specifically, it is not clear whether Rousseau believes the *volonté generale* to be a merely conceptual possibility or whether he believes it to have (possible) empirical reality. For Rousseau, is each citizen of the republic an actual co-legislator or are we rather to think of a legitimate legislative authority as modelled on the idea of collective co-legislation? (Riley 1982; Neuhaus 1993; Flikschuh 2012) In the *Doctrine of Right*, Kant in turn introduces the idea of a general united will almost by-the-by; he, too, goes on to invoke it repeatedly without ever specifying what exactly he means by it. It is tempting to say that, for Kant, the general united will can have no empirical reality—that it unambiguously has the status of a regulative idea of reason. (Flikschuh 2012) In 'Theory and Practice' Kant at one point intimates that the idea of the general united will serves the legislator as a criterion of public judgement: the legislator should ask himself whether the entire people could consent to a proposed public law.¹¹ Paragraph 51 of the *Doctrine of Right* similarly implies a conception of the general united will as a mere 'thought-entity' (*Gedankending*, *RL* 6:338) that requires indirect representa-

10 I shall reference Rousseau's notion in French to distinguish it from reference to Kant's general united will.

11 Kant in fact puts the point negatively: 'whatever a people cannot decide with regard to itself, the legislator cannot decide with regard to the people either' (*TP* 8:304). The idea of the general united will is not invoked directly; however, Kant does refer to it at *TP* 8:302, when he says that in the absence of a coercive authority to unite the people there cannot be a united will.

tion through a physical person as public office holder. At the same time, Kant also repeatedly invokes the idea of the general will in the context of his discussion of the division of *actual* governmental powers. In those passages he comes much closer to treating the general will as empirically instantiable, either directly or indirectly, through political institutions.

Either way, however, and even merely 'in the idea', Kant's general united will is differently structured than Rousseau's *volonté generale*. For Rousseau, the act of state entrance is an act of horizontal self-constitution. In each agreeing to give himself to the whole each receives himself back from the whole transformed, i. e., as a co-legislating citizen. Rousseau endeavors to arrive at a form of collective self-constitution that avoids the creation of a superior power over and above the sum of individually uniting persons. Any such superior power would repeat the pattern of domination that characterizes the original, fraudulent form of political association which the social contract proper is designed to correct. Rousseau's contractees literally constitute *themselves* into the sovereign body; the *Social Contract* envisages, 'the total alienation of each associate, together with all his rights, to the whole community; for, in the first place, as each gives himself absolutely, the conditions are the same for all; and, this being so, no one has any interest in making them burdensome to others.' (Rousseau 1973, 174)

Kant, by contrast, claims that the state *makes* the people. This is much closer in spirit to Hobbes: the unifying principle is the head. The difference with Hobbes lies in the fact that the head is a constitutive part of the envisaged union.¹² For Hobbes, each person individually lays down his right of nature before an appointed head whose task it is to take up the alienated powers of each and to vest them in his headship. The sovereign thereby comes to represent each individual person directly: 'I Authorise and give up my Right of Governing my selfe, to this Man, or to this Assembly of men, on this condition, that thou give up thy Right to him, and Authorise all his Actions in like manner.' (Hobbes 1982, chp. 17, 227) From Kant's perspective, one problem with this procedure is that it merely augments the power of one particular will—that of the antecedently selected man (or assembly of men). Besides, no genuine unity emerges from multiple acts of individual submission. Conceptually, the Hobbesian proposal merely amounts to multiple transfers of power from many private wills to one particular but no less private will. Hence, while Kant agrees with Hobbes against Rousseau that there can be no union of separate persons without a unifying will, he agrees with Rousseau against Hobbes that such a unifying will must itself be

¹² Kant generally holds that, in practice, i. e. historically, state formation is the result of acts of violence. Cf. *RL* 6:318.

public in character, so must be distinguishable at least in principle from the merely private will of the natural person(s) occupying relevant public office(s). But how, then, is a unity of wills to be conceptualized? In contrast to both Hobbes and Rousseau, Kant conceives of the general united will as a composite of horizontal and vertical relations among the constituent members of the union:

The civil union (*unio civilis*) cannot itself be called a society for between the commander (*imperans*) and the subject (*subditus*) there is no partnership. They are not fellow-members: one is *subordinated to*, not *coordinated with* the other; and those who are coordinate with one another must for this reason consider themselves equals since they are subject to common laws. The civil union is not so much a society but rather makes one. (RL 6:307)

In contrast to Rousseau and in agreement with Hobbes, horizontal relations between citizens are not possible without vertical relations between subjects and commander. In contrast to Hobbes, and broadly in agreement with Rousseau, the ‘commander’ is not over and above the civil *union* (as distinct from *society*) but part of it—though the commander is nonetheless distinct from the subjects. The state (civil union) *makes* the people (civil society), through the unifying role of the head as that vertical element that makes possible law-governed horizontal relations between citizen-subjects. This complex of horizontal and vertical relations continues throughout Kant’s subsequent exposition of his conception of the state, including the so-called *trias politica*:

Every state contains three authorities within it, that is, the general united will consists of three persons (*trias politica*): the sovereign authority (Sovereignty) in the person of the legislator; the executive authority in the person of the ruler (in conformity to law); and the juridical authority in the person of the judge (*poestestas legislatiorial, rectoria et iudiciaria*). (RL 6:316)

Again,

The three authorities in a state are, first, coordinate with one another (*potestas coordinatae*) as so many moral persons, that is, each complements the others to complete the constitution of a state (*complementum ad sufficientiam*). But, second, they are also subordinate (*subordinatae*) to one another, so that one of them, in assisting another, cannot also usurp its function. Third, through the union of both each subject is apportioned his rights. (RL 6:316)

While one might take the passage immediately above simply to outline the familiar division of state powers, it is worth noting Kant’s repetition of horizontal and vertical structures as characterizing relations between the three state authori-

ties.¹³ Equally importantly, the general united will does not reference the legislative authority exclusively: legislative authority is not pitched against executive power. Instead, all three governmental authorities taken together form the general united will. The three governmental authorities stand in similarly horizontal and vertical relations to each other as do the constituent members of the civil union itself, i. e. subjects and commander. There is this difference that while citizens are coordinate to each other and subordinate to the commander, the three state authorities are each *simultaneously* coordinate with and subordinate to *each other*: each has equally authoritative governmental functions yet each also rules supreme within the domain of its particular competences. Both in its general relation to civil society and in terms of its internal governmental structure the state thus constitutes a complex, functionally differentiated unity made possible by cross-cutting horizontal and vertical relations. Kant countenances vertical relations of authority and subordination of a kind Rousseau explicitly rejects: under the Kantian idea of the general will, citizens are subject to the coercive authority of the head. Nor, on the other hand—and this remains an anti-Hobbesian point—are they subject to a head that is itself independent of the union.

The significance of this complex structure of horizontal and vertical relations to the topic at hand is twofold. First, and as noted, the existence of the state exceeds that of civil society. State and civil society are not identical.¹⁴ This in turn implies that citizens are not self-governors directly: if they were they would be indistinguishable from state authorities, in which case there could be no non-coercive civil society that allows citizens to stand in purely co-ordinate (i. e. non-coercive) relations to each other. From a Kantian perspective, one problem with the Rousseauian model is the coercive relation in which it places co-legislating citizens to each other. Second, the general united will conceived as the *trias politica* is functionally divided in such a way as to ensure the co-dependence of each of its distinct authorities on both of the others. The relation between them is non-vertical, so non-hierarchical—though each is subordinate to the others with regard to their special competences, the three authorities nonetheless form a complex union of equal if distinctive state compe-

¹³ See also *RL* 6:338: 'The three authorities in a state, which arise from the concept of a *commonwealth* as such (*res publica latius dicta*), are only the three relations of the united will of the people, which is derived a priori from reason.' Here the suggestion is that the general united idea is an idea of reason on which the three powers of the state are in turn modelled. The relational structure of the threefold division is once more emphasized.

¹⁴ Locke, too, famously distinguishes between civil society and state. However, while for Locke, civil society precedes the state, for Kant, the state makes civil society.

tences. Given the absence of an overarching final authority over them, Kant's appeal is to state dignity as a form of institutional self-restraint:

'All those three authorities in a state are dignities, and since they arise necessarily from the idea of a state as such, they are *civic dignities*. (RL 6:315)

As dignities, the three state authorities are each expected to restrict *themselves* to their proper domain of competence without intruding upon the competencies of the other two. Unlike a system of checks and balances, it is not the countervailing power of any of the other institutions that holds each in check. Each rather holds *itself* in check: it would be beneath the dignity of each to encroach upon the competencies of the other two state authorities. In that sense, we may say that each of the three dignities of the state governs itself autonomously (cf. RL 6:318). In their relation to the citizen body, all three state authorities are superior (i.e., authoritative) by virtue of their governing functions over the citizens. Again, it is precisely for this reason that the *trias politica* taken together must exercise self-restraint also in relation to the citizen body.

In conclusion, we may say that the three state authorities together constitute the institutional expression of the idea of the general united will. The general united will is the will of the *state*, which is to say that it is the will of the complex union that results from vertical relations between ruler and subjects and horizontal relations between subjects. Now insofar as the state has a will, it is a kind of moral person. As a moral person, the state is capable of autonomy, that is, of moral self-legislation. Insofar as it is capable of moral self-legislation, the state has dignity. Dignified self-legislation takes the form of exercising self-restraint, both by each governing authority vis-à-vis the other two authorities and by all government authorities together vis-à-vis citizen subjects.

4 The dignity of the state and the dignity of the citizen

As noted above, Kant at one point also speaks of the dignity of the citizen, though he invokes the term explicitly only once, and then tangentially so: 'no one in the state can be wholly without dignity; he will at least have the dignity of the citizen, unless he has forfeited the latter through his own criminal action.' (RL 6:330) The dignity of the citizen is distinct from that of the moral person, if

only because persons who are *not* in a state do not therefore lack moral dignity.¹⁵ The grounds of citizen dignity are nonetheless somewhat obscure. Kant distinguishes between active and passive citizens: the former are members (*Glieder*) of the civil union, the latter are merely parts of it (*Teile*). (cf. *RL* 6:314) It is not entirely clear whether the dignity of the citizen extends to both classes of citizens or whether it is restricted to active citizenship. Passive citizens possess moral dignity and are part of the civil union—however, they are legal minors. Kant includes women and the property-less within the class of passive citizens. Women are naturally passive citizens, so unable in principle to attain legal majority. By contrast, property-less males cannot in principle be debarred from acquiring property; they are entitled to work themselves up from passive to active citizenship. I shall here proceed on the assumption that only active citizens have dignity as citizens; I shall do so with the caveat that there is room for alternative interpretation, not least given Kant's above cited claim that citizen dignity accords to *all* within the state and can be forfeited only through the commission of a crime. Kant seems nonetheless at least implicitly to restrict citizen dignity to the active part of the citizenry, that is to those, whose independence of will entitles them to voting powers (*Stimmrecht*, *RL* 6:314)

In 'Theory and Practice' the listed qualities of citizenship comprise equality, freedom, and independence.¹⁶ Even in this earlier essay the right to vote is restricted to those who possess independence—in contrast to freedom and equality, independence thus appears to be a somewhat special, acquired rather than innate quality. In the *Doctrine of Right*, the three citizenship qualities are effectively sunk into the innate right to freedom, which each is said to possess merely in virtue of his humanity. The status of Kant's innate right is contested in the secondary literature. This is partly a consequence of its position in the text, which renders it interpretively ambiguous whether the innate right forms part of the *Doctrine of Right* or has a presuppositional status in relation to it. A recently dominant interpretation treats the innate right as a quasi-foundational right—quasi-foundational in the sense that rather than being posited wholly independently, the innate right is said to be derivable from Kant's ethics via the humanity formula of *Groundwork*.¹⁷ My own reading of innate right differs from the dom-

15 This point may be put equivalently by way of saying that, for Kant, the state is not a necessary condition of the practice of virtue.

16 Strikingly, *Perpetual Peace* instead speaks of the freedom, equality and *dependence* of all subjects on a single and common law-giving. (*ZeF* 8:349/350)

17 This line of interpretation is frequently associated with the treatment of innate right given in Ripstein 2009, though Ripstein does not himself appeal to Kant's moral philosophy. For a Ripstein-inspired reading that does, see Hodgson 2010.

inant view; however, I shall here set aside disputes over interpretive detail.¹⁸ Striking about innate right in the present context is the explicit prioritization of the quality of ‘independence’ over freedom and equality. This prioritization is especially noticeable in the relation between innate right and acquired right. While each has an innate right to freedom as independence merely in virtue of his humanity, acquired right requires an act for its establishment. (*RL* 6:237) The relevant act turns out to be an act of acquisition. The act of acquisition is a paradigmatic case in turn for acting independently of the will of another. It is the unilateral (i. e., independent) act of acquisition, moreover, that entails a duty of state entrance. (cf. *RL* 6:256/7) An intimate relationship thus obtains between independence as a quality of the will and acquisition as a juridically significance act that inaugurates the duty of state entrance. Kant’s subsequent distinction between active and passive citizenship delimits those who have independence—i. e., those who are property holders—from those (males) who merely have the capacity for it. Active citizenship is restricted to those who do in fact exercise their capacity for independence—(male) passive citizens have the capacity but cannot as yet exercise it. (*RL* 6:315)

The dignity of the independent citizen attaches to his active participation in the legislative process. Yet although Kant does invoke the right to vote in this context, active participation need not be restricted to direct or indirect participation in the legislative process.¹⁹ To the contrary, for Kant, active citizenship seems principally to take the form of one’s availing oneself of the law in one’s contractual transactions with other independent citizens with whom one stands in a horizontal relation under the law. In availing himself of contract law, an active citizen exercises his capacity for legal accountability under the law. (cf. *RL* 6:237/8) Active citizens then have dignity in virtue of their participation, as bearers of rights, in the state’s legal processes. In this context it is important to note that although Kant restricts active citizenship to property holders, the juridical significance of property is moral rather than material. The primary function of property rights lies in their legal codification of external, strictly reciprocal rights relations between moral equals. Property rights are external in the sense that the relevant objects of possession that are contractually held and transferred between mutually consenting parties function as the medium of legally tractable rights relations—in this sense, property rights constitute externally computable relations of strictly reciprocal freedom under a common public law.

¹⁸ But see Flikschuh 2017, Chapter 3.

¹⁹ But contrast Kleingeld 2018.

An active citizen can avail himself of the law in the conduct of his private business; by the same token, he is required to uphold the law through abidance by it. The citizen acts in a dignified way when he abides by the established system of positive law of his own volition. The requirement of self-restraint is at work here as much as it is for other dignitaries: one may not agree with the substance of a particular law that nonetheless applies to one as a member of the civil union. Alternatively, one may agree with the substance and indeed with the spirit of the law in a general sort of way yet find the law's constraints inconvenient on occasion. A person may disobey laws with which he does not agree or he may find ways of avoiding laws the constraints of which prove inconvenient to him on occasion. These are undignified modes of comportment towards the law. They are indicative of two kinds of citizenship failure: first, a citizen who habitually dodges or flouts the law disrespects his own status as a legally accountable person; second, such a person undermines the effectiveness of the law in general and thereby of the public sphere of which he is an active member.

Active citizens who deliberately violate the law are held legally accountable for such acts. Criminals temporarily forfeit their status as citizens and the dignity that attaches to it.²⁰ This does not mean that they forfeit their dignity as natural persons. Neither criminals nor passive citizens can be treated as mere chattel—though some of Kant's remarks regarding permissible treatment of convicted criminals goes a considerable way towards such treatment. (*RL* 6:330) While criminals are wrongdoers, revolutionaries are evil doers. Revolutionaries claim the authority of the law in order to annul it. While criminals temporarily forfeit their dignity as citizens, revolutionaries can perhaps be said by Kant to trammel their dignity as citizens.

Passive citizens, i.e. all those who are incapable of legal representation in their own right, nonetheless enjoy the protection of the law. Evidently, insofar as they are not rightholders, they cannot benefit from the law directly, or be held accountable under it. Kant nonetheless does seem to view passive citizens—women, for example, or household servants—as possible subjects of law-making.²¹ Thus, laws can be made pertaining to the treatment of women even

20 As noted, insofar as passive citizens too are punishable by law, one might take the view that Kant does or should in consistency accord citizen dignity even to passive citizens. However, Kant indicates that passive citizens are to be accorded moral respect despite their lack of full citizenship status. Though he does not explicitly say so, the remark suggests that passive citizens' lack of dignity as citizen should not be taken to imply their lack of dignity as moral persons.

21 This pertains to Kant's notorious category of 'property in persons akin to property in things', but also to marriage laws and, more widely, to state policy regarding support for widows, orphans, and the poor more generally.

though women themselves are incapable of either abiding by those laws or falling foul of them. By the same token, they cannot lose their dignity as citizens since, on the reading here presented, they never had it in the first place. As passive citizens, they nonetheless do form part of the state, and the state has certain obligations of assistance and protection towards them.

Although from a contemporary perspective, availing oneself of the legal framework supplied by the state appears like a highly restricted form of political participation, it reflects once more Kant's distinctly Roman inheritance. Here again it is worth emphasizing that, for Kant, property rights regulate external 'mine / thine' relations, which is to say that they make possible civic interactions between formally equal members of society: as noted above, the emphasis is on the moral-cum-legal relations which property rights makes possible, not on the material benefits to be gained from possession. Yet even considered from a contemporary perspective, the importance of active law-abidance more generally—i.e. apart from a specific focus on property rights—as one important form of political participation should not be under-estimated. Although slavish abidance by the law is to be avoided, conscientious law-abidance may prove crucial to upholding the freedoms made possible through law. Conversely, widespread disrespect for and flouting of the law generally proves to be corrosive of the civil condition. In these respects, the contemporary often near exclusive focus on formal voting rights and the relative neglect of alternative forms of citizen participation may contribute to rather than help overcome the oft-lamented 'democratic deficit' in mature liberal societies where periodic participation in electoral politics is rapidly becoming the only available form of civic participation.

5 The dignity of the state, the dignity of the citizen, and the dignity of the person

The overall picture that emerges is of the significance of the state's dignity to proper relations both between citizen and state and between different state authorities. I have interpreted dignity primarily in terms of the notion of self-restraint; I have connected it with autonomy of the legislating will primarily along that dimension. A dignitary comports himself with self-restraint as a mark of the autonomy of his will, where autonomy is understood in terms of the capacity for self-legislation rather than self-realization. In the political sphere, self-restraint is of special importance, given the state's claim to exclusive coercive authority. It must be beneath the dignity of the state to abuse its power

by turning it against its citizenry.²² Similarly, it is against the dignity of the citizen habitually to flout or to exempt himself from the law. Arguably, it is even against the dignity of the citizen if he abides by the laws of his state merely out of fear of sanctions rather than from recognition of the law's moral function in one's external relations with others. In the Kantian state, characterized as it is by a complex web of horizontal and vertical authority relations, each participating member occupies a public role that requires him to exercise legally relevant forms of self-restraint; in so doing each contributes to the sustenance of the legal and political process as a whole.

I noted at the outset that Kant's association of the state's dignity with the Hobbesian qualities of irreproachability, irresistibility, and irreversibility give it rather ominous overtones. To the extent, however, to which we interpret the notion of dignity in terms of the primacy of self-restraint that attaches to it, we can say that it is *because* of the state's irreproachability etc., that it must comport itself with dignity. Thus interpreted, while Kant does not deny the state's essentially coercive nature, he nonetheless seeks to 'moralize' coercive authority. He does so not by way of appeal to the more familiar mechanism of countervailing checks and balances, but rather by way of placing the state under a moral obligation of self-restraint.

I also said that its constitutively coercive will distinguishes the moral personality of the state from that of natural persons. Even the active citizen lacks coercive authority. The active citizen upholds the law primarily by way of conducting his private transactions in accordance with it; he thereby upholds *horizontal* rights relations made possible through the vertical axis. I said that the dignity of the citizen is a function of his juridically significant capacity for independence, operationalized in terms of his capacity for choice including, most centrally, property relations. The dignity of the citizen is thus not grounded in his moral personhood—i. e., in his capacity for purity of will. Moral dignity and citizen dignity are distinct from each other. We saw that Kant is quite explicit that the non-judicial status of passive citizens—all those who lack independence—does not detract from their status as moral persons. Although passive citizens lack citizen dignity and although criminals and revolutionaries have forfeited it, none therefore also lack the dignity of moral personhood.

22 In contemporary debates about state sovereignty, justice and legitimacy it is often argued that state power is best contained by means of coercive supra-state institutions at the international level. Kant rejects the curtailment of state sovereignty on the grounds that there cannot be a higher authority above the highest authority. Even if one is not persuaded by Kant's argument at state level, the problem of restricting 'the highest authority' will recur at supra-state level: at some point the argument from self-restraint will apply.

Can there be a conflict between the dignity of the citizen and the dignity of the state? There certainly should be no such conflict insofar as the two are conceived as mutually supporting constituent members of the civil union and, through this, of the general united will. This is not to say that there cannot be dissent on the part of the citizen. However, that dissent must be expressed non-violently and must remain respectful of the law, even of a law with which one disagrees: citizens' freedom of the pen is the form of citizen dissent most expressly endorsed by Kant. Even where he finds himself at odds with it, the dignity of the citizen requires him to voice his dissent by lawful means. The ruler in turn is obliged to listen to lawful expressions of dissent—though whether or not he will in fact do so is of course a different matter.

Can there be a conflict between the dignity of the state and the moral dignity of persons? Again, I believe that, in principle, there should be no such conflict. This is largely because of the division of moral labour between law and virtue, state and persons. The state makes possible relations of external freedom between persons—it secures externally law-governed interactions between reciprocally equal members none of whom has the authority to prescribe coercive laws to any other. However, the state must not intrude into the domain of inner freedom including persons' ethical judgements. The state can compel externally but not internally. Kant nonetheless acknowledges that some rulers will seek to compel their subjects to act in ways that require them to violate the constraints of ethics. In the case of giving false witness, for example, Kant entertains the possibility of a prince's putting before the subject the choice of either giving false witness in relation to an innocent third party or facing the gallows himself. In such a situation, Kant claims that everyone will know which of the two options he *should* choose. Nor is it even the prince's own intention to change the subject's inner convictions—the prince merely wants the subject outwardly to act in a particular way. There is thus no question of inner compulsion or brain-washing here. For the same reason, it is not the prince who is directly at fault if the subject does comply and bears false witness—the subject himself is at fault so far as his ethical judgement is concerned. It is nonetheless also very much below the dignity of the prince, as official office holder, to make such a request of the subject. So, while the compliant subject himself acts against his dignity as a moral person—he knows that he should and can resist the request—the prince acts against the dignity of the state in making such a request of the subject. Indeed, on the analysis here given, the prince also acts against the subject's dignity as a citizen, for in making the request of the latter, the prince oversteps the bounds of an external lawgiving.

In giving the example, Kant seems to assume that the state can never deprive a person of his moral dignity. Insofar as moral dignity pertains to the capacity for

ethical self-legislation, a citizen who resists the prince's request preserves his moral dignity even though it costs him his life. One may nonetheless query Kant's apparent assumption that a state can never deprive a person of her moral dignity. Kant's apparent belief that a state cannot access the inner recesses of persons' moral conscience may be naive—states have shown that they can and do abuse persons in ways that systematically undermine and even destroy their capacity for moral agency. Nazi concentration camps are often cited as the paradigm case of a state's destruction of persons' capacity for morality. Perhaps this is true—perhaps the Nazi regime did succeed in rendering many of its victims incapable of morality. (Arendt 2017) On the Kantian understanding, such a regime would count as evil in the technical sense of knowingly using the coercive authority of the state as a means to destroying the possibility of morality. Again, any state that turns its victims into non-persons has long since lost its dignity as a state, so here too the argument from state dignity may have some bite even if, short of self-restraint, the argument from dignity cannot prevent a state from committing such comprehensive forms of abuse. (Ebbinghaus 1953)

6 State Dignity in Contemporary Context

I noted at the outset of this chapter that Kant's attribution of dignity to the state sounds strange and even alarming to contemporary ears. We are habituated into thinking of the state as a politically necessary evil or, at best, as a useful set of institutions that helps us get things done more efficiently. We do not generally credit the state with moral agency, far less attribute dignity to it. This is somewhat ironic, since we nonetheless also expect the state to respect and to safeguard our rights—expectations that do seem to betoken a view of the state as capable of morally responsible agency.

Similarly, we do not generally think of citizenship as a form of public office to which dignity attaches in turn. We claim citizenship rights but, by and large, detach these rights claims from any association with citizenship duties. We pay our taxes because we must and we turn up at the polling station if we can find the time but we do not generally view these contributions as responsibilities associated with any form of public office.

Should we attribute dignity to the modern state? I am not sure that we *can*. Among the more striking aspects to have emerged from the above analysis is the interdependence between state- and citizen conduct. Within the state conceived as a complex union of head and subjects, each member has distinctive participatory tasks. We saw that while Kant does speak of active citizens' voting rights—references that are sometimes treated as evidence of his support of dem-

ocratic forms of government—overall it is nonetheless difficult not to concur with Reinhard Brandt that Kant’s account of state and of governmental forms remains severely underdeveloped, if not often confused. (Brandt 1990) Certainly, by voting rights Kant cannot possibly have had in mind a pluralistic, multi-party, competitive electoral system in which governmental authority is the prize won by the greatest fraction of votes cast. For one thing, party politics emerged much later; for another, such a conception of political participation makes it hard to sustain the idea of a general united will.

More systematically developed than any particular form of governance is the idea of active citizens’ participation in the state’s legal processes by way of their private transactions with one another. The mark of active citizenship is independence. Property acquisition is the paradigmatic act of independence, and state entrance is closely tied to such—morally problematic—acts. Here we do have a systematically developed argument that proceeds from the quality of independence, to the duty of state entrance and then to active participation in upholding the law as a legally accountable citizen. The surprising aspect of Kant’s analysis lies in the insight that citizens can bring a state down by failing to comport themselves towards the law in a dignified manner. It is perhaps *this* aspect of Kant’s account that most strikes a chord when held up against recent trends in many contemporary liberal democratic societies.

The extent of citizen disaffection in many of contemporary polities is noticeable. Recently, it has often taken the form of protest voting that signals a general corrosion of respect for incumbent office holders. Though this corrosion of respect will have many causes, not least among them appears to be office holders’ perceived or real lack of respect for the legislative process. Particularly the protracted aftermath of the 2008 banking crisis, with stunningly large government bail-outs, severe austerity measures and largely cosmetic regulative reform, has severely shaken public confidence in governmental transparency and even-handedness. The impression that not even the government itself can or will hold itself accountable to the law unbinds citizens from their civic duties in turn. Here, then, is a striking contemporary example of the interdependence of state and citizen dignity assumed by Kant: where the state is perceived to act in undignified ways, citizens are likely to follow suit—with attendant corrosive consequences for the civil union as a whole.

The 2008 financial crisis may be an example of situations in which states might be thought of as having forfeited their dignity by virtue of acting in less than publicly transparent ways. Thus construed, the example does not in itself show that we cannot even in principle attribute dignity to today’s states. Yet there may be a principled bar to such attributions in the contemporary context. Return to Kant’s ambivalence regarding democratic rule. In *Perpetual Peace*,

Kant distinguishes between democracy as a form of political power (*Beherrschung*) and republicanism as a form of government. While alternative forms of political power include monarchy and aristocracy, the only alternative to republican government is said to be despotism. Kant goes on to define republicanism as the form of government based on the principle of a separation of powers. He then asserts that,

of the three forms of state [power], that of democracy in the strict sense of the word is necessarily a despotism because it establishes an executive power in which all decide for and, if need be, against one, so that all, who are nevertheless not all decide, and this is a contradiction of the general will with itself and with freedom.' (*ZeF* 8:352).

This passage is difficult to unpack; I shall not attempt to do so here. Noteworthy for present purposes is simply Kant's apparent association of republicanism with the complex of vertical and horizontal authority relations discussed above. To say that democracy as a form of state power is necessarily despotic is then to say that democratic power necessarily lacks the complex of vertical and horizontal relations that characterizes the republican form of government. From Kant's perspective, democracy's necessary despotism lies, ironically, in the absence under it of any vertical authority relations. It is also precisely the presence of vertical authority relations that warrant the attribution of dignity to the state. On the proposed account, then, dignity pertains to the state in virtue of the vertical axis of coercive authority, which demands the state's exercise of self-restraint in turn. The state's greatest task-master, so far as its own moral personality is concerned, is the demand for self-restraint imposed upon it. If the state's dignity is a function of its vertical authority structures, the democratic state cannot, on the Kantian conception of it, have dignity attributed to it.

Kant may of course be mistaken about democracy and about democracies—as noted, his thinking in these respects is frequently inconsistent and quite possibly confused. Still, it is interesting to note that Kant's denial of dignity to democratic states at least tallies with our own intuitive reservations about attributing dignity to states. If the interpretation here suggested is plausible, these reservations are, from a Kantian perspective, principled ones—i.e. they have to do with the structure of authority relations in the democratic state. We may not even find this to be cause for regret—we may think nothing lost by the non-attributability of dignity to the modern democratic state. This need not mean that there are no aspects of Kant's analysis of state dignity—and of the dignity of the citizen in relation to it—that would not repay further inquiry and analysis even in the contemporary political context.

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Takuya Saito

Kant on patriotism: ‘civic dignity’ and ‘way of thinking’

Abstract: In this paper I will examine Kant’s patriotism from the perspective of ‘way of thinking’ (*Denkungsart*) as its background theory. Kant’s patriotism provides the practical reasoning to develop the idea of a republican constitution, which protects the rights of man through legislation of the common will in the form of representative democracy. His line of argument leads him to criticize despotism and the hereditary order (‘dignity of the nobility’) for betraying the principles of civil freedom and civil equality (‘dignity of a citizen’). Despotic rulers should take up this form of patriotism by promoting the idea of the ‘original contract’ and reforming government. Kant’s analysis of the enthusiasm and sympathy for the French Revolution shows that this republic-oriented patriotism is possible even under a despotic regime, because it is not a mere attachment to a positive order, but based on ‘way of thinking.’

1 Introduction

The aim of this paper is to elucidate the meaning of Kantian dignity in sociopolitical relations by highlighting the characteristic aspects of the concept of patriotism on the basis of ‘way of thinking’ [*Denkungsart*]. In the late 18th century, Kant tried to explain the principles of modern representative democracy using the terms ‘republic’ and ‘republicanism,’ which he distinguishes from the direct democracy of antiquity (Shell 1980; Maus 1992; Kersting 2007). Kant’s ‘patriotism’ as a virtue is based on his ‘republicanism,’ and is currently drawing increasing research attention.

In the 18th century, the concept of patriotism was often contrasted with what we now understand as aggressive nationalism or ethnocentrism.¹ According to Vierhaus (1980), political participation was often bound with the discourse of

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1 For the process of the erosion of the boundary between nationalism and patriotism since the 19th century, see Viroli 1995.

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patriotism in this period in Germany, in pursuit of freedom and equality under laws designed to overcome and transform the corporative social order. In many previous studies, Kant's patriotism has been discussed as an attachment to a democratic constitutional state, distinct from nationalism (Williams 1983, 129–137; Seubert 1999, 32f.) and understood as part of the republicanism tradition since classical ancient times (Pinzani 2009, 299). Pauline Kleingeld has amply elaborated on this subject and reconstructed from Kant's writings three types of patriotism, namely 'trait-based patriotism,' 'nationalist patriotism,' and 'civic patriotism': She believes it is republic-oriented 'civic patriotism' that would meet Kant's approval and properly points out that this form of patriotism "involves regarding oneself as a co-legislating member of the state, and not as merely its property" (Kleingeld 2003, 303). Moreover, Kleingeld regards Kant's patriotism to be a *duty* of citizens *toward* their particular just state and maintains that "one does have a *special* allegiance and *special* obligations to the state of which one is a citizen" (Kleingeld 2012, 31; Kleingeld 2014, 268ff.).

In this paper, I will examine the political meaning behind the fact that Kant developed this idea while living not in a republic, but in an 18th century monarchist state. Kant calls membership of a just state, namely the rank of a free and equal citizen, the "dignity of a citizen" (*RL* 6:329). When people do not have a just state, the 'dignity of a citizen' will be lost and they need to somehow establish one to achieve this dignity. In that case, however, how is patriotism in a Kantian sense possible *without a just state*?

To answer this question, it would be of significance to consider Kant's moral philosophy as a background theory for his concept of patriotism as well as political institutions as the objects of attachment.² The key to explore the background theory of Kant's patriotism is to be found in a passage in *On the Common Saying* (1793), in which Kant discusses patriotism as the "way of thinking" [*Denkungsart*] (*TP* 8:291) of all members in a state. Reconsidering Kant's patriotism as a 'way of thinking' leads us to a new understanding of the concept of the 'dignity of a citizen' in his political philosophy.

This paper begins by explaining the general use of the term 'way of thinking' as the concept of cause for a practical purpose (2.1). I will then show that 'way of thinking' refers to the conduct of thought that establishes a priority of moral practical order over the mechanism of nature (2.2). Hence, it indicates the 'dignity of humanity' and 'sublimity' that causes true enthusiasm (2.3).

² On the idea that the concept of patriotism needs a moral background theory to be normatively substantive, see Müller 2007, 47.

Second, I will elucidate the connection between 'way of thinking' and the idea of 'original contract' (3.1) and 'republican constitution' (3.2). This will provide a criticism of the concepts of hereditary nobility and despotism (a product of the mechanism of nature according to Kant) and also offer a practical reasoning process, according to which one seeks to give oneself an appropriate rank in a legal order corresponding to one's dignity as a citizen (3.3).

Third, I will examine Kant's concept of 'way of thinking' in the political context of his day, that is, in the 'enthusiasm' of the French (4.1), and the 'sympathy' of the Prussians (4.2), for the French Revolution. This will explain Kant's position in the debate about patriotism in the late 18th century (4.3).

2 Dignity and 'way of thinking'

2.1 Preliminary investigation: The concept of 'way of thinking' in the *Critique of Pure Reason*

Kant employs the term 'way of thinking' [*Denkungsart*] in his discussion of the third antinomy of spontaneity and causal determinism in the "Transcendental Dialectic" of the *Critique of Pure Reason*. Kant discusses the causality of reason, distinguishing it from understanding. While understanding "can cognize only *what exists*, or has been, or will be," reason does not accept "the order of things as they are presented in intuition," but "with complete spontaneity" creates "its own order according to ideas," and it declares "actions to be necessary that have not yet occurred and perhaps will not occur" (*KrV A 548/B 576*). Reason is essentially a capacity to originate 'ideas' that has regulative and practical necessity (Shell 2003, 61). 'Way of thinking' means acknowledging reason's "rule and order, which is entirely other than the natural order" (*KrV A 550/B 578*).

This rule of reason is distinguished from a rule resulting from a sensible condition. According to Kant, every human being has an "empirical character" that can be grasped as a rule in its effects in appearance and, thus, is an object of anthropological observation (*KrV A 549/B 577*). This is called "way of sensing" [*Sinnesart*] (*KrV A 551/B 579*), in the sense of the rule and order of nature conditioned by empirical and psychological causes such as propensity and inclination.

"Way of thinking" is regarded as a cause of action and is therefore called "intelligible character" in terms of the causality of reason (*KrV A 551/B 559*). In this respect, 'way of thinking' is to think (in a non-empirical manner, namely under the regulative idea of transcendental freedom) that "reason [...] is a faculty *through* which the sensible condition of an empirical series of effects first be-

gins” (*KrV* A 552/B 580) and to attribute not only an empirical but also an intelligible character to our agency (this attribution is a condition of the imputation of actions) (Allison 1990, 45). According to Kant, thinking in a certain way itself is a causal source of effects in the world (Munzel 1999, 26f.). The determination of ‘way of sensing’ by ‘way of thinking’ is, however, not a mechanistic, but a logical approach: ‘way of thinking’ provides objective grounds that the rational agent can spontaneously deem as reasons for his own action.³

2.2 Dignity as the capacity for self-legislation indicated in ‘way of thinking’

In Kant’s moral philosophy, the term ‘way of thinking’ is incorporated into a vocabulary to develop the conception of moral autonomy, and it is treated as synonymous with ‘*Gesinnung*’ as a fundamental and stable maxim that underlies the enduring character of an agent and enables moral action.⁴ Along with this shift, in comparison with the case of the *Critique of Pure Reason*, Kant associates ‘way of thinking’ more clearly with the general orientation of the will, rather than with particular acts. It is thus employed as an anthropological term that refers to a human being who possesses a moral character (Kant calls such a being “a man of principles”), although it is still distinguished from “way of sensing” in the sense of an empirically observable temperament (*Anth* 7:285; 292).

According to Kant, human beings are not only rational but also physical and sensible beings. They pursue “happiness” by fulfilling different inclinations, by and large. For such beings, the difficulty in trying to be morally good lies in practical reason itself, where a “natural dialectic, that is, a propensity to rationalize against those strict laws of duty [...], to corrupt them at their basis and to destroy all their dignity” (*GMS* 4:405) is formed and rooted.

In the *Critique of Practical Reason*, Kant addresses the problem of the “propensity” to make one’s own desires (subjective grounds for the determination of choice) primary and original. This “propensity” first appears in the form of “self-love,” which turns inclinations to desires into the objective grounds for the determination of the will, which can then escalate into a more arrogant form—“self-conceit”—when it dares to make “itself lawgiving and the unconditional practical principle” (*KpV* 5:74). If the agent allows himself to be influenced by self-

³ For more detail on the logical nature of the determination of the empirical character by the intelligible character, which runs parallel to that of ‘way of sensing’ by ‘way of thinking,’ see Allison 1990, 39 ff.

⁴ On Kant’s conception of ‘*Gesinnung*,’ see Allison 1990, 136–145.

love, it results in the heteronomy of the power of choice. He then decides to be merely a part of the mechanism of nature, namely "a marionette or an automaton, like Vaucanson's, built and wound up by the supreme artist" (*KpV* 5:101).

In contrast to the above, human beings are capable of self-legislation, limiting the interest of their self-love to the moral law and giving universal law through all their maxims (*GMS* 4:432). This capacity is called their "own nature," by which a human being is a person distinct from a mere thing, and finds freedom and independence from the mechanism of all of nature in oneself as a moral being (*GMS* 4:435). It is the "humanity in the person" as a capacity for self-legislation that makes the person an end in himself and grounds his dignity (*GMS* 4:436).⁵ Within this concept of moral autonomy, dignity is found in a 'way of thinking' that respects the legislating will, as follows: "This esteem [...] lets the worth of such a way of thinking be cognized as dignity and puts it infinitely above all price [...]" (*GMS* 4:435).

Thus, in *Religion within the Boundaries of Mere Reason* (1794), Kant describes the enduring attitude underlying an agent's specific moral acts and decisions as the "moral way of thinking" in the following manner:

[... T]he object of our maxims [...] is rather the *worthiness of being happy*, i. e., the agreement of all our maxims with the moral law. Now, that this worthiness is objectively the condition under which alone the wish for happiness can conform with the law-giving reason, in this consists every moral rule; and in the disposition to wish only under such condition, the moral way of thinking [*sittliche Denkungsart*]. (*RGV* 6:46 note; my translation)

In terms of adopting incentives and maxims, acknowledging the natural tendency to seek happiness as a ground for action is regarded as a "perverted way of thinking" [*verkehrte Denkungsart*] (*RGV* 6:47 f.). In contrast, acquiring a 'moral way of thinking' is indispensable to re-establishing a moral order of incentives in an agent's life, where the representation of the moral law deprives "self-love" of its influence and "self-conceit" of its delusion (*KpV* 5:75, 87).⁶ "Way of thinking" in this sense refers to unconditionally respecting the moral law as the highest condition of all the maxims and restoring "the original moral

⁵ Sensen points out a two-fold structure in Kant's conception and the traditional paradigm of dignity, namely the 'initial dignity' as being elevated over the rest of nature in virtue of freedom and the 'second form of dignity' as a realization of morality, underlining that Kant's main innovation is the determination of dignity in terms of lawgiving (Sensen 2015, 127; see also Bacin 2015, 102).

⁶ In the case of a wrong self-conviction, an adjective with a negative connotation is attached to 'way of thinking.' For example, self-conceit is called "a frivolous, high-flown, fantastic way of thinking" (*KpV* 5:85) and is therefore considered a sort of delusion.

order among the incentives” (RGV 6:50), whereby the natural and sensuous incentives are subordinated to the only possible moral incentive.

‘Way of thinking’ drives in the thin end of the wedge in the tension between freedom and nature and indicates the dignity of humanity, since it refers to self-legislation and end-setting, as we have seen above. It does not, however, determine deductively (or mechanically) individual choice; instead it provides a logic and conviction of it in the practical reasoning, according to which an agent still has the latitude to act in a particular situation (Allison 1990, 142).

2.3 ‘Way of thinking’ as the condition for true enthusiasm

The relationship between ‘way of thinking’ and ‘dignity’ in the concept of autonomy introduces yet another development in the link between sublimity and enthusiasm. As Oliver Sensen correctly points out, Kant sometimes equates the “sublimity of moral disposition” with the “dignity of humanity” in one’s person in the sense of the elevation of a rational being, which is in contrast to subordination without self-legislation as follows (Sensen 2011, 166 ff.): “[...W]e [...] represent a certain sublimity and *dignity* in the person who fulfills all his duties. For there is indeed no sublimity in him insofar as he is *subject* to the moral law, but there certainly is insofar as he is at the same time *lawgiving* with respect to it and only for this reason subordinated to it” (GMS 4:439 f.). Sensen stresses that sublimity can be understood not only as a feeling but also as infinity, which is an idea of the mind (Sensen 2011, 167). The sublime is first expressed in the *Critique of the Power of Judgment* (1790) as “great beyond all comparison” in terms of quantity (KU 5:248). In terms of quality, Kant explains true sublimity as the power in the mind of human beings to conquer nature and sensible desires (KU 5:264). It is not nature but morality that is represented as truly sublime, as follows:

[...T]he irresistibility of its [nature’s—TS] power certainly makes us, considered as natural beings, recognize our physical powerlessness, but at the same time it reveals a capacity for judging ourselves as independent of it and a superiority over nature [...T]he humanity in our person remains undemeaned even though the human being must submit to that dominion. (KU 5:261f.)

The sublime refers to an experience of the excellence of our moral faculty, and in this respect, it renders us active: The judgment on the sublime in nature is not based on culture and convention in society, but rather “the predisposition to the feeling for (practical) ideas” (KU 5:265). The moral law is therefore represent-

ed aesthetically as sublime in the consciousness of the human being through the power that reason exercises over sensible incentives (*KU* 5:271).

When associated with practical ideas, “even that which we call sublime in nature outside us or even within ourselves (e.g. certain affects) is represented only as a power of the mind to soar above certain obstacles of sensibility by means of moral principles” (*KU* 5:271). In the discussion that follows, Kant even uses “enthusiasm” as an example of the power of the mind that can be represented as sublime, defining it as “[t]he idea of the good with affect” (*KU* 5:272). Such a positive evaluation is, however, surprising because it cannot be found in texts of the pre-critical period.⁷ Certainly, affect itself cannot be appreciated from the viewpoint of reason because it is an “intense movement of the mind,” a tumultuous and unpremeditated feeling that hinders the subject from considering rational principles and setting an end (*KU* 5:272; *Anth* 7:252f.). Kant continues, however, by stating: “[N]evertheless, enthusiasm is aesthetically sublime, because it is a stretching of the powers through ideas, which give the mind a momentum that acts far more powerfully and persistently than the impetus given by sensory representations” (*KU* 5:272).⁸

It is striking that enthusiasm can only be called sublime provided that the agent has the proper “way of thinking” in his mind (*KU* 5:274). Here, to emphasize its receptivity to practical ideas (in the presence of dignity and sublimity), Kant considers “way of thinking” as “maxims for making the intellectual and the ideas of reason superior to sensibility” (*KU* 5:274). He associates certain affects with ideas of religion, to edify people, or with those encompassing a social interest (*KU* 5:273). ‘Way of thinking’ empowers rational ideas in the mind of the subject, bringing about enthusiasm and raising the possibility of realizing freedom in the mechanism of nature. Without it, enthusiasm has no moral significance and is therefore just a passive emotional overflow.⁹

7 In the texts of the pre-critical period such as *Observations on the Feeling of the Beautiful and Sublime* (1764) and handwritten notes on this subject, enthusiasm is categorized as the “false sublime,” which has no relation with the principle of virtue (Clewis 2012, 141).

8 For a more detailed discussion of how genuine enthusiasm reveals human freedom, see Clewis 2009, 196 f.

9 Thus, Kant condemns the “art of oration” which “reached both in Athens and in Rome its highest level only at a time when the state was rushing toward its ruin and a truly patriotic way of thinking had been extinguished” (*KU* 5:328 note; my italics). Kant remains suspicious even about the “best speech of a Roman popular speaker or a contemporary speaker in parliament or the pulpit,” whose “deceitful art [...] understands how to move people, like machines, to a judgment in important matters which must lose all weight for them in calm reflection” (*KU* 5:328 note).

It is therefore not surprising that in a text from the *Reflections on Anthropology*, believed to have been written in the 1770s, Kant refers to patriotism (and cosmopolitanism) as a rational principle to eradicate “national delusion” [*Nationalwahn*] that divides nations against one another. He regards this sort of nationalism as representing forms of “self-conceit” (*Refl* 15₂:590 f.),¹⁰ which later in his moral philosophy, is struck down in the moral order of the ‘way of thinking,’ as we have seen. This anticipates the conceptual link between patriotism and ‘way of thinking’ as the background theory in Kant’s political philosophy.

However, it still remains to be elucidated under what idea of reason the concept of ‘way of thinking’ is associated with patriotism, how ‘way of thinking’ assists in establishing a just political-legal order and maintaining ‘civic dignity,’ and how it fires true enthusiasm. This elucidation will help to distinguish not only Kant’s patriotism from nationalism, but also from the monarchism and despotism of his time, and to clarify the underlying implication his patriotism was conceived in a despotic and hereditary order.

3 Kant’s concept of patriotic ‘way of thinking’ and ‘civic dignity’

3.1 ‘Way of thinking’ and the idea of original contract

In the second part on the right of a state in *On the Common Saying* (1793), Kant discusses the fundamental principles of political society and considers under which condition a ‘way of thinking’ can be regarded ‘patriotic.’ In the passage cited below, the goal of patriotism is clear: to maintain the ‘fatherland’ as a beneficial common property for future generations. More importantly, however, Kant adopts the expression “way of thinking” instead of ‘patriotism,’ and introduces an *idea of reason*, so as to be precise in his discussion as follows:

Patriotic is the way of thinking, when everyone in a state (its head not excepted) regards the commonwealth as the maternal womb, or the country as the paternal land, from which and on which he has arisen and which he must also leave behind as a cherished pledge, only so

10 In this text, in addition to “religion,” Kant includes “the self-conceit of understanding that all else must be clumsy and ignorant,” the self-conceit “of bravery, that every nation must fear this nation” and “of freedom, that all others are slaves” as sources of national delusion. On the compatibility of patriotism and cosmopolitanism, see Riedel 1996 and Kleingeld 2003.

as to consider himself authorized to protect his rights by laws of the common will but not to subject the use of it to his unconditional discretion. (*TP* 8:291)

As Kant stresses here, there should be a rational idea that is formulated in the principle “to consider himself authorized to protect his rights by laws of the common will,” behind an attachment to one’s ‘fatherland.’ Kant takes the concept of “rights” as his starting point to develop this principle toward co-legislation by the common will as follows:

All rights depend upon laws. But a public law that determines for everyone what is to be rightfully permitted or forbidden him is an act of the public will, from which all rights proceed and which must therefore itself be incapable of doing wrong to anyone. But this is possible through no other will than that of the entire people [...] This basic law, which can arise only from the general (united) will of the people, is called the *original contract*. (*TP* 8:294f.)

In this passage, the principle that only the “will of the entire people” can give legitimate public laws is called the “original contract.” Such a will itself is, however, a theoretical construction that is unable to be realized in full (Flikschuh 2000, 168f.). The “original contract” is the first logical requirement of such a will. This is therefore formulated as an idea of reason, distinguished from a historical fact, in the explanation of the transition from the state of nature to a just state as follows:

The act by which a people forms itself into a state is the *original contract*. Properly speaking, the original contract is only the idea of this act, in terms of which alone we can think of the legitimacy of a state. In accordance with the original contract, everyone [...] within a people gives up his external freedom in order to take it up again immediately as a member of a commonwealth [...]. [...]the human being in a state [...] has relinquished entirely his wild, lawless freedom in order to find his freedom as such undiminished, in a dependence upon laws [...], since this dependence arises from his own lawgiving will. (*RL* 6:315f.)

People constitute a state to realize the right to enjoy *freedom* under law in an *equal* way. To fully protect this right in the established state, the public law should be given in accordance with the will of the people. The idea of the original contract expresses both of these basic moments: the purpose of the establishment of the state (*right*) and the means of realizing that purpose (*legislation of the common will*).

Kant conceptualizes patriotism as a ‘way of thinking’ which is guided by the principle of the ‘common will.’ This ‘way of thinking’ offers the practical reasoning which opens up for the members of a state the possibility to question and

even transform the political principles that have shaped the ‘fatherland’ as a historically developed institution in the light of the original contract.

3.2 Freedom and the problem of despotism

Through the concept of ‘way of thinking,’ Kant provides the perspective of enlightened patriotism, rather than the naïve sentimental attachment to one’s native land, its nature, and the customs and languages of the inhabitants, that is, the German nation of the Holy Roman Empire (Aretin 1991).

Indeed, in the passage cited above (*TP* 8:291), Kant employs the expressions “paternal” and “maternal” to explain a love of the country where one is born and belongs by accident. However, while the family analogy was used to evoke a sentimental attachment in patriotism discourse at that time, Kant does not emphasize the natural bond between country and birth. For Kant, belonging to a certain country by birth refers in the first place to entering the realm of right and law: He explains a “fatherland” [*Vaterland*] as a “country (*territorium*) whose inhabitants are citizens of it simply by its constitution, without their having to perform any special act to establish the right (and so are citizens by birth)” (*RL* 6:337). Kant’s family analogy implies that all the members in a state have the same rank (Kleingeld 2003, 313f.). Only in so far as the county has a political constitution that protects the equal rights of each member through the law, can it be called a “cherished pledge” (*TP* 8:291) that is worthy of attachment. Following the outbreak of the French Revolution, patriotism could no longer be simply explained as natural attachment to the fatherland because the Declaration of the Rights of the Man and of the Citizen and the establishment of the republic greatly changed the understanding of the right and state.

It would be of significance then to clarify what position Kant’s concept occupies in the Enlightenment conception of patriotism. The protagonists of this concept thought that patriotism was only possible in rational political-social structures. Despite their diverse political positions, they emphasized the importance of the law that guarantees the cohesion of the political regime by protecting civil liberties. This idea of a love of the law stems back to Montesquieu: In his widely received work *The Spirit of the Laws* (1748), Montesquieu explains that patriotism, as the virtue of self-sacrifice, reinforced the bond of republican societies in classical antiquity while also distinguishing it from early modern monarchical society whose main principle is no longer virtue but honor, which engenders competition and self-interested behavior. He thus separated monarchy and patriotism (Schmidt 2010, 41). However, some of the enlightened patriots asserted

the superiority of monarchy over the republic in terms of political stability and discussed the possibility of patriotism in the former given that civil liberties were widely protected. Thomas Abbt, for example, appreciates monarchy as well as republic, in that both guarantee civil liberties by means of law (Abbt 1780, 18).

Interference from a paternalistic monarchical government, however, can lead to civil liberties being disemboweled. In this context, Kant's theory of patriotism is an attempt to transform a way of governing that paid little attention to the idea of co-legislation. In the citation above concerning patriotism (*TP* 8:291), Kant adds "(its head not excepted)" to address the argument about the condition of the patriotic way of thinking, "not to subject the use of it [i.e. the commonwealth—TS] to his unconditional discretion" undoubtedly to the *monarchs* as legislating rulers.¹¹

In this and foregoing passages, Kant pays attention to the problem of "*paternalistic government*" [*väterliche Regierung*], namely "despotism," which does not simply mean harsh rule imposed upon subjects. A government established on the principle of benevolence would fall into despotism, if it did not allow people the freedom to pursue happiness in a way that is different from what the ruler wishes and decides for them. For it would deny the right of *freedom*, according to which "each may seek his happiness in the way that seems good to him" and "[n]o one can coerce me to be happy in his way" (*TP* 8:290 f.; see also *TL* 6:454).¹² In contrast, the "*fatherlandly government*" [*vaterländische Regierung*] is that which is exercised in accordance with the patriotic way of thinking "to protect its right by laws of the common will," accordingly subordinating the principle of benevolence to that of external human right (*TP* 8:290 f.).

In *Toward Perpetual Peace* (1795), the concept of 'fatherlandly government' is evidently associated with the criterion of the legitimacy of a political constitution and called the "*way of governing*" [*Regierungsart*], which concerns the way a state exercises its governmental power under the condition of institutional restriction: "*Republicanism* is the political principle of separation of the executive power (the government) from the legislative power" (*ZeF* 8:352). The idea is that a 'civil constitution' should set up a 'representative system' separating legislative

¹¹ In this respect, Kant's concept of patriotism can be seen as an integral part of his conception of reform, that is, what Horn calls 'Kant's thesis of the reform monopoly of the ruler,' where the addressee of the norm is the legislating monarch (Horn 2014, 319 f.).

¹² Shell rightly points out, "respecting humanity in my own person [...] means not allowing myself to be used merely as a means by others, even and especially when they do so on the basis of a claim to serve me" and assumes crucial political importance (Shell 2003, 65 f.). We shall return to this point (4.1).

and executive bodies, and then, when possible, another ‘representative system,’ which enables legislation by the common will of the citizens through their elected deputies (*RL* 6:341). This offers, in turn, a critical stance to the political principle of despotism in a monarchical state, according to which the ruler (government) enforces the law legislated by the ruler himself: “A *government* that was also legislative would have to be called a *despotic* as opposed to a *patriotic government*” (*RL* 6:316 f.). The *patriotic way of thinking and governing* is a radical denial of despotism: Kant’s patriotism theory not only logically derives the principle of republicanism from the idea of the original contract, but also implies criticism of a government that does not fulfill this principle and thereby threatens the ‘dignity of a citizen.’

3.3 Equality and the problem of hereditary order

There remains in a despotic regime the possibility of achieving a republican constitution through progressive reforms. The starting point for such reforms is that the head of state adopts the “way of governing in conformity with the *spirit* of a representative system” (*ZeF* 8:352). Such a way of governing is “[t]o *govern* autocratically and yet in a republican way, that is, in the spirit of republicanism and on an analogy with it” (*SF* 7:87 note; 91; see also *RL* 6:340). If we understand Kant’s republicanism as embodying the spirit of the original contract in the despotic constitution (Kersting 2007, 327), it demands not only a republican way of governing, but also a patriotic way of thinking.

For Kant, such a government is possible, “as Frederick II, for example, at least *said* that he was only the highest servant of the state” (*ZeF* 8:352). Regardless of whether Frederick II *actually governed* in a republican way, these words express the humility required of those who are engaged in legislation (*ZeF* 8:352f. note).¹³ This humility is found in determining how public will can be established, but not in the political principle “of the high-handed management of the state by laws the regent has himself given, inasmuch as he handles the public will as his private will” (*ZeF* 8:352).

Such an attitude of the legislator is found in a way of thinking that pays heed to the idea of the “original contract,” as it forms “a coalition of every particular and private will within a people into a common and public will” (*TP* 8:297). Ac-

¹³ In contrast with moral arrogance, *humility* as the ‘consciousness of the insignificance of one’s moral worth’ follows from our sincere comparison of ourselves with the moral law and thus brings about “*exaltation* of the highest self-esteem” for oneself in the capacity for self-legislation (*TL* 6:435f.).

ording to Kant, free and equal co-legislators in society would build a “general (united) will of the people,” which would then indicate a principle for making rightful laws. Kant formulates this as the idea of the “original contract”:

[...]it is by no means necessary that this contract [...] be presupposed as a *fact*. It is [...] *only an idea* of reason, which, however, has its undoubted (practical) reality, namely to bind every legislator to give his laws in such a way that they *could* have arisen from the united will of a whole people and to regard each subject, insofar as he wants to be a citizen, as if he has joined in voting for such a will. (TP 8:297)

Under any regime and legislative system, the legitimacy of public law can only be guaranteed when the legislative process follows its course, while promoting the idea of the original contract.¹⁴ Provided that this way of thinking exists, Kant affirms that this idea “has its undoubted (practical) reality,” and demonstrates its practical effectiveness as “the touchstone of any public law’s conformity with right” (TP 8:297).

In light of this idea, Kant repeatedly addresses the problem of the ‘dignity of the nobility,’ as well as ensuing inequalities such as the prerogatives of the members of the hereditary nobility (RL 6:328f.; TP 8:292f.; ZeF 8:351 note). In a civil constitution, people should have legal protection *from inequality* as well as the right of *freedom*, for “the innate right of each [...] is altogether *equal* with respect to the authorization to coerce every other to remain always within the bounds of the consistency of the use of his freedom with mine” (TP 8:292f.). Hereditary nobility, however, betrays the principle of civil equality, namely “of not recognizing among the people any superior with the moral capacity to bind him as a matter of right in a way that he could not in turn bind the other” (RL 6:314). After pointing this out, Kant states “no human being in a state can be without any dignity, since he at least has the dignity of a citizen” (RL 6:329f.). Inequality in rank among members of a state means its *de facto* impairment, if we understand ‘civic dignity’ as having the rank of a free and equal citizen.

It is noteworthy that Kant notoriously includes among the attributes of a citizen not only “lawful *freedom*” and “civil *equality*” but also “civil *independence*” in the sense of “owing his existence and preservation to his own rights and powers as a member of the commonwealth, not to the choice of another among the people,” in other words, holding property in a broad sense: While property holders are entitled to vote and therefore participate in representative democracy as

¹⁴ The idea of the social contract is interpreted rather as an idea of reason that guides the process of public legislation in the civil constitution, and not as a means that grounds the duty to enter into the civil state (Flikschuh 2000, 172).

active citizens, passive citizens with no property are denied the vote and should merely obey the laws to enjoy legal protection as “mere associates in the state” (RL 6:314 f.). However, they still have “their freedom and equality as *human beings*” (RL 6:315): They are “free and equal under already existing public laws” (TP 8:294) and “must be allowed to attain any level of rank” (TP 8:292). In this sense, everyone in a state (both active and passive citizens) should at least enjoy ‘civic dignity’ as free and equal citizens under the law.

Hereditary nobility, however, betrays even the principles of ‘freedom and equality as *human beings*,’ in that it entails “born rulers (or at least privileged) with respect to the people” (RL 6:329) and *serfdom* as their patrimony. According to the Drafts for *the Doctrine of Right* on the “point of honor,” in ancient times, when citizens had to go to war as a civic duty, civic soldiers had civic honor as their reward for their defense of the fatherland. This honor was lost, however, after the nobility, with its serfs, constituted a special martial estate, with the result that the citizens no longer had this duty; in return, the nobility also renounced its civic duties (VARL 23:367). The nobility belongs to an estate which has privileges over all others and its own honor and culture in exchange for the merit of serving the country in war with great bravery (not induced by mere profit): This is, however, not a necessary or perpetual institution of the state (VARL 23:366). From his republican-patriotic perspective, Kant elucidates the ‘dignity of the nobility’ as a temporary institution derived from the concept of noble honor, by pitting it against the ‘dignity of citizens.’

In this respect, Kant’s concept of patriotism differs from that of his contemporaries and reveals its polemical nature, which can be recognized not only in its criticism of despotism in relation to *freedom* but also of hereditary nobility in relation to *equality*. This should encourage heads of state to gradually reform the state into a republic by abolishing the privileges of the hereditary nobility which infringe the “universal right of human beings” as well as separating the executive from the legislature and establishing a “representative system” (RL 6:369 f.). Under such a republican government, civic freedom and equality, hence ‘civic dignity,’ can be fully maintained. This leads to a discourse that imposes such reform as an obligation (RL 6:318).

However, if there is no republican ‘fatherland’ as was the case with Prussia, how is it possible to be a patriot in Kant’s sense? Kant seems to have answered this question already in a text from the *Reflections* on the philosophy of right in the 1770s, as follows: “Without the patriotism of the government no patriotism of the subjects is possible (for the latter consists in the subject being viewed as a member of the state and not as its property). Under the rights of a subject of a patriotic state belongs his status under equality of merit to which he can elevate himself; he can also attain the same dignity as every other” (Refl 19:511; my ital-

ics). However, Kant provides a different (broader) answer later in his observation of the enthusiastic reaction of the Prussians toward the endeavor to subvert the despotic regime and establish a republic anew, namely the French Revolution.

4 Enthusiasm for the French Revolution and patriotism

4.1 Tracing the idea of reason in the enthusiasm for the French Revolution

The republican patriotism evidenced during the French Revolution inspired not only the people within the country, but also those in neighboring states (Schmidt 2010, 48). In *The Conflict of Faculties* (1798), Kant regards the “zeal and grandeur of soul” of those who pushed through the French Revolution as ‘*true enthusiasm*’ (SF 7:86). Kant used patriotism as an example to show that this enthusiasm occurred in conjunction with the rational concept, as seen in his lectures on anthropology of the 1770s (V-NR 25:528 ff.). He also emphasized in the *Critique of the Powers of Judgment* (1790) that ‘way of thinking’ is decisive in linking ideas of reason with affect, so that enthusiasm is represented as sublime, as we have seen above (2.3). In *The Conflict of Faculties*, the example of the French Revolution is said to “give historical support for the [...] assertion, which is of considerable anthropological significance” (SF 7:86).

Enthusiasm in the minds of those who carried out the French Revolution is clearly associated with the morally good, especially *the concept of right*. For Kant, “true enthusiasm is always directed exclusively towards the *ideal*, particularly toward that which is purely moral (such as the concept of right), and it cannot be coupled with selfish interests” (SF 7:86). Monetary rewards could not elevate the opponents of the revolution to true enthusiasm; the opposition based on the “concept of *honor* among the old martial nobility” produced merely “an *analogue* to enthusiasm” unlike the “enthusiasm for upholding justice for the human race” (SF 7:86; my italics). Kant traces this link between the idea of reason and enthusiasm during the revolution to the *way of thinking and dignity*, according to which the formal principle (both intellectual and moral) can take primacy over the material objective.

Here again, Kant addresses the problem of despotic government, which provides “the pleasure of life’s comfort” instead of establishing the rights of all citizens. Kant refers to “the consciousness of his superiority over the irrational animal” of “a being endowed with freedom” in contrast to “docile sheep, led by a

benevolent and sensible master, well-fed and powerfully protected” (*SF* 7:87 note). This means that by having the consciousness of moral law, human beings raise themselves to the ‘initial dignity’ that is grounded in freedom and independence from the mechanism of nature (*SF* 7:73). Hence, they should first follow the moral law to realize their initial dignity (Sensen 2011, 168 f.).

However, if someone restricts one’s freedom in a way that violates a universal law, one can claim rights to freedom by reminding the agent of his or her duty to follow the Categorical Imperative because one has the “innate right of each,” namely a right to freedom that can coexist with the freedom of everyone else in accordance with a universal law (*TP* 8:292 f., *RL* 6:230).¹⁵ Kant thus confirms the priority of the right to freedom that is “a blessing that is exalted above all price (of utility)” over the principle of benevolent government and reaches the following conclusion about what a desirable government is: “A being endowed with freedom [...] can and should [...] demand no other government for the people to which he belongs than one in which the people are co-legislative” (*SF* 7:87 note).

This line of thought, which prioritizes the concept of the right to welfare and happiness, leads to the “idea of a constitution [...] in which the citizens obedient to the law, besides being united, ought also to be legislative” (*SF* 7:90 f.), where the concept of ‘civic dignity’ as a rank has its proper place. ‘Beings endowed with freedom’ must be subjects of rights and therefore part of the co-legislating will, through their elected deputies in a representative republic, which assures these rights.

4.2 ‘Way of thinking’ observed in the ‘sympathy’ of the Germans

This *way of thinking* is *patriotic* in the Kantian sense, in that it gives priority to the idea of the republican constitution in accordance with the concept of right. Moreover, those who involve themselves enthusiastically in the revolution and those who from the outside express “sympathy which borders almost on enthusiasm” (*SF* 7:85) share a common principle.¹⁶

¹⁵ For Kant, dignity is not a feature that by itself generates rights. One can claim rights properly, following from the duty of the agent. Cf. Sensen 2011, 169 f.

¹⁶ Here I associate the enthusiasm of the revolutionaries with what Clewis calls ‘practical enthusiasm’ involving agency, desires and intentions, while linking the ‘sympathy which borders almost on enthusiasm’ expressed by disinterested spectators with ‘aesthetic enthusiasm for the idea of a republic’ (Clewis 2009, 210 note 27; see also 169 f.).

This sympathy of the people connotes a sort of “partisanship” in the collision between proponents and opponents in “the drama of great political changes” of the revolution (*SF* 7:85). Why could such partisanship be acknowledged as “universal yet disinterested sympathy”? For Kant, this is not only because manifestation of partisanship brought no advantage to the people of Prussia or to the Holy Roman Empire, but it also placed them at a great disadvantage (*SF* 7:85). Instead, this sympathy is regarded as a representation of the ‘way of thinking’ that analyzes and evaluates the phenomenon of the revolution in light of the ideas of reason.

According to Kant, the “sympathy” [*Teilnehmung*] of the Germans for the French Revolution in the sense of “wishful participation” is not associated with the phenomenon—“filled with misery and atrocities”—of the revolution (*SF* 7:85). Instead, it is associated with “something *moral*,” that is “the *evolution* of a constitution governed by *natural right*”: The revolution “unites nature and freedom in the human race in conformity with inner principles of right” as long as it strives for a “republican constitution” (*SF* 7:87 f.).

In explaining this, Kant identifies two causes behind the sympathy of the people. The first is that the people in neighboring countries acknowledge “the right of every people to give itself a civil constitution of the kind that it sees fit, without interference from other powers” (*SF* 7:85). Therefore, they associate the French Revolution with the idea of the *original contract*. The second cause is found in the fact that people think that this revolution aimed to realize a republican constitution. For Kant, the idea of *the republican constitution* derives from “that which is purely moral (such as the concept of right)” (*SF* 7:86), and stands in accordance with the idea of the original contract. Such a “way of thinking” [*Denkungsart*] behind the sympathy for the revolution “demonstrates a character of the human race at large and all at once, owing to its universality; owing to its disinterestedness, a moral character of humanity, at least in its predisposition” (*SF* 7:85).

In *Toward Perpetual Peace* (1795), Kant refers to a dubious theory for maintaining a mechanism in accordance with despotically given coercive laws, “throwing human beings into one class with other living machines, which need only be aware that they are not free in order to become, in their own judgment, the most miserable of all beings in the world” (*ZeF* 8:378). Since the dignity of humanity is incessantly threatened in a despotic regime by a hereditary nobility, the possibility of progress should be explored. The “way of thinking,” of those who express sympathy for the French Revolution is referred to as “some experience or other which [...] might suggest that man has the quality or power of being the *cause* and (since his actions are supposed to be those of a being endowed with freedom) the *author* of his own improvement” (*SF* 7:84).

The “way of thinking” associated with this experience may be exemplified as “an event which would indicate that such a cause [...] is causally active within the human race, irrespective of the time at which it might actually operate” (*SF* 7:84). Kantian republican patriotism is therefore possible even in a monarchy, that is in the absence of a republic as a fatherland, as long as practical reasoning exists.¹⁷

4.3 The patriotic ‘way of thinking’ and love for the fatherland

For Kant, then, is it true to say that the Prussian people had no wish to establish a republican constitution in their own country? In the face of Jacobinism and the Reign of Terror, advocates of the German enlightenment could not help but determine its unsurpassable limit, seeking to save their own project of gradual evolution of society and civilization of humanity (Schmidt 2010, 54). In a similar vein, Kant denies that sympathy for the revolution implies that “a people which has a monarchic constitution can thereby claim the right to alter it, or even nurse a secret desire to do so” (*SF* 7:86 note). For Kant, it is morally wrong to establish a republic by means of a violent revolution (*SF* 7:87 note).

However, he considers that a lawful means for ‘the *evolution* of a constitution governed by *natural right*’ is gradual reform guided by the rational idea of the republic. Such reform is the “duty of the head of state” though not of the citizens (*SF* 7:92 note). Therefore, “everyone in a state” and “its head not excepted” should have a patriotic “way of thinking” (*TP* 8:291). By limiting himself to discussing the patriotic ‘way of thinking’, Kant warns rulers that gradual reform toward a republic is inevitable, which slowly but incessantly opens up the possibility of freedom from the mechanism of nature.

How could this ‘way of thinking,’ observed in the sympathy of subjects in the monarchy of Prussia, be compatible with the attachment to their non-republican regime? While patriotism has often been claimed to defend the monarchical ‘fatherland’ against the menace of the French Revolution (Schmidt 2010, 49), Kant would have been skeptical about the idea of dying for one’s fatherland. In the discussion about the method to obtain a moral disposition, character and ‘way of thinking’ in the *Critique of Practical Reason* (1788), Kant provides the example of “someone’s magnanimous sacrifice of his life for the preservation of

¹⁷ In this respect, we can regard “Kant’s concern with history” as “the outcome of a conception of human dignity that relies, for its potency, not only on the moral law, but also on some assurance against despair” (Shell 2003, 71).

his country” to consider whether “a noble and magnanimous action” can be a duty. He calls such self-sacrifice into question defining it as an infringement of “duty to oneself,” that is, of self-preservation (*KpV* 5:158; see also *TL* 6:423).

Kant himself sees not only a patriotic way of thinking but also a ‘love’ for their country in the Prussian people’s criticism of their government’s reaction to the revolution and the republicanism of the French. This criticism “does not prove that the people are dissatisfied with their own constitution, but rather that they are profoundly attached to it” (*SF* 7:86 note). For the republican constitution is, according to Kant, “by its very nature disposed to avoid wars of aggression” (*SF* 7:85) and “becomes progressively more secure from danger as more of the other nations become republics” (*SF* 7:86 note). For Kant, even though their own country had not yet realized the republican constitution, the Prussian people could still feel attachment to their ‘fatherland,’ wishing it would not become involved in destructive wars so that their government could commence and improve its reform toward a republican constitution. Against the background of the patriotism discourse of his day, Kant’s paradoxical argument of finding love for their country through sympathy for the French Revolution seems exceptional both in terms of its political ideology and the way in which the attachment was expressed.

5 Conclusion

Kant’s patriotism seeks to reconsider and evaluate one’s own state in light of the idea of republic, which protects the rights of citizens through legislation of the common will. Behind this attitude lies a ‘way of thinking,’ namely independence from the mechanism of nature and the establishment of a moral order of incentives, which give rise to ‘human dignity’ and ‘sublimity.’ The *patriotic* way of thinking offers a line of practical reasoning that starts by giving priority to the concept of right over the principle of happiness, and it leads to the ideas of social contract, legislation of the common will and republic, according to which one strives, convinced, for a proper rank in a just political society, corresponding to one’s ‘civic dignity.’

This way of thinking is possible even when a republican constitution is not yet organized; in a despotic order it can even produce true enthusiasm and the dynamics for reform, as Kant observed during the French Revolution. Kant even points out that the republican-patriotic way of thinking was spreading among the Prussian people and implies that political reform toward a republic is necessary to avoid a violent revolution. Kant’s patriotism argument, then, is strategically aimed at establishing a ‘fatherland’ in the reform process leading to a re-

public. When freedom is maintained through the reform of despotic rule and equality is maintained through the reform of hereditary nobility, the ‘dignity of a free and equal citizen’ is realized.

The dynamism of such change derives from the polemical nature of Kant’s patriotism. In a despotic order such dynamism is supposed by Kant to be exercised by encouraging reforms by the monarch and sometimes by exerting pressure on him. Thus, Kant urges the heads of state to adopt a republican-patriotic ‘way of thinking’ and ‘way of governing.’ It can even be exercised in a realized republican constitution, which Kant calls *respublica phaenomenon* in contrast to *respublica noumenon* as an idea of reason (*SF* 7:91), by revealing the deficiencies in the positive laws and institutions and the abuse of power by the government guided by the idea of a republic. The patriotic ‘way of thinking’ is found in the minds of those who never cease improving on inadequacies, even if little by little, in the systems and practices that maintain ‘civic dignity.’

This ‘way of thinking’ is not an obligation that a state imposes on its citizens. Kant’s patriotism goes beyond any form of state obligation or regulation in that it continues to question whether the ‘dignity of a state citizen’ is adequately maintained before and even after the establishment of the republican constitution. Rather, it is reason that obliges people as citizens of a concrete state to promote the idea of a republic.

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