REVIEW ESSAY

Making sense of dignity

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In this review of Leon Kass's *Life, liberty and the defense of dignity* and Deryck Beyleveld and Roger Brownsword's *Human dignity in bioethics and biolaw*. I consider the prospects for a theory of dignity as a basis for bioethics research. I argue that dignity theories are worth exploring in more detail, but that research needs to consider both "antitheory" accounts of the language of bioethics, and to give more weight to accounts of dignity as an outcome of holding positive liberties and as something that has a psychological dimension.

The concept of dignity has acquired widespread currency of late, yet its nature and importance as a philosophical concept are intensely controversial. This controversy is heightened by the political significance the concept has acquired, particularly in the USA and in international bioethics at agencies such as UNESCO, the European Commission, and the Council of Europe.

To obtain some sense of the uses of dignity in such debates, consider the following examples. All of these have been argued to be contrary to human dignity: organ sales from living "donors"; seeking patent rights over human genes; making animal-human chimeras; obliging someone to live in abject poverty; pornography; torture; sex selection by preimplantation genetic diagnosis; death in irremediable physical or psychological suffering; abandonment to senility in a nursing home. The reader will no doubt have further examples. Some things are held to promote or to show exemplary respect for human dignity, although examples in current discourse are harder to come by. Socialists used to speak of the "dignity of labour"; Pico della Mirandola wrote of all activities that extend human powers or show them off to aesthetic or practical advantage as contributions to the "dignity of man".¹

These examples are quite heterogeneous, and the implied assaults on dignity seem to undermine it in different ways. It is not immediately obvious whether dignity is something that admits of degrees, whether it is alienable or not from its possessor, whether an assault on dignity or a bearer of dignity is something that destroys dignity or whether it is a sort of insult to dignity. For example, racist abuse insults the abused person through an implied claim that he or she lacks human dignity, but it does not thereby destroy that person's dignity. On the other hand, tortures are designed to destroy torture victims'

sense of their own dignity, and the perception that they are a bearer of dignity in the eyes of the torturer. It is, however, a point worth debating whether some torture breaks through actually to destroy the dignity of the torture victim.² Yet this is only one way of thinking of dignity. Shaming punishments can be considered to aim to lessen the dignity of those who are punished. Dignity in this sense is not an intrinsic property of the person but a synonym for self-respect or social standing.³

Currently, scholars divide into four distinct groups as regards dignity. One group regards all "dignity-talk" as incoherent and at best unhelpful, at worst misleading.⁴ I venture to suggest that this group is the mainstream of current English speaking bioethics. Another group finds dignity talk illuminating in some respects, but strictly reducible to autonomy as extended to cover some marginal cases. To this group we can assign Deryck Beyleveld and Roger Brownsword, whose immensely scholarly and interesting book I discuss further below.^{5,6} The third group considers dignity to be a concept in a family of concepts about capabilities, functionings, and social interactions. This group is exemplified by the authors of a recent suite of articles in *The Lancet*, inspired by the writings of Amartya Sen and Martha Nussbaum on development and freedom.^{7–10} The final group considers dignity as a metaphysical property possessed by all and only human beings, and which serves as a foundation for moral philosophy and human rights.^{11–13} This group is perhaps the mainstream in European bioethics and much theological writing on bioethical topics, and is exemplified in the book by Leon Kass here reviewed, of which more in due course.

Before examining these different approaches to dignity in a little more detail, one methodological point is important. All of these approaches take dignity to be a theoretical concept in that it plays a central role in moral theory and philosophical anthropology (the philosophical study of the nature of humanity and human agency). Even the dignity sceptics (the first group in my list above) mount their critique by attacking dignity based theories, rather than dignity as such. I am unaware of any radical critique of dignity that holds that the word itself is meaningless. Dignity sceptics want to tidy up the use of the word, and as far as possible "reduce" it to some other moral or evaluative concept with better theoretical credentials. To some extent they share this project with the second group of theorists, such as Beyleveld and Brownsword, who allow that dignity has some use as a concept that is not reducible to some other concept (such as

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autonomy), but nonetheless believe that conceptual analysis will assist us in knowing how and when to use the dignity concept in an illuminating way. As well as using dignity in moral theories, all four groups offer theories of dignity (what it is or what it means).

A major criticism of all four groups of theorists could be mounted on antitheoretical grounds. We could argue as follows. To understand the concept of dignity is nothing other than to understand the ways in which the word dignity is used in ordinary language, to study these usages carefully, and describe them clearly. The work of philosophy is then simply to disentangle verbal confusions involved in slipping between different, grammatically acceptable usages. It is quixotic to produce a theory of dignity, and equally so to try to dismiss it from the language, but it is not quixotic to try to grasp the linguistic usages of dignity in detail, and to try to gain some conceptual clarity in that way. A twist to this approach is to argue that it may actually be the case that we no longer grasp what is meant by dignity within forms of linguistic life for which it was a meaningful concept. We have forgotten how to talk that way. This is like Alastair MacIntyre's claim that some kinds of talk about virtue simply make no sense now, but that this is not to show that they never made sense—they were not “false” or “meaningless” theories.¹⁴ Some theorists in the fourth group argue that mainstream bioethics is in the position of being deaf to the nuances and meanings of dignity based morality, and partly represent themselves as trying to keep a very important form of moral language and moral practice alive in the face of this conceptual lack.¹⁵

I am sympathetic to this line of argument, and I believe that both the negative point (that theorising dignity is quixotic) and the positive point (that there is a worthwhile research programme in trying to reconstruct the language of dignity and explore its moral significance in detail) should be taken seriously, but two sceptical points should be made in response. First, it is not at all clear that “dignity” was ever part of ordinary language in just this way the antitheorist claims, and even if it was, that it was easily applicable outside its common uses to innovative contexts such as stem cell research. Not only could this risk just the sort of “grammatical” mistake the antitheorist tries to run to ground, but it also neglects the problem that ordinary language is shaped in particular contexts of life and factual knowledge, which could be undermined by the discovery of new facts. Traditional language for discussing the moral status of pregnancy and early development was not ideally adapted for discussion of the embryo before “quickening”, for example (or so one might reasonably argue). Secondly, one can claim, contra the antitheorist, that dignity is *precisely* a theoretical term rather than a concept of ordinary language, and the work of careful definition and analysis is relevant to it. Theorising about it is not quixotic, but actually a necessary part of developing our understanding.

Another approach is to consider dignity as a “thick” concept, which combines both descriptive meaning with an evaluative meaning, and whose understanding requires a grasp of both the descriptive and the evaluative components.¹⁶ Consider the term “rude”. To say people are rude is both to describe them and to evaluate them (similarly, when describing a gesture or comment as rude). One cannot give an account of what makes a person rude that is purely descriptive or factual. Perhaps “dignified”, like “rude”, combines descriptive and evaluative meanings. This line of thought can be pursued in a number of linked ways. First, thick concepts tend to be rather culturally embedded, and difficult to translate. We could explore what “dignity” cultures are like, and the practices of talk and action that take dignity as their object, and so on. This thought could

suggest that dignity is culturally relative in a way that makes basing morality on dignity an unpromising project, given that the appeal of “human dignity” is that it is meant to be a universal property, and a foundation for universal human rights. Secondly, we can consider the idea that dignity plays a special role in cognitivist ethical theories, in which moral knowledge is possible, the evaluative component of the judgement that X has dignity being not purely subjective but actually a claim that can be true or false, and true or false independently of what I believe or perceive. Certainly a theory of dignity should have some connection with meta-ethics and accounts of what the meaning of moral terms is based upon. A cognitivist theory of dignity may give some hope to metaphysical theorists of dignity who think that they know moral truths about the wrongness of patenting life forms by direct moral perception, rather than through rational argument. Nevertheless, such a theory should be able to give us some account of the relationship between moral knowledge and moral argument, and show how claims about moral knowledge can be corrigible or falsifiable. Too much actual argument about dignity tends to collapse into claim and counterclaim about moral intuitions concerning what dignity is, or what has it, or what would affect it.

Leon Kass's book has received widespread attention, in part because he is a longstanding contributor to bioethics, in part because it is one of the few book-length contributions to the debate about dignity, and in the main because he chairs the US President's Council on Bioethics. Kass's treatment of dignity is metaphysical, which tries to specify what is common to all humans in terms of what gives them moral status. This approach is set out in direct challenge to the dominant “personhood” account, which starts from what is morally valuable in paradigm cases of humans and then generalises to other entities with similar features, while restricting concern (to varying degrees) to entities lacking some or all of the features of personhood. The dignity approach rejects this strategy, in part because it undermines the moral status of “marginal” humans (such as embryos and people in a persistent vegetative state), and in part because it holds that dignity (or humanity) is “primitive” in that it cannot be analysed further into contributory components. Personhood is not “primitive” in this sense, and the arguments about who does or does not possess it are widely criticised by non-bioethicists as attacks on vulnerable people. On the other hand, Kass's metaphysical dignity is equally obscure, precisely because it is held to be a primitive term. Kass's account should best be understood as an attempt to sketch what Roger Brownsword has called a “dignitarian” moral philosophy would be like, and would commend or criticise. Unfortunately, Kass's book is rather repetitive, and lacks the sort of patient attention to detail that is required to develop the theory successfully. For example, if we take it that dignity grounds all other moral values, then we need an account of the relationship of those values to dignity, of why dignity is valuable, of how it relates to physical embodiment, of what it requires in specific paradigmatic situations, and so on. Too often Kass merely asserts that traditional morality is coherent with what dignity requires, and hence we should do what traditional morality requires without further argument. This is unhelpful, not to say mystificatory, especially in those cases where traditional morality runs out, because it is faced with novel or tragic situations. Many of Kass's critics are happy to leave the criticism at that, saying, in effect, this is an unpromising philosophy badly thought out and sophistically presented. I myself was disappointed with the book, but I think that there are virtues in it. First, it gives a manifesto for conservative, non-religious, bioethical thinkers to work

out in greater detail what their vision of the future is and why, and what we should conserve. Bioethics, I believe, needs its Oakeshott as much as its Marx. Secondly, Kass sets out some concerns that are real substantive challenges to mainstream bioethics, which I believe deserve further exploration. For example, his Heideggerian account of “technology” as a process that can undermine our respect for each other and for nature, while crude and pessimistic, rehearses some important concerns about our relationship with nature and with ourselves, which mainstream bioethics (environmental ethics not included) has failed to address since the early 1970s. Although Kass’s own account is rather sketchy, a bioethics that fails to take this issue seriously is somewhat of a torso. However, readers may do better to consult the work of Andrew Feenberg or Gerald McKenny if they want to pursue more rigorous work concerned with similar questions.^{17 18} Equally, Kass’s own treatment of bioethics seems seriously to lack any account of the need to protect positive liberties, nor is there much of an account of what can be hoped from new medical technologies as well as what is to be feared.

Deryck Beyleveld and Roger Brownsword’s monograph is, on its own terms, immensely more rewarding and penetrating than Leon Kass’s volume. Its starting point is the analysis of the role played by dignity in European human rights law and in related fields of intellectual property and employment law, in order to make sense of what they call “biolaw” and its developing jurisprudence in Europe. They contrast two senses of dignity: dignity as the basis of freedom to pursue one’s autonomously chosen goals, and dignity as the basis of legal barriers to pursuing (or inflicting on others) certain goals that are “contrary” to dignity. They relate both concepts to a more fundamental notion of agency and its conditions, developed on the basis of the treatment of agency and human rights given by the work of Alan Gewirth.^{19 20} They then develop this account to cover cases of marginal agents, in order to give a principled description of the limits to our obligations to some marginal or non-agents, and as such a foundation to the legal protection of marginal agents and to the regulation of research and other activities involving marginal and non-agents. It has an extensive section on applications of their arguments in genetics and in the care of incompetent patients.

This book is one of the finest contributions to bioethics I have seen in the last 20 years, and it gives worthy non-consequentialist competition to the dominant consequentialist theories in English language bioethics, and indeed to the more traditional Kantian approach developed by Onora O’Neill.²¹ However, I believe the book has two limitations. First, in its uncompromising treatment of dignity as a theoretical term within jurisprudence, it fails to take account of the more subtle grammar of dignity in its various contexts of use. It is a serious question for jurisprudence whether this strategy of concentrating on the letter of the law and its judicial interpretation, without a consideration of the cultural embeddedness of that law and the languages of law, is entirely sensible. Moreover, even within “pure” jurisprudence, one can argue that the rational reconstruction of the law attempted by Beyleveld and Brownsword fails to capture the meaning of legal discourse accurately, and that a hermeneutic approach applying Davidson’s principle of charity (interpret what you are reading so as to maximise its internal coherence and consistency) could be a more productive approach.²² Secondly, the Beyleveld and Brownsword approach, concerned as it is with autonomy and more with negative than with positive liberty, neglects the questions of dignity raised by Sen and his followers concerned with the relationship between relative deprivation and loss of dignity in terms of social capacities. Future work

on dignity will need to capture its social relationships as well as the metaphysical and rational autonomy related features of the concept.

In their very different ways, both books under review here challenge Ruth Macklin’s recent claim that “dignity is a useless concept”.⁴ Beyleveld and Brownsword do go a long way to make good on her claim that what is important about dignity is actually autonomy, or the capacity for it; but they also go further and give a reasonably persuasive account of how to respect the capacity for autonomy of those who lack it and may never possess it, which is based in part on an account of the obligations and habits of a virtuous agent in respect of those who are vulnerable and marginal. This account suggests that the dignity concept is not wholly eliminable from bioethical argument. On the other hand, Kass, target of much of Macklin’s ire, while failing to give an intellectually satisfying account of dignity, does pose some challenges for the mainstream bioethicist, inasmuch as he shows that the dignitarian language has a certain vitality, and a concern with large questions about the nature of humanity and its intrinsic “dignity” in Kant’s sense, which require development and possibly confrontation, rather than simple dismissal. Neither of the approaches reviewed here addresses either the very challenging issues of the necessary positive liberties for actual dignified life nor the significance of the assaults on dignity, over and above physical harm, involved in torture and other kinds of humiliation. Current work by Jonathan Glover²³ and Martha Nussbaum³ suggest approaches to this problem that take the psychology of dignity seriously—an area of enquiry lacking from both Kass’s, and Beyleveld and Brownsword’s books. On a more positive note, none of the contemporary authors give much weight to thinking about the achievements or indeed enhancements of human powers that increase dignity or respect for dignity. Ironically this tends to be the main concern of transhumanists rather than the humanist successors to Pico.²⁴ All of this suggests that dignity will remain a field of enquiry for some years to come, and calls for closing it down as incoherent may be premature.

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