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Constructing dignity: Human rights as a praxis of egalitarian freedom

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ABSTRACT

Familiar philosophical accounts of the relationship between human rights and human dignity treat dignity as the foundation of human rights. These accounts get the historical and conceptual relationship between rights and dignity wrong and obscure how power and politics shape human dignity in practice. This article sketches an alternative view that treats the emancipatory praxis of human rights as *constitutive* of a distinctive conception of dignity as egalitarian freedom. This political account clarifies the historical and conceptual relationships between dignity and human rights in ways that provide powerful critical leverage on some obdurate controversies in the field. Additionally, it makes the analysis of power and struggle central to our understanding of dignity and human rights at a political moment when such an analysis proves indispensable.

I do not see much point in saying that [all human beings] are now ... all equal in dignity. This doubt is a result of my more general suspicion of arguments of the form “We ought to seek to establish a utopia of the following sort, because such-and-such is presently the truth about us.” My attitude is: let’s try to figure out what kind of utopia we want, and let the truths about us be whatever we have to believe in order to work together for its creation. To put it crudely, let your view of human dignity fall out from your politics; don’t milk your politics out of such a view. (Rorty 2003: 233)

Human rights and human dignity are nearly inseparable in contemporary political and philosophical discourse. Although some scholars, mainly working in bio-ethics and related fields, dismiss dignity as a “useless” concept (e.g., Macklin 2003), “it has become increasingly difficult (and infrequent)” for philosophers and political theorists “to think of human dignity without human rights or vice versa” (Donnelly 2015: 14). The connection between the two concepts is so close that one critic has referred to them as “conjoined twins” (Schroeder 2012). Over the past half-century, scholars have focused intently on the connection between dignity and human rights, debating whether dignity can provide human rights with the *foundation* that many believe they urgently require.

What is typically meant by saying that α is the foundation of β is that β can be derived logically from α , either deductively or by relying on empirical premises (Waldron 2015: 125; Simmons 2015: 140). Key international human rights documents link human rights and human dignity explicitly in this way; the two Covenants, for instance, recognize the “inherent dignity” of all members of the human family as one of the pillars of freedom, justice and peace and assert that “[human] rights *derive from* the inherent dignity of the human person” (Sensen 2011: 74, emphasis added). Not everyone agrees that dignity can or does ground human rights in this way (e.g., Griffin 2008; Sangiovanni 2017), but virtually everyone writing on human rights and human dignity today agrees this is the salient question.

In this article, I reconceptualize the relationship between human rights and human dignity, proposing that the emancipatory praxis of human rights is *constitutive* of a distinctive conception of dignity as egalitarian freedom. Specifically, I argue that treating dignity as the ground or source of human rights ignores the complex social reality of human dignity. Understanding the relationship this way also obscures that human rights have frequently been asserted as a challenge to prevailing notions of dignity and misses how power and politics shape human dignity in practice. This alternative account provides powerful critical leverage on some obdurate controversies in the field and, by highlighting the constructed and thus contingent nature of dignity, clarifies the distinctly political challenges facing defenders of egalitarian freedom in the present political moment.

Although I argue for an alternative to foundational accounts of the relationship between dignity and human rights, I make no attempt to discredit foundationalism in human rights theory generally (see Beitz 2013). I also make no effort to justify the account of dignity as egalitarian freedom sketched here in the usual philosophical sense. My concerns are different: I want to show how emancipatory human rights praxis constitutes a particular conception of dignity as egalitarian freedom and to articulate, however schematically, the logic and appeal of that conception.¹

In highlighting the *emancipatory* praxis of human rights, I recognize that I am bracketing others—such as what we might call the colonial praxis of human rights, a praxis that constructs a very different conception of human dignity by associating rights with colonizers and their “missions.” I focus here on the emancipatory praxis and on its distinctive account of dignity as egalitarian freedom because it is this conception that theorists and philosophers typically posit as foundational in their accounts. I must leave aside for now crucial questions about how we might theorize the multiple and conflicting praxes of human rights comprehensively, although my arguments here gesture toward the approach to such questions that I would pursue.

The social reality of dignity

Most of the recent literature on dignity, including the critical literature, treats it as a moral or metaphysical concept (e.g., Kateb 2011; Rosen 2012). It thus seems natural—to political theorists, anyway—to think about the relationship between dignity and human rights in philosophical terms (Waldron 2009: 209). There is a now-familiar form of argumentation through which scholars approach this relationship, beginning with an analysis of the idea of natural or inherent human dignity, then showing how the moral importance of dignity provides a ground or foundation for a set of universal moral rights for human beings, and finally working out which specific human rights are implied by this particular argument (Simmons 2015: 138). Again, not everyone agrees that dignity is an adequate or appropriate foundation for human rights, but nearly everyone regards this foundational question as key.

This approach is significantly at odds with what we might call the social reality of dignity. Empirically, dignity is a contextually specific notion that varies within and across time and place. Anthropologists understand it as a thick cultural concept, one with strong normative and ideological overtones (Shultziner 2007: 78–80). It is situated within a “wide moral view” that promotes harmony between particular conceptions of the worth of human beings and specific understandings of social relations (Shultziner 2007: 85). Seen this way, dignity appears as firmly socially grounded. “Dignity is not an idea abstracted from human actions, but has life only in the actual relations between human beings. Dignity is, in the end, evident only in the concreteness of human life and practice” (Malpas and Lickiss 2007: 5).

The moral aspect of dignity, in this view, is nothing abstract or metaphysical but, rather, refers to the values and beliefs distinctive of particular people in specific contexts. “Conceptions of human dignity, in their social and political aspects, express particular understandings of the inner (moral) nature and worth of the human person and his or her proper (political) relations with society” (Howard and Donnelly 1986: 802). The normal linguistic function of dignity, so understood, is to identify and define behavior that is in line with the premises about human worth held by a given culture or society (Shultziner 2007: 86–87). Thus “dignified” behavior means, effectively, “appropriate comportment,” in

which the dominant cultural understandings governing a particular context determine the standards of propriety; “undignified” behavior violates those standards and is therefore shameful or immoral.

Paying attention to the social reality of dignity makes apparent that it “is neither static nor universal” (Shultziner 2007: 87). What was once acceptable or customary behavior can come to be regarded differently as a result of historical and cultural change, which filters down from the level of broader understandings of dignity and human worth into evaluations of the propriety of specific forms of comportment. Thick accounts of dignity like this are variable precisely because they are so closely knitted to specific (although not fixed) cultural norms and interpretations. As this discussion suggests, power crucially shapes the social reality of dignity: Dominant norms and understandings strongly condition social standards of what is dignified and appropriate, and social practices of shaming, degradation, and humiliation are commonly used as techniques for maintaining and policing these standards by portraying people or their behavior as undignified. Together, the mutability of dignity and its location within fields of power should lead us to expect that it will be a site and object of social contestation.

As this discussion makes clear, dignity is a *relational* concept. A substantive conception of dignity can be interpreted as an expression of how a particular constellation of values, beliefs, and understandings structures and constrains social arrangements and interactions in a given context. This relational dimension is evident in the way that dignity translates notions of worth and status into expectations about comportment. Any substantive conception of dignity always has clear practical implications for how people should behave and what kind of treatment they deserve. These expectations are variously codified or embedded in a society’s legal, moral, and social institutions and practices.

This analytic account is based on generalizations about how dignity actually works in concrete social settings. As we have seen, one purpose of dignity is to establish normative standards for comportment that regulate social life. Crucially, although this normative function is a general or regular feature of dignity, the specific legal, moral, and social content of particular conceptions of dignity varies considerably with the religious, philosophical, and cultural character of the society that engenders it. Conceptualizing dignity as grounded and relational does not imply or suggest substantive similarity among various conceptions of it—let alone universality. Different societies, in fact, have held and still hold different conceptions of dignity and have quite divergent ideas about how it is best realized (Donnelly 1982). Perhaps unsurprisingly, then, “there are conceptions of human dignity which do not imply human rights, and societies and institutions which aim to realize human dignity entirely independent of human rights[sic]” (Donnelly 1982: 303).²

For theorists and philosophers who conceptualize dignity as a metaphysical concept and treat the relationship between dignity and human rights as foundational, these social realities are problematic—and rarely acknowledged. Scholars who do recognize them typically attempt to resolve the apparent tensions between their pristine philosophical accounts and the inconvenient messiness of the real world through teleological narratives about the progressive discovery and realization of universal or inherent dignity. In this view, the metaphysical essence of dignity is revealed or grasped slowly and unevenly, and the diversity of conceptions of dignity in the world reflects the distance yet to be traversed before we reach the ideal point of convergence on dignity *properly understood*.

Jack Donnelly, whose work I have repeatedly cited here in support of a socially grounded understanding of human dignity, recently (in this journal) advanced a novel argument that attempts to reconcile this realistic understanding with a universal conception of human rights. In a sweeping survey of Western conceptions of dignity, Donnelly introduced a distinction between what he calls “normative” and “taxonomic” understandings of humanity: The former refers to the dignity of those who are human and describes the characteristics of those “who count”; the latter, as the name indicates, comprises all *homo sapiens*.

Donnelly maintained that Kant was the first thinker to clearly conceive of normative humanity in terms of inherent and universal dignity and the first to treat it as the foundation of political right—although he acknowledged that, in Kant’s view, not all members of *homo sapiens* possessed (were capable of) dignity of this type, leaving a gap between normative and taxonomic humanity

(Donnelly 2015: 9). By the end of the eighteenth century, Donnelly argued, the American and French revolutions had established the historical significance of this Kantian conception of dignity by grounding political legitimacy firmly on universal natural rights—although the gap between normative and taxonomic humanity remained (Donnelly 2015: 11).

In the period between these eighteenth-century revolutions and the proclamation of the Universal Declaration of Human Rights in 1948, which for Donnelly marked the final convergence of normative and taxonomic humanity in a conception of universal human rights, “we see less a ‘natural’ unfolding of the ‘inherent’ logic of universal dignity and rights than a series of deeply contested struggles by excluded groups—working men, religious minorities, women, ethnic and linguistic minorities, non-white races, and the colonized—that fitfully expanded the category of normative humans, often in the face of violent resistance” (Donnelly 2015: 11).

Today, Donnelly has discerned an emerging “overlapping consensus on internationally recognized human rights and human dignity” that allows “most people in most parts of the world ... to situate human rights into their religious, philosophical, and cultural frameworks of meaning through the idea of human dignity” (Donnelly 2015: 15). He sees an ongoing “convergence” of leading comprehensive doctrines in all regions of the world on “the moral equality of all human beings” (Donnelly 2007: 291). Although he acknowledges that there are many good but incompatible accounts of the details of the relationship between dignity and human rights, he also insists that all of them (now) see the two ideas as inextricably linked; in contrast with earlier eras, he claims, all of them insist on the universality of humanity (Donnelly 2015: 15).³

I find Donnelly’s account of social struggles to stretch normative conceptions of humanity to match the taxonomic category intriguing and productive, but I have two related reservations about it. First, I am skeptical about the emerging overlapping consensus on universal dignity and universal rights. I interpret contemporary political developments in part as a story of the global resurgence of distinctly inegalitarian and noninclusive worldviews and ideologies; even a nuanced, politically attuned teleological account has trouble explaining these developments persuasively. Second, I worry about the political story implied by Donnelly’s account. He depicts the Kantian conception of dignity as simultaneously universal (normatively) and exclusive (taxonomically) by making the “gap” a matter of prejudice or bias. This leaves Kant’s conception of dignity pristine, awaiting its (inevitable?) historical fulfillment. We know, however, that universal moral principles and discourses have historically enabled both emancipation *and* domination. By treating the limitations of the Kantian account of dignity mainly as problems of incomplete realization, Donnelly paints a misleading picture of contestation around human rights, one incommensurate with his own understanding of the social reality of dignity.

Building on these observations, I will advance three central claims about social struggles to construct an emancipatory account of human dignity. First, such struggles are struggles against systems of domination, oppression, and exploitation through which some people’s dignity or humanity is denied by others. Second, once this is acknowledged, contestation around rights and dignity cannot be understood simply as conflict over “expanded coverage” but, rather, appears as conflict over the very meaning of rights and dignity. Put differently, these are struggles not simply to “close the gap” but to redefine rights and dignity more inclusively and expansively, a project that entails the loss of privilege and status—of “dignity”—for those whose “universal” rights are diluted in the expansion. This point is crucial, because it transforms our understanding of the relationship between dignity and human rights: If rights claims and rights-claiming are sometimes, at least in part, about challenging prevailing conceptions of dignity and the systems of domination, oppression, and exploitation they license, dignity cannot be the ground or foundation of human rights in the way that philosophical accounts portray it. Indeed, an examination of human rights praxis suggests that, rather than the foundation of human rights struggles, dignity is the object of contestation. Finally, as this implies, social struggles around rights do not aim toward some fixed or ideal account of dignity; they are open-ended, protean endeavors of political construction.

The emancipatory praxis of human rights

By *praxis* I mean simply the (real) social and political activity of rights-claiming by groups and individuals, including the thinking that orients it and the practices through which it is advanced. Recently, several scholars have begun to argue that there is much to be learned about the theory of human rights from careful study of grassroots human rights advocates and social movements (e.g., Stammers 1999, 2009; Ackerly 2001, 2008; Zivi 2012), and I rely and build on their work here. Focusing on human rights praxis also helps to differentiate my approach from recent “practice-based” accounts of human rights that emphasize states and the international human rights regime (Beitz 2009) and the key legal texts and rhetoric of that regime (Gilbert 2015) as well as from so-called political accounts of human rights that advocate various forms of human rights minimalism (e.g., Rawls 1999; Cohen 2004).

To begin, I want to tease out the emancipatory logic of human rights that animates grassroots human rights praxis. This leveling logic has proven particularly effective in challenging existing social arrangements and helps to explain the utility and widespread appeal of human rights as a vocabulary for emancipatory political activity. This logic was worked out in the tumultuous context of seventeenth-century England, where revolutionary political theorists and activists developed a distinctive theory and practice of rights-claiming amid the foment of the Civil War, the Restoration, the Exclusion Crisis, and the Glorious Revolution.⁴ Equal natural rights were invented around this time to do important political work in the service of revolutionary politics (e.g., Minogue 1979; Goodhart 2005: chapter 6). Simplifying tremendously, political thinkers in Stuart England and the Dutch Republics were using claims about natural rights, based on the normative premises of natural freedom and equality, to challenge the prerogatives of monarchy and to formulate arguments for limited and popular sovereignty. The argument from freedom and equality is especially useful for this purpose. As Carole Pateman (1988: 39) has shown, the premise that everyone is naturally free and equal establishes that no group or person can be *naturally* inferior or subject to any other group or person; it thus demolishes in one fell swoop all justifications of inherited authority and of hierarchies founded in social, economic, religious, or other status.

For theorists like John Locke, these principles do precisely the work that needs doing: They justify popular sovereignty and rule by consent, the cornerstones of Locke’s radical Whig defense of the 1688 revolution. That defense couched natural freedom and equality in terms of rights possessed (in principle, at least) by everyone. It turned out, however, that the doctrine of equal natural rights (hereafter, human rights) proved to be much more radical and effective than Locke and many others could have imagined or desired: It can be used to contest arbitrary power and privilege of all kinds in any domain of social life. Just as critics of the doctrine had feared (Bowle 1969: 132; Filmer 1991: 184), it was eagerly appropriated by those interested in deeper social, economic, and political change—in “leveling” or dismantling existing hierarchies of all kinds. Opponents of patriarchy, slavery, aristocracy, and traditional religious authority quickly seized on the discourse of rights in challenging these forms of domination; rights-based arguments were used by American, French, and Haitian revolutionaries; by advocates of abolition and of women’s emancipation; by opponents of colonialism and imperialism; and by socialists and workers to advance their respective struggles (Ishay 2004; Goodhart 2005: chapter 6; Stammers 2009).⁵

There is no particular magic to human rights, no metaphysical quality or moral property that gives them force. Rather, human rights arguments prove particularly useful in emancipatory struggles because they are designed specifically to challenge and upend existing arrangements whenever those arrangements deny people’s freedom and equality. Put differently, the emancipatory thrust of human rights claims is the logical upshot of their basis in a commitment to freedom and equality for all. If people have different rights, or different entitlement to them, the effectiveness of rights claims against arbitrary power and privilege is undercut; that was Pateman’s point. The moment one admits that not everyone has the same rights, the entire argument is undone. Had Locke, for instance, asserted the natural *inequality* of African slaves, it would have been impossible for him to argue decisively against the divine right of kings: Once the door is open to one form of natural inferiority or subordination, it proves impossible, theoretically, to close it to others. Locke was forced to find different arguments to

try to justify the slave trade from which he prospered, as well as the subordination of women, servants, and indigenous peoples in settler colonies (see Pateman 1988; Tully 1993; Mills 1997; Pateman and Mills 2007).

Many critics have dismissed the natural rights tradition—and human rights along with it—because, like Locke, its early proponents articulated theories that were couched as universal but that often worked in oppressive, exclusive, and exploitative ways. For these critics, the emancipatory pretensions of human rights are just that, pretensions masking a long and violent record of complicity in domination. It can seem better simply to reject human rights, with their historical and conceptual baggage, and to seek new tools and a new vocabulary for emancipatory politics. Certainly the sordid history of domination, oppression, and exploitation associated with human rights cannot and should not be ignored. But to abandon rights discourse on account of it would be a mistake, for the simple but compelling reason that people opposing domination and oppression throughout history have continually invoked human rights in their struggles and still do so today.

The presumed liberal history of human rights as a bourgeois, patriarchal, imperial construct is, as Stammers maintains, largely a backward projection from the contemporary dominance of liberal legal, institutional, and philosophical instantiations of human rights, one that neglects the ample historical evidence of their invocation *against* gender, economic, and colonial power by people all over the world (Stammers 2009: 41–88). That projection can obscure the significant gains that have been won by social movements in challenging domination, oppression, and exploitation using the discourse of human rights. Activists from all over the planet, concerned with everything from the environment to gentrification to the plight of workers and indigenous peoples, use human rights not only to advance their particular causes but also to develop solidarity, translate knowledge, and forge connections among themselves (see Santos 2006; Smith 2008). As I noted at the outset, we do urgently need to identify multiple and conflicting praxes of human rights and think more about how to theorize them together.⁶ But in light of the centrality of human rights to many emancipatory struggles, we have no choice, as Edward Said put it, but to “use that very same language to recapture the subject, reclaim it, and reconnect it to the tremendously complicated realities” that have been simplified, betrayed, diminished, or dissolved by our opponents (Said 2004: 132).

One important step toward reclamation is to acknowledge the complex and ambiguous relationship in which human rights stand to power. Human rights can both constrain and abet power in different modalities. As Stammers has argued:

[C]ritics are right to observe that when human rights are institutionalized they necessarily become embedded in relations and structures of power. There is abundant evidence that institutionalised human rights have been structured to support power or sustain exclusivity and used quite explicitly by powerful actors in pursuit of their own interests. (2009: 104)

Paradoxically, the specific demands of various movements and activists, when successful, result in a formalization of rights and guarantees that simultaneously ensures their protection and neutralizes their radicality by bringing them into the system. At the moment of their formalization in a particular social context, human rights necessarily become embedded in the configuration of power relations that defines that context (Stammers 2009: 123). Once formalized, rights become fixed and subject to the manipulation of actors who dominate social and political institutions (Stammers 2009: 104ff.).

It would be a mistake, however, to treat this as a simple matter of cooptation: Legal and institutional guarantees of rights bring tangible and often momentous benefits to people—in the form of civil and political status, economic entitlements, social or cultural recognition, and so on. Formalization also relieves people of the real and significant burdens that active engagement in struggles for their rights imposes on them. Thus the institutionalization of the emancipatory demands of movements and activists marks a significant political achievement, even as it tames the transformational thrust of those demands. Moreover, and crucially, the formalization of rights does not bring an end to contestation over their meaning but, rather, marks a shift in the modality of that contestation.

I differentiate here between the activities of grassroots human rights activists, on one hand, and the legal and institutional practices of states, the international human rights regime, and various “humanitarian” projects, on the other, precisely to capture this vital distinction between the

emancipatory activity of rights-claiming and the more politically ambiguous and sometimes contradictory operation of formalized rights regimes and discourses. Social movement activism for human rights “typically challenge[s] arbitrary power and privilege, and not just politically. In other words, social movement struggles around human rights have contained a dimension which points toward democratizing all forms of social relations” (Stammers 2009: 249). Ingram has characterized this grassroots, activist praxis as “a *creative*, democratic politics of contestation, challenging particular exclusions and inequalities in the name of the open-ended principle of equal freedom, which acquires its particular contours only through this contestation” (Ingram 2008: 413, my emphasis; cf. Goodhart 2005). The creative aspect of rights-claiming explains how a praxis of human rights can construct a particular conception of human dignity.

Constructing dignity as egalitarian freedom

As we have seen, the emancipatory logic of human rights emanates from their normative premises of freedom and equality for all. The leveling power of these principles explains what we might call the instrumental rationality of rights-claiming, the appeal of rights discourse to those seeking to challenge domination, oppression, and exploitation in existing social relationships and arrangements. Regardless of the content of any particular rights claim—for an end to torture or slavery or unwarranted detention or for suffrage or the freedom to organize or worship—human rights-*claiming* relies on and affirms (if often implicitly) the equal freedom of everyone. Specific demands for formalized rights, whether successful or still contested, are in effect propositions about what egalitarian freedom requires or entails. When people claim human rights for instrumental reasons and offer arguments to support those claims, they are, in so doing, building up the substance of a particular conception of human dignity by developing its (rights-based) content. The rights people claim and win come to define (one account of) dignified treatment and behavior. This is what is meant to call human rights praxis *constitutive* of dignity: The meaning of dignity as egalitarian freedom gets built up over time through the praxis of rights-claiming.

This constitutive account introduces contingency and indeterminacy into the meaning of human dignity. Instead of a metaphysical essence or a derivation from first principles, dignity as egalitarian freedom is an evolving notion grounded in real political struggles. The meaning of dignity can never be fixed, because rights-claiming is a creative, generative, and open-ended activity. It is the activity itself—the struggle for freedom and equality expressed in the vocabulary of human rights and reliant on the logic of human rights—that engenders and defines dignity as egalitarian freedom. When rights claims are successful, aspects of this conception of dignity are formally instantiated in law, policy, and institutions, but political contestation over rights themselves shapes and conditions social norms, judgments, and understandings related to dignity as well. Over time, in generally rights-respecting societies, this conception of dignity can become the dominant one (even though it will always be incomplete and contested).

Alongside the instrumental rationality of rights-claiming, there is an expressive dimension of human rights praxis through which values and identities are constituted and self-respect affirmed. This expressive dimension of rights-claiming activity consists both in a performative element and in a social process of mutual recognition. Karen Zivi’s insightful account of rights-claiming as a performance indicated how the praxis of human rights helps to create identities and foster solidarity among participants. Zivi interpreted rights-claims as performative utterances and showed that such claims do not simply reflect the world as it is but also reshape it (Zivi 2012: 14). Although such utterances are in one sense conventional, as they must be to be comprehensible, they can also challenge and subvert conventions. Claiming rights can thus generate new political possibilities, either through asserting new notions of membership or citizenship or by resignifying existing ones (Zivi 2012: 16–19). This creative and subversive potentiality of rights-claiming, Zivi maintained, helps to answer critics who worry about the pernicious role of rights in reinforcing and replicating disciplinary power; their critiques miss the unpredictability and transformative potential of rights-claiming, which reproduces but also challenges

and reconstitutes the conventions within which it operates. This praxis opens up new spaces and introduces new perspectives by challenging traditional norms, practices, and identities (Zivi 2012: 78–81).

On this performative account, human rights praxis enables people to enact, articulate, and even transform their own (and others’) understandings of themselves as citizens and as members of communities, allowing them to (re)create identities through the politics they make (Zivi, 2012, 22). As Zivi put it:

[R]ights-claiming allows previously marginalized individuals to take part in the important practice of speaking and acting in public and to create new forms of political subjectivity. ... [T]he democratic potential of rights-claiming lies not necessarily in the laws or politics it engenders or in bringing closure to a particular political debate but in the fact that it allows individuals silenced by illness, class, race, and other factors to unite and engage in acts of democratic citizenship that shift the very meaning of democratic community. (2012: 22–23)⁷

This account shows how human rights politics can engender new norms, practices, and identities, generating a distinctive form of power by fostering a sense of agency and self-esteem among participants as rights-bearing subjects (cf. Stammers 1999: 163ff.).⁸

It is a short step from feelings of agency and self-respect to a sense of dignity, in part because the political meaning of asserting one’s rights for oneself differs profoundly from having them granted or protected by others (see Phillips 2015: 75). To become capable, and to discover or develop respect for oneself and others with whom one is in solidarity, is to construct one’s own dignity. It is vital to see that this is not the discovery or realization of some inherent or essential dignity but, rather, the enactment of the specific form of dignity prefigured in human rights praxis—dignity as a rights-claiming subject. It is important to stress that the aims of a particular social movement and the values it (re)produces through its praxis define the conception of dignity that praxis constructs. The benefits of membership and participation, including increased feelings of capacity and affirmation, are not exclusive to human rights or other “good” or “moral” movements (see Rosenblum 1998). Neo-Nazis also construct and experience a form of dignity through their activism, although it is obviously a different thing to feel affirmed as a free and equal rights-claiming citizen and as a member of a purportedly superior racial or ethnic group. This point emphasizes the broader argument I have been making: Specific conceptions of dignity are constructed through praxis. Dignity as egalitarian freedom is the product of the specific values that animate emancipatory human rights praxis and that characterize relations among people engaged in it. Human rights praxis thus creates dignity in part through the values it expresses and the relationships it produces.

As this discussion indicates, dignity also has an important psychological dimension. In an insightful reading of texts written by black Americans during the slavery and Jim Crow eras, Nicholas Bromell stressed that dignity is (in part) a psychological state, one socially produced through affirmation or denial in interaction with others. For him, dignity

refers to the always-present possibility that a person might recover, remember, or reclaim her sense of intrinsic self-worth through intersubjective exchanges in which that very thing is being slighted or denied. Involuntary indignation is often the sensation that catalyzes this possibility, and indignation is always a social emotion, totally embedded in a matrix of intersubjective relations between persons. (2013: 295)

Despite his use of the phrase “intrinsic self-worth,” Bromell insisted that dignity is *not* something inherent in people but something that depends on certain kinds of interaction with others for its affirmation or denial (Bromell 2013: 305). “Even though it feels like an ‘intrinsic’ quality that is woven into one’s innermost being and expresses one’s value as a distinctive and irreplaceable person, dignity is in fact always in need of social confirmation and vulnerable therefore to social denial” (Bromell 2013: 288). Indeed, the outrage we experience when we are abused, degraded, or humiliated often provides the motivation for people to assert their rights and demand better treatment—as in the case of Mohamed Bouazizi, the Tunisian street peddler who set himself on fire after what he regarded as a humiliating interaction with officials. His action is widely acknowledged as one of the key catalysts for the democratic revolution in Tunisia. (Such outrage can be so powerful that it may well be the origin of the impulse to think of dignity as a metaphysical essence or inherent property; our indignation can be so strong that it seems to indicate a violation of something real, substantial, and undeniable in us.)

Bromell's relational account shows how rights-claiming can engender a sense of self-worth, self-esteem—a sense of dignity—among participants through the constant recognition and affirmation of those participants as free and equal people and rights-claiming subjects. (This is perhaps what Stammers had in mind when he referred to “expressive activism” as the key internal dynamic of social movements.) Again, this sense of dignity does not depend on the successful realization of specific political demands but emerges through the relations among those engaged in the activity of rights-claiming itself—although political success can further affirm people's dignity through legal recognition and social respect. It should also be stressed that the expressive dimension of rights-claiming is not exhausted in these psychological effects, important as they are; we confer moral status through the politics of establishing ourselves as equals (Phillips 2015: 63).⁹

In sum, emancipatory human rights praxis constitutes dignity as egalitarian freedom in three distinct but interdependent ways: through the concrete political demands advanced and won by activists and movements; through the creation of new norms, identities and practices tied to the performance of rights-claiming; and through the sense of self-worth engendered through participation with others in that activity. To be clear, my primary claim is about the social ontology of dignity as egalitarian freedom, not about its normative content. Many extant accounts of human dignity in the human rights and the philosophical literatures offer similar substantive characterizations of dignity—although my account does differ in emphasizing the contingency and open-endedness of this conception. I am proposing a different way of understanding dignity as egalitarian freedom as an outgrowth and a reflection of the theory and practice of human rights. As such, it is both a social construct and a political achievement (cf. Gregg 2012: 46); it falls out from our politics (Rorty 2003: 233).

So what?

What difference does it make if one accepts this alternate understanding of human dignity? The account sketched here illuminates and clarifies the conceptual and historical relationship between rights and dignity, providing powerful insight into several contemporary controversies. Recall the earlier discussion of dignity as an anthropological concept, a notion of propriety informed by cultural, religious, and philosophical views that translates particular ideas about human worth into concrete prescriptions for social arrangements. Dignity as egalitarian freedom is no different; it translates the values or ideology of freedom and equality into social prescriptions that challenge traditional conceptions of dignity, most of which subject some (classes of) people to others as a matter of course.

If we conceptualize dignity this way, we can see that it cannot be the ground or foundation of human rights because human rights have frequently been asserted *against* traditional values, beliefs, and social norms—against dominant (hierarchical and inegalitarian) social conceptions of dignity. The idea that all human beings are free and equal was and remains a radical claim. When women assert their rights in patriarchal societies, they are challenging religious and philosophical doctrines that relegate them to an inferior status, and in so doing they constitute themselves (collectively and individually) as the rights-claiming subjects they seek to become. When working people question the distribution of wealth in society, challenge their disenfranchisement, or demand their right to organize, they are contesting ideologies that limit political subjectivity on the basis of wealth or position within relations of production, and through these challenges they help to bring themselves into being as a class. When colonized peoples denounce their economic exploitation, or revolt against the imperial yoke, they repudiate supremacist ideologies that racialize dignity, (re)creating themselves as full citizens of independent societies in the process. In all of these cases, rights-claiming is directed *against* a prevailing ideology and conception of dignity; human rights praxis challenges and transforms prevailing social relations and conceptions of human worth and alters normative categories. Even when oppressed people's immediate demands are thwarted, the very act of claiming them helps to forge solidarity, to project and legitimate their values in the wider society, and to propel their struggles. In short, dignity as egalitarian freedom gets constructed through the praxis of rights-claiming itself.

It is a mistake to view struggles for human rights as the progressive unfolding of some universal metaphysical logic of dignity, for two related reasons. First, the progressive unfolding view treats

human rights struggles as struggles for “expanded coverage,” for the extension of some fixed conception of dignity to more people. This familiar view misses, actually hides that *the meaning of dignity itself changes when previously excluded people are incorporated*. That change in meaning is what the struggles are all about. When women or working people, racial or religious or sexual minorities, and other subjugated people demand human rights, they are advocating for a new or renewed conception of human worth and for alternative social relations and arrangements to realize and safeguard it. In other words, clashes over human rights throughout the past three centuries have been clashes about the very meaning of dignity, not (only) about its scope. Recent activism around sexual orientation and gender identity illustrates the point: This activism has forced a conversation about the treatment of LGBTIQ people in recent years. The demands of activists cannot be adequately understood as attempts to expand the category of human dignity to comprise more people, because recognition of and respect for LGBTIQ people entails the redefinition of what it means to be human and to have dignity. The conversation itself represents a significant shift in the prevailing conception of dignity, which had previously silenced, marginalized, or simply ignored LGBTIQ people and their concerns, facilitating their ongoing oppression.

Moreover, this familiar view ignores that the redefinition of dignity often comes about in part through the assertion of new rights. As we have seen, rights-claiming is a creative activity, both in that political engagement elicits the creativity of activists and in that it generates new norms, identities, and practices. The right of working people to organize and bargain collectively was not a right recognized in early declarations of human rights, in part because working people were considered dependent and therefore undignified (or because their social position of dependency relegated them to a lower or subordinate status). The right was ultimately asserted and won by people fighting for their own dignity in part through the assertion of rights that recognized their (individual and collective) social standing and helped to guarantee them the material basis for a dignified existence.

A proper understanding of the relationship between rights and dignity also sheds light on another enduring controversy—the longstanding debate concerning the origins and validity of human rights. Critics of human rights (along with authoritarian rulers) have long insisted that human rights do not appeal to people outside of “the West” because rights are incompatible with their values or cultures. My argument suggests that the appeal of human rights lies precisely in this incompatibility—in the West and everywhere else. What I mean is that human rights may appeal to people enduring subjection because of their disruptive character and their transformative potential, both of which depend on their *incompatibility* with oppressive social arrangements and the conceptions of dignity that suffuse and legitimize them. Dignity as egalitarian freedom rejects the systematic subjection of women and working people and of ethnic, religious, and sexual minorities; it rejects slavery and Jim Crow, Apartheid, and colonial domination. The whole point of invoking human rights—in the West and everywhere else—is to challenge prevailing values and cultural notions that license or condone domination, oppression, and exploitation in their myriad forms.

This disruptive quality of human rights explains their appeal and also their contentiousness: Those whose status and privilege are threatened by challenges to existing social norms, practices, and relationships—from whatever quarter—will predictably condemn rights claims and those who articulate them as foreign, subversive, and so on. These charges are, in a certain sense, accurate: The radical notion of women’s equal rights, to take just one example, is foreign to cultures and societies everywhere and highly disruptive of many cultural norms, social arrangements, and traditional conceptions of dignity. Thus, “validity” is the wrong question: Asking whether a particular political demand is compatible with prevailing cultural norms in a given society misses that the point of human rights praxis is precisely to disrupt and ultimately transform those very norms. The generative quality of human rights praxis suggests a kind of bootstrapping process of legitimation, in which rights-claiming is the mechanism that creates the conditions for the validation of its own claims.

This alternative account also brings nuance and complexity to the familiar and related complaint that human rights are individualistic or atomistic and (therefore) incompatible with more communally oriented cultures and philosophies. There are many dimensions to this question, most of which I cannot touch upon here; four brief points must suffice. First, human rights did initially attach (legally and

conceptually) to persons, for reasons that have to do with the leveling or emancipatory work they were invented to do in the context of feudal social relationships. They advance an idea of the freedom and equality of all persons. Second, that view is plainly incompatible with many traditional cultures and philosophies—again, that is the point of invoking human rights. Incompatibility is not, however, tantamount to illegitimacy or invalidity. Those who invoke human rights within their cultural traditions clearly find the normative values that animate them appealing; how wide that appeal proves to be is ultimately a political, not a philosophical, question.¹⁰ Third, human rights praxis envisions a particular kind of community, one characterized by the equal freedom of all members and realized through relations of reciprocity among them. Rights express a particular ethos of community and of relations among members of communities, an ethos incompatible with relations of subjection. Activities of rights-claiming help to create such communities and relations—that, too, is part of their appeal. Finally, the contingent and protean character of rights means that their historical individualism is itself subject to reconfiguration. Because domination is something people frequently experience as members of particular groups, collective rights have significant emancipatory promise. Debates over whether “there are any such things” as collective human rights, although philosophically interesting, are beside the point: Whether there will be such rights, and what form they will take, will be worked out in practice.

Objections

I have been arguing that emancipatory human rights praxis is constitutive of a distinctive conception of dignity as egalitarian freedom. This conception of dignity is produced through two distinct but deeply imbricated elements of human rights praxis. One is the instrumental rationality of human rights politics, through which substantive demands for specific rights and guarantees are advanced by social movements and activists struggling for human rights; the other is the expressive or performative dimension of human rights praxis, through which those activists challenge and transform norms and practices and constitute new identities and solidarities through activism premised on their mutual recognition and treatment as free and equal people.

By way of conclusion, I want to consider three objections to this alternative account of the relationship between human rights and human dignity. Some readers of this article have charged that conceptualizing dignity as a construct is likely to harm the very people engaged in struggles for it, in effect, by pulling the rug of moral certainty out from under the conceptual furniture of human rights. There are two worries here, one philosophical, one pragmatic. The philosophical worry is that human dignity is somehow lessened if it is treated as a mere construct, robbed of its moral force or persuasive power. This concern reflects an implicit assumption that social constructs are somehow not real—or at least are “less real” than the metaphysical essences of which dignity is supposed by philosophers to be an example.¹¹ This worry seems misplaced: Notions like race and caste are widely recognized as constructions, but their reality and their social consequences are hardly in doubt—especially among those who suffer the most from them.

But what about the pragmatic claim that this account would undermine the political efforts of movements and activists for human rights and human dignity? Some of my critics seem genuinely to fear that my argument would reduce activists to making claims like, “Dignity is not real, it’s just the upshot of some values we hold,” or, “Human rights are just some things that we want.” This line of criticism assumes what I have specifically argued against here: that there is some reality or essence of human rights and human dignity to which activists must appeal or lay claim if they hope to succeed. My argument has been that rights and dignity are defined through praxis in ways that are both effective and galvanizing; the appeal of human rights lies in the political work they do and in the kind of community and relations created through the praxis of rights-claiming. If that argument is plausible, the criticism is not.

What I regard as a more serious objection was raised by a sympathetic reader who argued that my account implies that people who are not actively involved in emancipatory human rights praxis do not have dignity. It further seems to suggest that if people who are not aggressively asserting their rights

are badly mistreated, their mistreatment cannot be characterized as a violation of their dignity because they do not have any dignity. The force of the objection hinges on what it means to “have” dignity. In the familiar philosophical accounts, dignity is an inherent quality or characteristic of human beings, something that defines the category of the human. This is the view I have rejected as inconsistent with the social realities of dignity and as historically and conceptually misleading. But the alternative account I have articulated emphatically does not say that only people actively involved in rights-claiming have dignity. Rather, it says that there is a distinctive conception of dignity constructed through activities of rights-claiming: dignity as egalitarian freedom. The processes of political contestation through which this conception of dignity is constructed illuminate its social ontology but do not limit its normative scope. The more successful this praxis becomes, the more deeply egalitarian freedom becomes embedded in social norms, relationships, institutions, and practices. I have argued that the expressive dimensions of human rights praxis do have direct and positive effects on people’s sense of dignity or self-worth, and that participation in struggles for rights helps them to become and to understand themselves as dignified people—both in their own estimation and in the eyes of the wider society. Still, the *normative conception of dignity* constructed through this practice—which is animated by values of freedom and equality and by a general and inclusive logic of emancipation—applies to everyone.

Let me try to answer the objection another way. When proponents of the philosophical view say that people’s dignity has been violated, they mean that those people have been treated in ways inconsistent with some deep truth about human beings as such. On my account, to say that people’s dignity has been violated is to say that they have been treated in ways inconsistent with the values of freedom and equality. The former claim depends on what is true about people, what we are really like; the latter depends on what values we hold. It is hardly clear that the former (type of) claim is easier to defend or politically more efficacious; if anything, the opposite seems likely. Critics might respond to this answer by waving the bloody shirt of relativism, but I will simply ignore their flagellations, as I find the debate about relativism and human rights almost completely unenlightening at this point (Goodhart 2013).

In any case, the final objection I will consider echoes the relativist charge, although in a more constructive way. The objection is that mine is really a disguised foundationalist account. The charge would read something like this: The emancipatory praxis of human rights described here is informed and animated by two core values—freedom and equality. These values are really either moral or metaphysical principles of justice or inherent properties of human beings, so what I present as a constitutive account is really a traditional foundational one.

I have two replies to this objection. First, even if I were to grant the critic’s point about the ontological status of freedom and equality, my primary arguments in this article would remain untouched: namely, that dignity as egalitarian freedom is constituted through the emancipatory praxis of human rights, that this praxis challenges and reconfigures the meaning of dignity, and that dignity itself is thus a contingent political construction. Dignity is not the philosophical or metaphysical foundation of human rights. My second response is that the objection really hinges on what it means for values or principles to be “foundational.” At the outset, following Waldron, I described α as the foundation of β when β can be derived logically from α , either deductively or by relying on empirical premises (Waldron 2015: 125). But for many moral philosophers and political theorists, for α to be foundational is also for it to be somehow true, correct, valid, moral, natural—whatever. Nothing in my account hinges on freedom and equality being foundational in this way. I conceptualize them as values or political commitments that drive the emancipatory logic of human rights praxis. Whether they are true or correct is, in a sense, beside the point.¹² Crucially, treating freedom and equality as values rather than truths makes room for contingency in our conceptualization of dignity and of the human rights praxis through which it is constituted. In familiar accounts, deriving rights from dignity is an analytic exercise: We work out what dignity is and what it requires, and then we determine what rights follow. On my account, dignity is the upshot of human rights praxis.

One implication of this contingency, again, is that it is impossible to “get it right” with respect to egalitarian freedom. New and changing forms of subjection will continually emerge through the dynamic social processes that structure our world; the meaning of egalitarian freedom and the bundle of rights necessary for its realization, therefore, can never be settled or fixed. In light of this

irreducible contingency, a constructionist approach like the one elaborated here proves superior, epistemologically and pragmatically, to foundationalist thinking. The constructionist account captures an important dialectical quality of our knowledge and thinking about the values of freedom and equality, helping to inspire and orient struggles to redefine rights or define new ones. Those struggles in turn shape our understanding of those values and what they require in changing circumstances. The account's emphasis on dignity as a political aspiration in constant and productive (generative) tension with the ongoing reality of domination, oppression, and exploitation clarifies what might be done to achieve dignity in the domain of real politics.

There is, perhaps, one way in which my account might plausibly be described as foundational. Waldron maintained that we can think of some concept α as foundational if " α throws some indispensable light on β or helps in the interpretation of β " (Waldron 2015: 125). Insofar as freedom and equality help us to understand the emancipatory logic and appeal of human rights claims and illuminate the praxis of rights-claiming and the distinctive conception of dignity associated with it, my account might be "foundationish" in this narrow sense (Waldron 2009: 215; 2015: 133–137). Again, however, I prefer simply to see the relationship as dialectal, emphasizing the dynamic aspects of this constitutive relationship.

I want to close with a word about the timeliness of a constitutive account of the relationship between human rights and human dignity. Familiar philosophical accounts treat dignity as an intrinsic quality of human beings and imagine that history propels us constantly and confidently toward a future in which the inherent dignity of all people is recognized and respected. This comforting narrative of the progressive realization of human dignity is belied daily by a worldwide resurgence of misogyny, ethnic and racial hatred, economic exploitation, and violent extremism of various kinds. These developments offer a sobering indication that dignity as egalitarian freedom is a precarious achievement, one that can be reversed, undermined, quashed.

To defend dignity ably requires that we learn two lessons from its social ontology. First, we must understand struggles for dignity and human rights less as struggles for enlightenment than as struggles for power; second, we must recognize the centrality of politics, not philosophy, to the success of those struggles. The fight for dignity will be won or lost, as it always has been, not in the seminar room but in the streets.

Notes

1. On the distinction between justification and articulation, see Rorty (1988: 260).
2. Donnelly understands human rights as a means to realize a particular (liberal) conception of human dignity (Donnelly 1982: 314) and sees them as necessarily anchored in a liberal regime (Howard and Donnelly 1986).
3. Notice the tension between this position and Donnelly's earlier, anthropologically informed arguments about dignity (see footnote 2 and surrounding text).
4. I emphasize the praxis; the tradition of natural rights theory is arguably more ancient (Tuck 1979).
5. This account challenges recent scholarship that insists on a clear and sharp distinction between human rights—that is, international legal human rights—and the broader tradition of emancipatory political thought drawing on arguments for natural rights, freedom, and equality (e.g., Moyn 2010). I cannot directly join this debate here. I will only insist that it is possible to discern and learn from continuities between historical and contemporary human rights praxis without denying there is something novel and distinctive about the international legal human rights regime constructed following World War II; like Stammers, I hold that "[t]o assume that the meaningful history of human rights only begins in 1948 means that 350 years of Western history, let alone other histories, are ignored" (Stammers 2009: 23).
6. As Jeanne Morefield suggests, Said's contrapuntal thinking offers one way of doing so (see Morefield forthcoming).
7. Zivi is sometimes too dismissive of the material benefits that human rights praxis can deliver (e.g., Zivi 2012: 67, 121). The constitutive functions of rights she identifies need not conflict with their more traditional political functions.
8. It would be better, I think, to say "rights-claiming subject." Stammers seems to see success in terms of institutionalization (despite its perils), which he regards as crucial to this accumulation of power. But, as we shall see, it is the performance, not only the success, of the claims that matters.
9. One reader of this article suggested that perhaps my account points toward a Hegelian understanding of dignity. If the suggestion is that a more philosophical approach to recognition is required to ground the account, I reject it

emphatically; if, however, it is meant to reinforce that there is a phenomenological basis for dignity in the affirmation one (sometimes) finds through political engagement and other forms of social interaction, I endorse it wholeheartedly. There is a vast literature on recognition that unfortunately I cannot engage with here. For a good overview see Taylor (1994), Honneth (1995), and Markell (2003).

10. Again, let me emphasize the point made earlier about the significant political differences between claiming one's own rights and having others claim rights on one's behalf. It is through this distinction that we must approach questions about the use of human rights as a tool of domination; unfortunately, I cannot pursue this point here.
11. It also assumes that moral imperatives carry some special normative force, although as Philippa Foot (1972) argued, pinpointing this force proves impossible.
12. I cannot delve further into this important distinction or the broader issues here; see Goodhart (2018: chapter 4).

Notes on contributor

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