

## **Pablo Gilabert “Inclusive Dignity”**

[Penultimate draft. Final version to appear in *Politics, Philosophy & Economics*]

### **Abstract**

The idea of dignity is pervasive in political discourse. It is central to human rights theory and practice, and it features regularly in conceptions of social justice as well as in the social movements they seek to understand or orient. However, dignity talk has been criticized for leading to problematic exclusion. Critics challenge it for undermining our recognition of the rights of non-human animals and of many human individuals (such as children, the elderly, and people with disabilities). I argue that, on a plausible articulation of it, the idea of dignity does not lead to these exclusions, and that it in fact helps defend an appropriately inclusive moral and political treatment of all individuals. Difficult issues about equality and diversity indeed arise, but a dignitarian approach can provide good answers to them or at least help make them clearer and more tractable.

**Key words:** Dignity – Rights – Justice – Human Rights- Animal rights

### **1. Introduction**

The idea of dignity is pervasive in political discourse. It is central to human rights theory and practice, and it features regularly in conceptions of social justice as well as in the social movements they seek to understand or orient. However, dignity talk has been criticized for leading to problematic exclusion. Critics challenge it for undermining our recognition of the rights of non-human animals and of many human individuals (such as children, the elderly, and people with disabilities). I argue that, on a plausible articulation of it, the idea of dignity does not lead to these exclusions, and that it in fact helps us defend an appropriately inclusive moral and political treatment of all individuals. Difficult issues about equality and diversity indeed arise, but a dignitarian approach can provide good answers to them or at least help make them clearer and more tractable. Or so I will argue.

The article proceeds as follows. Section 2 outlines a clear and powerful version of the challenge to dignitarian talk and argues that dignity can be understood in a way that is not exclusionary in the way the argument warns against. To show this, a contrast between Inclusive Dignity and Exclusionary Dignity views is offered. Section 3 then motivates further engagement with the Inclusive Dignity view by identifying five important issues for a conception of rights which non-dignitarian approaches have difficulty in handling. Section 4 goes on to develop the Inclusive Dignity view by showing how it would address these issues. Section 5 concludes.

### **2. Must dignity be an exclusionary idea?**

#### **2.1. The challenge**

An exemplary case of the critique of dignitarian talk as exclusionary has been offered in a recent article by Will Kymlicka (Kymlicka 2018). The challenging argument, in a nutshell, is this:

1. If a conception of human rights is based on the idea of dignity, then it presupposes human supremacism.

2. Such supremacism has problematic implications for the treatment of non-human animals, and, as it turns out, for the treatment of certain human individuals also.
3. Plausible alternative accounts of human rights, such as those based on considerations about basic interests and vulnerability, do not have these problematic implications.
4. We should avoid dignitarian accounts of human rights and favor the alternative accounts instead.

The first premise of this argument is meant to apply to some, not necessarily to all, cases of dignitarian talk in human rights discourse. The particular strand of dignitarian talk Kymlicka focuses on is the one that makes the following “two core claims: [D1] that protection of, or respect for, human dignity is the basis of human rights; and [D2] that a core component of human dignity is our radical difference from, and superiority over, animals” (Kymlicka 2018: 768). It is D2 that indicates human supremacism.

This strand was present among philosophers associated with the early stages of the human rights movement (such as Jacques Maritain).<sup>1</sup> It lost force between the 1980s and the early 2000s, perhaps as a result of the influence of the emerging animal rights theory and practice. But it has resurfaced with brio in the 2010s (for example in the work of George Kateb, Catherine Dupré, and Jeremy Waldron).<sup>2</sup> Why this return? It might just be a renewed symptom of “species narcissism.” But, more interestingly, Kymlicka suggests that a cause may be that many human rights advocates think that the affirmation of human supremacism provides them with a useful way to defend the claims of vulnerable people in racial, ethnic, and other minority groups. By pointing out that they—like the members of privileged social groups—are of high normative standing by contrast with animals, their rights could hopefully be less easily neglected.

Turning now to the second premise, Kymlicka notes that human supremacism is obviously bad for animals. It is expressed in various attitudes and practices in which people fail to take the rights of animals seriously. For example, factory farming and medical experimentation systematically display neglect of animals’ rights. But, less obviously, human supremacism also hampers the human rights project itself. There is empirical evidence from social psychology showing that disregard for animals is correlated, and causally entangled with, disregard for human beings in vulnerable groups (through sexism, racism, ablism, etc.) (Kymlicka 2018: 772-6). Furthermore, the dignitarian account has exclusionary implications regarding human rights doctrine. D2 calls for focusing on certain allegedly distinctive features of human beings like language and moral autonomy, which are not in fact displayed (to the level assumed to be necessary) by many human individuals—such as many infants, the elderly, and people with cognitive disabilities. As a result, the rights of these individuals are not offered any clear justification, and are not put at the center of the philosophical understanding of human rights, and this despite the fact that legal and political human rights practice has been affirming them quite decisively—as is evident in the wake of the

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<sup>1</sup> “Maritain explained that the purpose of human rights was to insist on ‘the radical distinction between persons and all other beings’, to elevate humanity above ‘animality’, and to liberate humanity from the ‘animality which enslaves him’.” Kymlicka (2018: 764), quoting Maritain ([1944] 2012: 37, 66, 101).

<sup>2</sup> “The core idea of human dignity is that on earth, humanity is the greatest type of being – and that every member deserves to be treated in a manner consistent with the high worth of the species.” Kateb (2011: 3–4), quoted in Kymlicka (2018: 764). “The legal system of human rights protection in Europe (and more generally in the West) rests on the assumption that, as human beings, we are born with the unique quality of dignity that distinguishes us from other beings (primarily animals), justifying and explaining the special protection of our rights.” Dupré (2015: 28), quoted in Kymlicka (2018: 769). Waldron holds that “while some people say that ‘if we abolish distinctions of rank, we will end up treating everyone like an animal . . . the ethos of human dignity reminds us that there is an alternative’.” Kymlicka (2018: 769) quoting Waldron (2012: 69).

Convention of the Rights of the Child and the Convention on the Rights of Persons with Disabilities (Kymlicka 2018: 777-9). Thus, dignitarianism does not only “throw animals under the bus,” but in the process leaves the rights of many human individuals “hanging by a thread” (Kymlicka 2018: 769, 779, 778, 779).

The third premise of the argument holds that there are plausible alternative accounts of the grounds of human rights that do not have these worrisome implications. Key developments in the work of Henry Shue (1980) and James Nickel (1987), for example, articulate human rights on the basis of assumptions about “(1) basic interests (e.g. in security, subsistence, liberty); (2) standard threats to those interests; (3) collective/institutional duties to refrain from or prevent those threats” (Kymlicka 2018: 766). Recent elaborations also include considerations of vulnerability, precarity, capability, and care. These accounts do not assume human supremacism. The relevant considerations grounding human rights really apply to all human beings, and they partly apply to non-human animals. So, a more inclusive treatment of human individuals and a combination between human rights and animal rights advocacy is made possible, while the worries regarding the dignitarian approach are avoided.

Given the empirical findings reported by Kymlicka, “flattening the moral hierarchy between humans and animals also flattens hierarchies amongst humans and reduces dehumanization” (Kymlicka 2018: 785 n. 29). So, if the aim is to motivate allegiance to the human rights project understood as protecting every human individual, then adopting the perspective linking human rights to dignity (via D2) is a bad idea. (Kymlicka 2018: 771-6). We are in a context of “conflicting and evolving intuitions” (Kymlicka 2018: 766). Defenders of human rights should take more seriously the problematic implications of human supremacism. To cater for our inclusive intuitions (about people, and increasingly, about animals), we have reason to resist the dignitarian account to human rights and continue developing the alternative ones mentioned in the third premise. This is the conclusion of the challenging argument.

## **2.2. Dignity need not be exclusionary**

My reactions to the foregoing argument will be to grant the second premise, reject the first, raise doubts about the third, and challenge the inference to the conclusion. I start by discussing the first premise. Kymlicka acknowledges that there could be an account of dignity that does not assume human supremacy (Kymlicka 2018: 765, 768, 770; Etinson 2020). However, he does not himself explore what such an account would look like. I will develop this possibility in detail.

We can distinguish between two views of dignity: Exclusionary Dignity and Inclusive Dignity. The difference between them is that Exclusionary Dignity affirms, and Inclusive Dignity rejects, the assumption D2 of the accounts criticized by Kymlicka, viz. that whatever makes a human individual have dignity must be such that it is not also present in non-human individuals and renders the human individual superior to them. I will develop the inclusive perspective in detail in section 4. For now, I am concerned with showing that it is indeed a coherent possibility that escapes the problems raised in the challenging argument from subsection 2.1.

Inclusive Dignity is compatible with recognizing that animals have dignity and rights. As we saw, Kymlicka speculates that it is precisely this possibility that has moved some defenders of dignitarian talk to embrace Exclusionary Dignity. In contrast, I take this possibility to be a further reason to embrace Inclusive Dignity. Imagine that we believe that a human individual X has rights if X has dignity; that X has dignity if X has some feature F; and that since X does have F, X does have dignity and rights. Now, imagine that we discover that another individual Y also has F. As it turns out, however, Y is a non-human animal. What should we conclude? The holder of

Exclusionary Dignity will react as follows. Surely animals do not have dignity. So, F is not after all a dignity-grounding feature. Y has no dignity, and no dignity-based rights. I would react differently. I would simply conclude that Y has dignity and dignity-based rights. I would welcome the possibility that non-human animals have dignity and rights. Inclusive Dignity allows me to do this, whereas Exclusionary Dignity strikes me as a question-begging refusal to follow through with my more important normative commitments about the sources of rights. Appealingly, Inclusive Dignity illuminates a phenomenon of *dignitarian overflow*, in which our received patterns concerning the scope of our moral regard are shattered or expanded so that we come to recognize the standing of beings we heretofore ignored once we notice that they have what we take to give us reason to see an entity as having dignity and rights. This overflow is a mark of moral progress, and resisting it is obtuse recalcitrance. Just like in the course of the French Revolution Condorcet argued that women should be included in the political process because they, like men, can reason about public matters,<sup>3</sup> we should entertain that non-human animals have certain rights when they also have some feature we take human individuals to have that justify those rights (as well as their dignity). Thus, to use an example by Kymlicka (2018: 764, 774-6), if we think that the capacity for sociability grounds rights against solitary confinement for human prisoners, we should also entertain the possibility that secluding social animals in zoos and in pens violates these animals' rights. A parallel point of extension can be made if we think that this capacity is at the basis of human beings' dignity.

Inclusive Dignity is not just a coherent possibility. And it is not only generally appealing as an attitude that fosters progressive moral change. More specifically, it is very much in line with what I take to be the main rationale for dignitarian talk in human rights discourse. It is key to this discourse that it ushers into political life a recognition of all human beings as rights-holders quite independently of, and with priority over, their position in particular social structures. The relevant contrast human rights discourse should be seen to rely on is not the one between humans and other animals, but another one between the claims of people as individuals with various valuable capacities giving rise to their dignity as a *moral status* and their putative claims as members of some nation, class, or other conventional or less morally significant group—which are associated with various *social statuses*.

The foregoing remark focused on the rationale for appealing to dignity in human rights discourse. It is also the case, however, that participants in human rights discourse frequently set aside particular social positions by appeal to the idea of a “common humanity” that transcends them. But this appeal strikes me as insufficient to understand the normative force of the moral rights claimed in human rights discourse. The reference to dignity is deeper and more illuminating. According to it, appeal to “common humanity” has moral significance when it tracks the presence of valuable features in human individuals. Of course, dignity can be interpreted in a human supremacist way. But it can also be interpreted in the inclusive way without losing its role in cementing the non-parochialism of human rights discourse. Since some of the same (or other) valuable features might be present in non-human animals, the non-parochialism in recognizing important moral rights can be extended to them. Reference to membership of a species (human or other) does not seem to do fundamental normative work.

It is true that, in part, the use of the word “dignity” has historically been associated with inegalitarian assumptions about high social rank in hierarchical societies (Waldron 2012; see also Sensen 2011). On this line of thought, if an individual X has dignity, there must be some other individual Y that stands below X, as an inferior. The aristocrat had dignity only if the merchant or

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<sup>3</sup> Hunt (2007:169-72).

the peasant did not. Human rights defenders have tried to extend dignitarian status to all human beings. As a positional good, however, comparatively high rank is not fit for generalization for all human individuals unless they are contrasted to some other group of beings. Hence, postulating a species with a lower rank as a comparative point seems like a tempting argumentative strategy for a defender of human rights.<sup>4</sup>

The idea of dignity can, however, be used in such a way that it includes comparisons that are not intuitively problematic. We can, first, make an intra-individual comparison, to say that as F, X has dignity, and this matters more than the social status which X has as G. For example, and echoing Articles 1 and 2 of the Universal Declaration of Human Rights, we can say that as a being with reason, conscience, and a capacity to act in a spirit of brotherhood,<sup>5</sup> a human individual has dignity and human rights, and these rights must be honored independently of, and with priority over, any alleged norms linked to their class, nationality, etc. Second, we can use the previous point to make egalitarian claims about the relative standing of individuals, to say that X has the same rights as Y, since both are F even if they differ regarding G. Thus, continuing with the Universal Declaration, we can say that individuals are equals as human rights holders independently of their differences in class, nationality, etc. Notice that here talk of the dignity of X does not envision exclusion and downgrading of Y, and talk of F and G are not intended to track features of different species.

### 3. Why dignity?

An inclusive view of dignity is a coherent and appealing possibility that is in line with the core spirit of the human rights movement—the commitment that all human beings have rights that should be recognized and implemented no matter their social status. But should we really have the idea of dignity in our “moral toolbox” at all (Kymlicka 2018: 770)? Why entertain the project of developing an Inclusive Dignity view that avoids the pitfalls of Exclusionary Dignity? Why make the effort of improving the dignitarian perspective when we can instead use the perfectly serviceable resources offered by alternative accounts based on interests, vulnerabilities, etc., as suggested in premise (3) of the challenging argument?

There are in fact five issues in the handling of which the alternative accounts (AA) are deficient and the dignitarian approach (DA) promises to be comparatively superior. If dignitarian approaches in general can fare better than its alternatives in at least these respects, pursuing the development of the Inclusive Dignity view seems reasonable.

**(i) *Entrenchment and pervasiveness.*** The first, obvious and serious difficulty of AA is that the idea of dignity is well-entrenched in political discourse, and especially in human rights discourse. It features prominently in the main international human rights documents, is enshrined in several national constitutions (such as those of South Africa and Germany), and surfaces regularly in street

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<sup>4</sup> Waldron (2017: 31) seems unfortunately to go down this route. He says that human dignity is “often associated” with an idea of “distinctive equality” according to which “humans ... are one another’s equals on a basis that actually differentiates them from animals.” He acknowledges that the idea of basic equality among humans does not itself presuppose distinctive equality. But he is “a strong believer” in the latter. Although the Inclusive Dignity view I prefer does not embrace this aspect of Waldron’s approach, I hasten to add that I find much in his book very appealing, including his illumination of various functions of the ideas of dignity and basic moral equality in moral and political discourse, his effort to combine considerations of equality and diversity; and his exploration of the temporal axis of dignity in people’s lives.

<sup>5</sup> I explore a broader list of features in 4.i.

protests and social movements. Working out an inclusive version of dignity rather than ignoring the idea would thus make good practical sense.

**(ii) *Identifying standing as rights-holders.*** Human individuals have a moral standing or status as holders of rights. There is a “moral nexus” of directed obligations and correlative rights among them. When some can affect others through their actions and institutions but do not fulfill these obligations, the latter are wronged.<sup>6</sup> Now, dignity is a positive, value-affirming idea that captures our normative relation to each other as rights-holders, marking our membership in the community structured by the moral nexus of human rights. AA do not provide anything like this anchoring idea. Unlike DA, AA do not explain what fixes the scope of rights, or how to identify the rights-holders whose interests are to be supported. Why must we take the interests of all human beings into account? DA answers: because they have dignity. AA have no similar answer to offer.

**(iii) *Traversing the interests/rights gap.*** Even if it is plausible to say that rights support interests, it is not enough to cite an individual’s interest in some object to justify their right against other individuals that they support them in accessing that object. There is a logical gap between interests and rights. The prudential significance of interests varies. And not every interest that is prudentially significant for an individual gives rise to a moral claim against others. Some interests are morally neutral, some are not very important, and some are potentially bad or harmful. AA struggle to clarify matters here. Linking human rights to *basic* interests to say that realizing these rights is strictly necessary for any other right to be realizable sets up an extremely high threshold of justification, which is unlikely to be met by most intuitively sound rights (as Nickel 2022 shows in response to Shue). In fact, when explaining why certain interests or the formation of certain capabilities do give rise to human rights, theorists mobilize additional notions. Thus, Nickel (2007: 62, 66) talks about the claims to a decent life, and presents them as requirements of human dignity. Nussbaum (2006: 70) says that the capability-based interests or needs that are protected by rights of justice are those which concern “a life that is worthy of the dignity of a human being.” Dignity, or some similarly deontic notion, seems necessary to fill the gap between interests and rights. AA leave the gap open while DA fills it.

**(iv) *Vindicating the normative strength of certain rights.*** A central commitment of the human rights movement is that all human individuals have rights which should be recognized and implemented independently of their social status. The moral nexus of human rights has great normative force, and, typically, priority over other normative structures. What explains this? AA do not offer a clear answer. DA, on the other hand, appeals to dignity as a moral status generating requirements that trump putative norms attached to conventional social statuses (as hinted at in the comparisons at the end of 2.2). DA can explain why individuals have rights which may not be ignored no matter their nationality, race, economic class, or gender.

**(v) *Illuminating questions about gradation and diversity.*** There are deeply troubling worries about gradation of status that arise for DA. Can it really be inclusive towards animals that have none, or fewer, of the features giving rise to the dignity of human individuals—or have them to a significantly lesser degree?<sup>7</sup> Do differences like these also affect the extent to which DA includes

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<sup>6</sup> See Wallace (2019) on the notion of a moral nexus. I see dignity as a fundamental idea that explains why such a nexus exists. It also makes sense of the common intuition that equal respect and concern are owed to people (Kymlicka 2018: 783 n.12).

<sup>7</sup> It is worth noting that species supremacism and hierarchy is ambiguous between (a) wholesale exclusion of animals from the realm of rights and (b) less than equal standing in that realm. Furthermore, it could be that (c) the realm of rights is complex, so that individuals have different bundles of specific rights—without this implying disparity in status, although comparative issues may arise if the fulfillment of these rights conflicts in practice. Kymlicka (2018) discusses numerous cases of mistreatment of animals featuring indifference to facts about them, such as their needs

human individuals given that they also vary in the kind and degree of their various important features? Notice, however, that these difficulties do not mean that DA is at a clear disadvantage with respect to AA. Under philosophical pressure similar issues arise for AA. Kagan (2019: 104-8) points out that it would be question-begging to say that the principle of equal consideration of interests implies that the fulfillment of an interest in a certain object present in two individuals has exactly the same moral significance (or is morally speaking the same) independently of what the individuals are like. It is an intellectual merit of DA that it forces us to face the difficulties squarely. It is also a practical merit, as hard and tragic choices may be encountered, such as emergencies in which, say, it must be decided whether a human individual or a non-human animal is rescued when saving both is impossible. Furthermore, diverse human individuals must arguably be supported through different specific policies that are truly responsive to their particular predicaments. Think about health care and educational policies: they surely should track the diverse configurations of different individuals rather than ignore them and assume that everyone needs exactly the same forms of support. I will argue that DA, especially in its inclusive version, provides resources to explore these issues in illuminating ways.

#### 4. Developing the Inclusive Dignity view

In the previous section I suggested that a dignitarian approach can help address several important questions for human rights theory and practice—questions that the alternative accounts must also answer but have trouble answering. I now explain in more detail how a specific version of the dignitarian approach featuring Inclusive Dignity would frame discussion on these issues.

**(i) *Entrenchment and pervasiveness.*** We should entertain a deeper and more structural role for dignity than the view of it as narrowly centered on the concern for non-humiliation.<sup>8</sup> It is true that part of the usage of “dignity” is linked to complaints against treatment that is humiliating—as when some people say that their dignity is violated when they are discriminated against in the job market, excluded from the political process, or subject to torture and inhumane punishment. But to take this as the only, or even the main, role of dignity in human rights discourse would be extremely revisionary.<sup>9</sup> That discourse does not see dignity as one specific kind of rights among others. It views it, instead, as the normative source of the totality of human rights. This deeper and more structural role is evident, for example, in the the Preambles to two central documents of international human rights law, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, which assert that human rights “derive from the inherent dignity of the human person.” It would be implausible to interpret this statement as saying that all human rights are derived from a concern with non-humiliation.<sup>10</sup>

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(pp. 785n.28, 786n.34); denigration (764); harm (764, 770, 781)—e.g., confining and killing (764), terrorizing and beating (777); oppression (764, 770); violence (770, 772, 780); instrumentalization (770, 764, 772, 773), commodification (784n.16), and exploitation ((770); and more generally exclusion from the sphere of rights (779, 784n.20). These may engage several of the categories (a)-(c). Although Kymlicka does not discuss the distinction between these categories, his general critical pronouncements about dignitarianism seem to focus mostly on (a).

<sup>8</sup> Kymlicka (2018: 787 n.42) considers favorably this narrow view, echoing Rosen 2012. See also Anderson 2014.

<sup>9</sup> To be clear, I do not claim that revisionary proposals must always be ruled out. Revisions may be appropriate if compelling reasons justify them. My complaint is that in the present case the revision is not justified.

<sup>10</sup> That concern, furthermore, is typically centered on preventing certain expressive acts of debasement and disparagement, and concomitant states of loss of self-esteem and self-respect. But clearly human rights violations can exist in the absence of these expressive acts or their consequences. Workers’ right to adequate remuneration that

In the course of this section I will outline a dignitarian perspective that has the desirable depth and structural functions that are needed to frame human rights discourse. I offer a certain version of dignitarianism.<sup>11</sup> In what follows, when I talk about the dignitarian approach, it is this version that I will focus on. I will present the basic ideas of this approach as originally developed for the case of human rights and social justice among people, and show how they can be extended to non-humans as the discussion proceeds.

I pursue the articulation of the following general substantive normative view.

**Dignitarian Approach:** we have reason to organize social life in such a way that we respond appropriately to the valuable features of individuals that give rise to their dignity.

According to the Dignitarian Approach, there is a moral nexus between people such that when some can affect others with their acts and institutions, they ought do so in ways that are responsive to the valuable features that give rise to their dignity. To spell out what is involved here, we need to clarify the idea of *dignity* that informs the statement of the Dignitarian Approach (as well as that of Solidaristic Empowerment introduced later in (iv)—which are, themselves, the most general substantive normative ideas in the perspective proposed). I do this by identifying a set of related notions constituting the *conceptual network of dignity*. My account of the components in the network is neither an elucidation that simply reports uses in ordinary language nor a stipulation that imposes them in purely top-down fashion. It is instead a deliberative interpretive proposal.<sup>12</sup> I engage some existing uses of the concepts, but develop them in specific ways that are illuminating given this paper’s aims of proposing an account of dignity that makes sense of human rights discourse without assuming the human supremacism challenged in section 2 and is fruitful in dealing with the issues mentioned in section 3.

The first, and anchoring notion in the conceptual network of dignity is that of *status-dignity*. The idea here is that people have a moral status in accordance with which certain forms of respect and concern are owed to them as a matter of moral right. Treatment enacting respect and concern is to be given to them for their own sake, not merely as a means to achieving something else. People are wronged when others could, but do not, give it to them. The particular forms of respect and concern that is owed to individuals with status-dignity is specified through *dignitarian norms*. Human rights are paradigmatic examples of these norms.<sup>13</sup> Now, when right-holders under those

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enables decent conditions of living (affirmed in Article 23 of the Universal Declaration, and in Article 7 of the International Covenant on Economic, Social and Cultural Rights) can be violated in a society even if employers and other key economic actors do not express contempt for them, and even if the workers (perhaps engaged in political struggle to improve their lot) do not have a sense of diminished self-worth—and even if they think they deserve their downtrodden predicament. This is not to deny that there are important uses of dignity linking it to something like a specific claim against humiliation. An example is the statement that “one of the most atrocious violations against human dignity is the act of torture, the result of which destroys the dignity and impairs the capability of victims to continue their lives and their activities” (Vienna Declaration, Article 55). For an illuminating discussion of “expressive dignitary wrongs” in the context of animal ethics, see Abbate (2020). Abbate uses a capacious notion of these wrongs that does not necessarily include impact on victims’ “experiential welfare,” and offers a broader account of dignitarian wrongs as involving a variety of failures to “respect a creature with inherent value.” (Regarding terminology, I note that Abbate seems to use “dignity” to refer to what I call “condition-dignity,” and “inherent value” to capture what I call “status-dignity”.)

<sup>11</sup> I draw on, and develop further, the account in Gilibert (2017; 2019; 2023). For surveys of accounts of dignity, see McCrudden (2013), Zylberman (2016), and Düwell et al (2014).

<sup>12</sup> For an explanation of this notion, a more detailed articulation of the conceptual network of dignity, and a response to several criticisms to the use of the idea of dignity in moral and political philosophy, see Gilibert (2019: chs. 5-6; 2023: ch.1).

<sup>13</sup> I take the core moral rights of non-human animals to also be dignitarian norms. As a referee suggest, a possible weaker view is that there is a category of rights of non-human animals that is grounded in other ways.



norms are given the treatment the norms demand, they enjoy *condition-dignity*. The distinction between status-dignity and condition-dignity is important to avoid contradictions in dignitarian talk. Thus, Pinker (2008) charges dignitarian talk with incoherence: some use it to say that when people are enslaved they lack dignity, but also to say that people may not be enslaved because they have dignity. The incoherence, however, disappears when we use the distinction just stated. What slaves lack is condition-dignity, and what they have is status-dignity. Fitting dignitarian norms require that their status-dignity be appropriately responded to by avoiding the disrespectful treatment that slavery involves. The distinction does not only dissolve the incoherence, but is also fruitful by allowing us to articulate the explanatory link between the critique of failures to secure condition-dignity and the importance of responding to status-dignity.

As I said, status-dignity is the anchoring notion in the network. It is used to refer to a firmly held moral status (not a conventional social status). The individuals who have it have it inherently and independently of what they do or whether they are already seen to have it by those who can affect them.<sup>14</sup> It calls for treatment as an end rather than as a mere means, it must be equally recognized in all holders of it, and has high normative priority. Central utterances in human rights discourse refer to human dignity as a moral property of this kind. The first sentence of the Preamble of the Universal Declaration refers to the “inherent dignity ... of all the members of the human family.” The fifth sentence expresses “faith ... in the dignity and worth of the human person.” Article 1 says that “[a]ll human beings are born free and equal in dignity and rights.” The second and third sentences of the Preambles of both the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights also refer to human persons’ “inherent dignity.”

The notion of *the basis of dignity* is a crucial companion to that of status-dignity. It refers to the features in virtue of which an individual has status-dignity. A plausible way to articulate the idea is to say that people have status-dignity if they have certain valuable capacities. Article 1 of the Universal Declaration seems to tell us something about some of these capacities when it states that “[a]ll human beings are born free and equal in dignity and rights” and “are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.”

To be plausible, a substantive account of the basis of dignity would have to have certain characteristics. In general, the capacities in the basis of dignity should be inherently held and relatively abstract. They must be linked to what people are like quite independently of their social roles and how others perceive them, their behavior, and the particular ways in which they develop and exercise them. The capacities must also be intrinsically valuable and explanatorily relevant. To ground status-dignity and illuminate the rights derived from it, the capacities cannot be trivial, unimportant, or bad. It is plausible to say that people have status-dignity in virtue of having reason, conscience, or a capacity to act in a spirit of brotherhood or solidarity, but implausible to say that they have it in virtue of the color of their eyes, their social class, or their talent for cruelty.

But more needs to be said if the account is to serve in the development of a substantive conception that embraces the Inclusive Dignity view. In particular, the list of items in the basis of

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<sup>14</sup> Thus status-dignity as defined in this paper differs from having a standing that is conferred to the dignity-holder by their surrounding community (see Killmister 2017 for the latter view of dignity as a social kind). Actual social norms might track moral dignitarian norms that respond to status-dignity or fail to do so, but as a moral property status-dignity exists independently of (and helps morally assess) conventional patterns of social recognition. Furthermore, status-dignity as defined is an *endowment-based* status. We can distinguish it from *achievement-based* dignity, which arises when people honor the dignitarian norms that apply to them. A related notion is that of *dignitarian virtue*, which consists in having dispositions to think and act in accordance with these norms. On these further dimensions of dignity, see Gilabert (2018: ch. 5). See also Formosa (2017).

dignity should also be pluralistic, disjunctive, and internally structured. Instead of a monistic account centered only on moral agency, for example, a pluralistic account would recognize sentience, creativity, empathy, and less sophisticated capacities for practical reasoning as bases for dignity. The former account, as offered by Kant for example, would cast every entity that doesn't have a mind capable of recognizing and applying the moral law into a uniform heap of things with no inherent moral standing. This is implausible.<sup>15</sup> Surely any animal capable of sentience has a moral status lacked by the chair I am sitting on. And human beings who are incapable of running the categorical imperative in their heads but who are capable of sentience and non-moral agency are also worthy of direct respect and concern and have rights. It seems more plausible, then, to identify a broad set of valuable capacities. This set can, furthermore, be understood as a disjunctive collection of sufficient conditions, so that an entity can be seen as having dignity if it has some but not all of the capacities in the broad list.<sup>16</sup> Finally, the items in the list must allow for complex connections. If capacities for autonomous practical reasoning are present, then they may well constrain other capacities also present, so that, for example, treating people who have the capacities in a way that makes them happier but circumvents their autonomous judgment might wrong them.

Identifying the set of relevant capacities at the basis of dignity is a key substantive part of a dignitarian approach. I have outlined the contours of an inclusive conception. But how should we proceed in identifying and justifying the elements in this conception? We can start with what strikes us as intuitively plausible candidates (such as the ones mentioned: capacities for moral and prudential reasoning, empathy, creativity, sentience). We can then explore the implications of a view including these candidates for our treatment of various individuals. If we think that this treatment turns out to be unduly insensitive, then we can go back to the drawing board and repopulate our view of the list of relevant capacities. Thus, if, after reading the work of philosophers like Kymlicka and considering the stories and arguments put forward by activists for animal rights and for the rights of people with disabilities, we find that a narrow view of dignity as only based on sophisticated capacities for reasoning makes us unable to make sense of duties we realize we have towards various animals and people for their own sake, then we can recognize that these individuals do have dignity on account of other capacities which we must now integrate in an expanded view of what makes them have the claims that they have to our respect and concern. This process of recalibration and reflective equilibrium leads to an inclusive view of the basis of dignity that illuminates the fact that an agent deliberating about their obligations may share with other individuals items in the basis of dignity that are not the capacity for moral reasoning.<sup>17</sup> It

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<sup>15</sup> Or so I argue in Gilibert (2017; 2023). For Kant's view of rational—and especially moral—agency as a necessary condition for status-dignity, see Kant (1996a: Ak 4:428–429, 434–436; 1996b: Ak 6:434–435, 442–444). For Kant's view that duties to animals are only indirect duties to humans, see Kant (1996b: Ak 6:442-3). For a more inclusive view that builds on but also departs from Kant, see Korsgaard (2018).

<sup>16</sup> Here I am in agreement with Nussbaum (2006; 2008). Nussbaum also argues that the basis of dignity should be evaluative and disjunctive, and that a dignitarian view should include animals and people with disabilities. My account differs, however, in offering a more detailed analysis of the conceptual network of dignity and of the structure of dignitarian arguments for rights. Two further differences are that while Nussbaum's view is close to consequentialism, mine has a deontological form, and that I do not rely, at the fundamental level, on "species norms" but on an approach to dignity centered on individuals. For development of these differences with Nussbaum, see Gilibert (2022; 2023). The last difference could help defend reference to dignity in animal ethics by avoiding objections to conceptions of dignity concerned with their reliance on species norms (Schultz-Bergin 2017).

<sup>17</sup> Rawls (1999: 446) claims that "[t]hose who can give justice are owed justice." Although clearly influenced by Kant, Rawls's view is less stark because it states sufficient, not necessary conditions, for holding rights of justice. A moral nexus cannot exist among a set of individuals unless some of them have capacities for moral agency. These capacities are a precondition for having duties. But they are not a precondition for having rights. There may be asymmetries in

also leads to acknowledging that others may have valuable capacities that we do not have at all. Thus, some animals might have capacities human individuals lack, which are nonetheless a source of moral standing and rights.

It could be objected that the methodology of reflective equilibrium proposed here is circular. Dignity is invoked to explain our specific judgments about rights. But those judgments are appealed to in order to determine how best to understand dignity itself (in particular its basis). In other words, dignity seems to lose much of its explanatory power if it is explained on the basis of the things it is meant to explain. Two points should be made to respond to this objection. The first is that, as a coherentist strategy, the method of reflective equilibrium is not troubled, and in fact encourages, back and forth between different considerations. We should seek coherence among our judgments at all levels of abstraction, allowing for judgments at any level to perform confirmatory or challenging roles. But second, and crucially for our purposes, reflective equilibrium is used here as a device of epistemic justification. The back and forth between judgments about the basis of dignity and judgments about specific rights is viewed as a relation of evidentiary support. This should be distinguished from a relation of determinative justification or explanation.<sup>18</sup> When it comes to the latter, if our judgments are in equilibrium, we can recognize that some items in our overall view have asymmetric explanatory power. Thus, we can say that an individual has a certain right because recognizing that right is what responding to the features at the basis of this individual's dignity calls for in the relevant circumstances. Here status-dignity and its basis explain (in the sense of providing normative reasons for) the existence of the right. This relation is not symmetrical.<sup>19</sup>

So far in this section I outlined central conceptual, substantive, and methodological points about how to understand dignity. I proposed an account of the conceptual network of dignity, emphasizing the structural role of status-dignity as a moral property marking individuals' standing in a normative nexus of moral rights which they have in virtue of some of their valuable features. I have suggested a substantive inclusive view of the features at the basis of dignity. And I recommended a reflective equilibrium method for justifying such a view. I will continue to develop these points in the remainder of this paper. But before proceeding, I wish to remind the reader that my objective in this paper is to propose a plausible strategy for understanding dignity in human rights discourse which is inclusive rather than exclusionary and which can fill the explanatory gaps of the non-dignitarian, alternative accounts stated in section 3. As I said at the beginning of this section, I am also developing one version of a dignitarian account with these characteristics. I am not trying to show that no other version of dignitarianism could do this work. So, I am not offering a comprehensive critical survey of the space of possible dignitarian views. I have mentioned some contrasts between my proposed account and other construals of dignity. For example, I have presented dignity as a moral rather than a social-conventional status, and I have rejected Kant's narrow picture of the basis of dignity. But I acknowledge that a comprehensive comparative exercise (and a fuller reflective equilibrium) would require considering modified versions of these

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the set so that some are right-holders without also being duty-bearers. For this possibility, see Wallace (2019: 101-2, 154-5). See also Nussbaum (2008: 16-7).

<sup>18</sup> On the distinction between determinative and epistemic justification, see Cullity (2018: 12-4, 24). The former focuses on what makes it the case that certain responses are normatively required, while the latter considers what warrants beliefs that they are.

<sup>19</sup> When proposing the method of reflective equilibrium, Rawls (2001: 29-32) holds that principles of justice explain and systematize our considered judgments about cases, and the latter are used as evidence for the former—although the exercise is open-ended, in that we could come to revise some considered judgments clashing with principles supported by other considerations.

approaches. Although I am prima facie skeptical about the prospects of their meeting the desiderata of morally grounding the totality of human rights, embracing Inclusive Dignity, and filling the explanatory gaps mentioned in section 3, establishing this would require another paper.<sup>20</sup>

**(ii) Identifying standing as rights-holders.** We can now see how the dignitarian approach as construed here can help with the other issues identified in section 3.

It is clear that not every entity is a rights-holder. The chair I am sitting on, or the computer I am using to write this paper, do not have moral rights. That does not mean that you may do whatever you want with them, but the normative limits on your treatment of these objects is derivative from the rights that I have over them. Status-dignity marks human individuals as ends in themselves who are ultimate rights-holders. Their underived standing as rights-holders is also unlike the standing of collective entities such as a nation or a cultural group. In the absence of the members of those collections of individuals, the collectives would have no rights of their own. Whatever rights they have are ultimately owed to their members and must be justified by reference to their rights—which of course include various associational claims (no atomistic picture of individuals is assumed here). To identify ultimate rights-holders we can, as it were, *scope for dignity*: we can survey the world and see what entities in it have valuable capacities giving rise to status-dignity. This allows for an inclusive view. Our survey will include human individuals, but it can also include non-human animals as they have their own valuable capacities giving rise to their own dignity.<sup>21</sup>

Thus the idea of dignity provides a fruitful way to identify rights-holders. An objection at this point could be, however, that some people, unlike me, do not find it intuitively compelling to ascribe “dignity” to animals who, for example, are sentient and have some forms of agency but do not have full-blown moral agency. In response, I would invite them to reflect on cases in which they could affect these animals with their behavior. Would they find it problematic to cause them suffering and systematically curtail their movements? Would they think that doing so would harm them? Would this harm amount to wronging them? Would they conclude that they have at least a presumptive obligation to avoid such behavior, and this for the sake of the individual animals themselves? If the answers to these questions is positive, then ascribing status-dignity to the individual animals should not seem inappropriate.

The objector could then say that the idea of dignity is not necessary to make sense of our moral reluctance to harm these animals.<sup>22</sup> Some other idea, like the more general idea of moral status, could suffice. In response, I would say, first, that I have not argued that the idea of dignity is strictly necessary to make sense of moral rights. My aim has been to show that it provides sufficient

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<sup>20</sup> For example, Hill (2014: 218) entertains “extending a kind of dignity” to beings who are not rational agents in the Kantian sense. Kerstein (2017) offers an appealing, “Kant-inspired,” account that departs from Kant in some respects (e.g. by not relying exclusively on a priori or transcendental arguments). I should point out that my proposal has significant debts to Kant. As indicated in this paper, I also construe dignity on deontological terms, as marking an individual-centered property, as a moral rather than a conventional status, as an inner worth that is different from mere price, and as providing determinative moral grounds for rights. For further discussion on Kant, see Gilabert (2017; 2023).

<sup>21</sup> The scope can in principle be wider. It could include aliens on other planets, or robots capable of agency and sentience. Shall it also include plants? Our moral sensibilities may be evolving here too. Using plants for food to survive is acceptable, but their wanton destruction seems to me wrongful. There may be intrinsically valuable features of them—which are not psychological capacities—that might account for this. For a survey of emerging questions for inclusive views of moral status, see Sebo (forthcoming).

<sup>22</sup> For this worry, see, e.g., Zuolo (2016: 1123). Due to worries like this, dignity is sometimes (tentatively) put aside in the discussion of duties to animals (see e.g. Martin 2019: 86, 97).

resources to do so, and furthermore that these resources help address problems of some alternative views discussed in this paper. But, second, it seems to me that the notion of moral status the objector would be using would in the end likely be, under examination, quite similar, if not equivalent, to the notion of dignity as I presented it here. It would amount to marking an individual as having the deontic status of a rights-holder that is owed certain forms of respect and concern for their own sake. At this point the dispute would seem to be merely verbal.

Alternatively, it could be that the “more general idea of moral status” comprises both the grounds of (i) what we have reasons to do (or refrain from doing) to X, in virtue of certain facts about X, and (ii) what we have a duty to do (or refrain from doing) to X, in virtue of certain rights that X possesses. Perhaps dignity is concerned with (ii), and an appropriate account of dignity explains what (ii) adds to (i). So, even if dignity overlaps with moral status, it is not equivalent with it.<sup>23</sup>

We can then insist in using the word “dignity,” noting that dignity is the specific form of moral status that generates rights of justice. Furthermore, even if dignity and moral status were coextensive, the former has a distinctive presence and rhetorical power in political discourse, and is for this reason worth using under an interpretation that meets the desiderata identified in this paper.<sup>24</sup>

There is of course the more radical possibility that some people simply do not have the responses evoked four paragraphs back. Their current state of reflective equilibrium is different from mine. At this point, and in the absence of other forms of argument (such as knockdown transcendental ones), my reaction would be to invite the objector to continue the discussion, gather more information, and cultivate sensitivity to what it is like for animals to thrive or be harmed. The search for reflective equilibrium is an ongoing task which does not need to uncritically defer to every actual judgment that we currently make. Furthermore, what Rawls (2001: sect.10) calls “wide and general reflective equilibrium” requires sustained exploration of competing views and public debate. Nobody has the last word in this process. But I remain hopeful. I agree with Kymlicka’s remark that on these issues our intuitions are “conflicting” but also “evolving” (Kymlicka 2018: 766).

**(iii) *Traversing the interests/rights gap.*** I do not deny that interests are relevant for justifying moral rights. It makes good sense to say that when people are wronged, they are undermined in their access to objects they have reason to want. The main idea here is that rights require feasible and reasonable support for the morally important interests of those affected.<sup>25</sup> More precisely: In circumstances C, A (a right-holder) has a right to O (an object) against B (a duty-bearer) just in case there are feasible and reasonable demands on B that they support, in some ways to be specified, A’s access to O. The specification of what B owes to A regarding O tracks the moral importance of A’s interest in O, the feasible ways for B to support A’s access to O, and the subset

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<sup>23</sup> I thank a referee for this suggestion. It could be objected that there is another difference between dignity and moral status, which is that the latter allows for gradation while the former does not. I will discuss the issue of gradation in 4.v below, but for now I point out that in principle both notions could be construed as amenable or impervious to gradation.

<sup>24</sup> The latter point was suggested to me by Rainer Ebert. The distinction between dignity and moral status is not central to this paper’s project, but I acknowledge that it deserves further examination.

<sup>25</sup> On the interest theory of rights, “[a] person has a right if, and only if, his interest is sufficient to hold another duty bound to do something on the ground that that action respects or promotes that interest” (Raz 1994: 31). Raz (1994: 35) acknowledges that not every interest gives rise to rights and that the interests of persons other than the right-holder must be taken into account. The schema I propose captures these points more explicitly.

of such feasible forms of support that do not involve morally unacceptable burdens on B or others (given the importance of their own interests) and on A (given the importance of other interests of A besides that concerning access to O). This general schema can be developed further to capture different kinds of moral rights. Human rights, for example, could focus on objects that are crucial for people to be able to lead a decent life. More ambitiously, rights of social justice could focus on objects that are crucial for people to live a more fully flourishing life. The schema can also be developed to apply to non-human animals, to capture their own interests and the challenges they face regarding their implementation.

But what interests matter for the articulation of rights? The Dignitarian Approach helps answer this important question. We can frame the identification of the relevant interests as follows:

**Schema of Dignitarian Justification:** Rights are justified if, and to the extent that, their implementation (through some institutions, practices, or acts) is either necessary for, or strongly contributes to, the feasible and reasonable support for interests regarding the maintenance, development, and exercise of certain valuable capacities of the relevant individuals—the ones at the basis of their dignity.

What is key, then, in justifying a certain right, is to show, regarding the putative right-holders and duty-bearers in the relevant circumstances, that (a) the object of the right concerns the right-holder's maintenance, development, or exercise of capacities in the basis of dignity—and thus that they have a morally important interest in accessing it; and that (b) the requirements the right imposes on the duty-bearers are feasible and reasonable (given their abilities and important interests regarding the maintenance, development, and exercise of their own valuable capacities).

The Schema of Dignitarian Justification helps address the worry about the relation between interests and rights. On the face of it, to say that an individual has an interest in something does not imply that they have a right to it—even if that right is to be seen as holding only pro tanto or presumptively. There seems to be a logical gap in moving from statements about interests to statements about rights. The Dignitarian Approach bridges this gap. The mediation is provided by the valuable capacities at the basis of dignity. These capacities give rise both to interests (in their maintenance, development, and exercise) and to rights to their support. When the object of an individual's interest is linked to what gives them standing to be a rights-holder—the capacities at the basis of their dignity—then taking it as giving rise to a right seems appropriate. We can thus accept the following principle:

**Bridge Principle:** When individuals have dignity, they have the deontic status of being owed (reasonable and feasible) support by every agent who can affect the satisfaction of their interests in retaining, developing, and exercising the capacities that give rise to that dignity.

This proposal, I hope, makes progress on the issue of how to bridge the gap between interests and rights. In 4.iv I will give examples of its use.<sup>26</sup> But before proceeding, and to prevent misunderstanding, I remind the reader that status-dignity is a deontic status, and that the features at the basis of dignity are valuable capacities. Statements of the form “X's capacities C1 ... Cn are valuable” are not descriptive reports but evaluative judgments. And statements of the form “If X has capacities C1, or C2, or ...Cn, then X has status-dignity” are substantive moral judgments, not

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<sup>26</sup> For fuller development see Gilabert (2023: ch. 1). There is further work to do to explore how the bridging proceeds in detail. As a referee points out, it may be difficult, for example, to give a dignitarian account of rights against being inflicted certain forms of pain. The capacity to feel pain might not be non-instrumentally valuable. If so, would the negative relation of certain pains to other, clearly intrinsically valuable capacities (such as the blocking or frustration of their unfolding) suffice to explain why rights against them make sense?

statements of logical implication. There is thus no naturalistic fallacy here—no attempt to derive normative judgments from merely descriptive ones.

**(iv) *Vindicating the normative strength of certain rights.*** The Dignitarian Approach can also help illuminate the normative strength of rights. Recall that status-dignity is a moral status with high priority. We can, as Kant did, contrast dignity with market price. Dignity is an inherent property of individuals, an “inner worth.” It is not, like a “price,” of a merely “relative” significance such that its carrier could permissibly be substituted by some other with equivalent use.<sup>27</sup> There are things we may not do to people, and things we ought to do for them, independently of whether we happen to hold them in high esteem, or whether this is an effective means to improve our own lot. Our practical deliberations as we choose how to act and what institutions to build and sustain is morally constrained by something crucial about what they are—beings with dignity. Their dignity elevates them above the space of social conventions and our narrow self-regarding prudential concerns. The rights grounded in their dignity are the signposts of this elevation and must regulate our thought and behavior towards them.<sup>28</sup>

The Dignitarian Approach urges that we focus on people’s interests in the unfolding of their valuable capacities, which are both prudentially and morally significant. As I see it, the Dignitarian Approach generates a powerful and inspiring ideal for human rights and social justice:

**Solidaristic Empowerment:** We should support individuals in their pursuit of a flourishing life by implementing both negative duties not to destroy or block the valuable capacities at the basis of their dignity and positive duties to protect and facilitate their development and exercise of these capacities.

This ideal states an obligatory goal for our practical deliberations. We can use it to orient ourselves in the articulation of various dignitarian norms, such as those stated in conceptions of human rights and social justice. We can see the former as stating requirements of *basic dignity* which have the greatest urgency, and the latter as articulating more ambitious, and less urgent demands of *maximal dignity*.

Importantly, dignity also marks the global importance of some claims. It helps us explain why, when the leader of a powerful state says “America (or Canada, etc.) First!”, we can plausibly reply that, for some moral purposes, it is humanity that comes first. Some forms of global solidarity are called for and have higher priority.<sup>29</sup>

The primary normative focus is on individuals, not on species or existing social groups, and is universal. Scoping for dignity may shatter parochial patterns of moral regard. Solidaristic Empowerment can thus also be extended to include duties of support to non-human animals, and recognize that they have correlative rights regarding access to the flourishing they are capable of

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<sup>27</sup> Kant (1996a: Ak 4: 434; see also 4:439 and 1996b: 6:462, 483). Kant holds that people have dignity on the basis of features that pertain to human persons “as such”; it is not dependent on features they acquire when they perform certain acts or occupy certain social positions. We can retain these structural points even if we reject Kant’s narrow view of the basis of dignity.

<sup>28</sup> This does not involve an injunction to simply sacrifice ourselves for the sake of others. The signposts include our own rights as beings with dignity who are ultimate ends for everyone (including ourselves). Kant’s appealing Formula of Humanity posits *every* person as an end in itself (Kant 1996a: Ak 4: 429). Furthermore, prudential considerations about well-being have a role within this moral framework—i.e., respect and concern partly turn on supporting each individuals’ pursuit of their good.

<sup>29</sup> It could be objected that solidarity only makes sense as an associational duty within particular groups. But the human rights movement has ushered into political discourse a universalist form of solidarity. There is, for example, no category mistake in the UN declaration (in 2005) of December 20<sup>th</sup> as “International Human Solidarity Day,” calling for global action to reduce poverty across the planet. Notice that the relevant contrast here is between humanity and nationality, not between humanity and animality.

given their own valuable capacities and their own dignity. Dignity can overflow species molds just as much as nationalist ones.

It is worth pointing out that dignitarian norms stating what forms of solidaristic empowerment are required can be more or less abstract or specific. The particular capacities and interests of different individuals placed in different material and social circumstances vary. Some very general features can be more or less constant across cases, while some may be quite circumscribed. So, a right to health care seems relevant for any society, while a right to specific forms of medical treatment (such as regarding certain illnesses or vaccines) may be very context-specific. Although there are some more or less general *circumstances of dignity* such that people face vulnerabilities regarding the unfolding of their valuable capacities which can be feasibly ameliorated through social action and institutions, there are also specific configurations of these circumstances that call for more circumscribed norms. A conception of rights must thus be quite complex. In the human rights context, for example, we can identify quite general rights to political participation and defend them by referring to the interest people have in unfolding their capacities for prudential and moral judgement and self-determination, and the causal significance of using them effectively to protect these and other interests in the face of recurrent vulnerabilities to decision-making power wielded by others that is biased, insufficiently responsive, or outright hostile (Christiano 2008). But different societal contexts may warrant different organizations of the political process. Although autocracy and despotism are uniformly problematic, there are many ways of organizing a more or less democratic system. Or, for another example, consider Article 22 in the Universal Declaration, referring to “economic, social and cultural rights as indispensable for [persons’] dignity and the free development of [their] personality.” Those rights can be specified in different ways, depending on what, in different contexts, would be the most reasonable and feasible ways of fostering people’s free development of their personality. Here we can see how considerations about vulnerability and the development of capabilities (invoked in the depiction of non-dignitarian accounts of rights by the challenging argument from section 2) find their place.

(v) ***Illuminating questions about gradation and diversity.*** Let us turn to the final set of issues identified in section 3. Things are rather complicated here, and I do not aim to resolve them. This would require a separate article. My objective is instead to show that the Dignitarian Approach is helpful for noticing them and for framing their treatment.

We face the difficult task of giving an account of dignitarian norms that coherently articulates and explains the following intuitive judgments about dignitarian status, equality, and diversity:

- (a) Human individuals have dignity and are, in a fundamental sense, moral equals to each other.
- (b) There are individuals who are not humans but have dignity and rights.<sup>30</sup>
- (c) Status-dignity is based on valuable capacities.
- (d) Individuals (human and non-human) are different in the kinds and degrees of the valuable capacities that they have.
- (e) Individuals (human and non-human) are different also in their specific predicaments—in their particular situations, needs, abilities, or merits.
- (f) Individuals are sometimes owed uniform treatment, and sometimes they are owed differentiated forms of treatment that fit the specifics of their predicament.

We need to articulate our normative perspective so as to reach reflective equilibrium among these judgments. The Dignitarian Approach has a role in this process.

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<sup>30</sup> I am assuming at this point that my interlocutors share this judgment. But if they don’t, the moves in the previous subsections were not successful and must be pursued further until they are fully on board.



Importantly, and given the point about diverse specifications of rights in subsection 4.iv, it is clear that the Dignitarian Approach can readily articulate the fact that we owe equal but differentiated treatment to individuals with the same profile of basic capacities when they face different difficulties and vulnerabilities, like different illnesses. The same holds for individuals with different profiles when no comparative issues of priority arise. But things are more difficult when conflicts do arise. Consider two hard questions.

The first question is this. Are non-human individuals moral equals to human individuals? Notice that the question is not whether they have moral status, but whether the moral status that they have, when they have it, is equal to that of human individuals. When comparing non-human animals and human individuals, does Inclusive Dignity involve only recognition that they have dignity and rights or also that the dignity and rights that they have possess the same weight? In principle, weaker and stronger versions of Inclusive Dignity are possible here. At least a weak version is clearly plausible. For example, consider the treatment of animals in food production. Practices of factory farming featuring systematic pain and extreme curtailment of animals' associative activities and movement are clearly wrongful. They fail to respond appropriately to animals' valuable capacities for sentience, agency, and sociability. Less harmful forms of animal-based food production would be preferable, and the avoidance of torment and the killing of animals for food altogether would be even better. As technology evolves, human beings' need to kill animals to survive is disappearing (as vegetarian diets and "lab meat" can feed them all). Would a stronger version of Inclusive Dignity be plausible as well? I am not sure. Consider policies of rescue during wildfires. When only one of two individuals can be saved, and one of them is a human individual and the other a dog, it seems that the right of the former takes priority.<sup>31</sup> Although they both have dignity, the dignity of the human individual involves a greater array of valuable capacities that calls for greater regard. It is clear, however, that we may not simply ignore non-human animals and proceed as if they could not be wronged by our choices. Situations like these are indeed tragic.<sup>32</sup>

How can the fundamental moral equality of human individuals be consistently affirmed together with a treatment that is sensitive to the various forms of diversity among them? This is the second hard question. On the one hand, the Dignitarian Approach has a sharp universalist profile which generates strong and uniform requirements that regard all. In a pandemic, vaccination policies should target everyone regardless of race, ethnicity, or nationality. This is not only because you are not fully safe if the outgroup individuals are not also safe (the virus can mutate among them and hit back at you in a new strain your vaccine does not yield you against). It is also because it would wrong *them* to ignore their plight when you can help them at reasonable cost. But things seem more complicated once we take into account that there is great variation among people regarding the type and degree of their valuable capacities. As pointed out above, we often can specify rights in diverse ways to yield egalitarian yet differentiated treatment. But when conflicts arise, shall we conclude that these people have different levels of dignity and rights? Dignity-based thinking seems to invite odious comparisons which seem at odds with basic moral egalitarianism (commitment (a)).

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<sup>31</sup> Notice that rejecting a stronger version of Inclusive Dignity does not imply accepting the supremacist assumption D2 unless it is presupposed as a criterion of success (rather than seen as a possible consequence) of a theory of rights that non-human animals' rights are weaker. No such presupposition is at play here.

<sup>32</sup> Hence, we should try to prevent them when we can (for example, by addressing anthropogenic climate change that foreseeably causes wildfires).

A common strategy here is to follow Rawls (1999: sect. 77) and construe dignity as a “range property,” which is equally had by anyone who reaches some threshold of the relevant valuable capacities, no matter how they differ above it. Rawls says that everyone with the relevant capacities he singles out (the capacities for a sense of justice and for a conception of the good) has moral personality and should be granted equal rights under his first principle of justice (which states a palette of basic civil and political liberties). His second principle (allowing economic inequalities in income and wealth and in positions of authority and responsibility so long as they proceed against a background of fair equality of opportunity and work to the maximal benefit of the worst-off) offers a way to handle differences above the threshold (regarding the aspects of moral personality as well as other capacities and abilities) which takes equally into account the interests of all. But below the threshold Rawls’s account is silent—leaving matters for a later, supplementary stage in the development of a theory of justice. However, as critics (like Nussbaum 2006) have pointed out, we need a broader account that also puts at the center of our thinking the rights of people with cognitive disabilities, responding to their dignity. This broader account would also be needed to capture more fully the rights of every human individual given that at various stages of their lives they all face situations of great vulnerability. I think that the Dignitarian Approach as presented here generates such a broader account, as it is centered on the dignity of actual individuals as they are, not on some statistically “normal” exemplar of the species. Differentiated treatment and specific rights are sometimes called for precisely to respond to—and thus take equally seriously—the dignity of all.<sup>33</sup>

What if tragic rescue situations like the one mentioned above arise in which those affected are human individuals with significantly different kinds or degrees of valuable capacities? My intuitive reaction is that making comparisons here would be an odious exercise, that barring some special and powerful justification we should not prioritize a human individual over another. I want to be able to say that dignity tells us something about whether and how these individuals matter morally, but also that it should not be used to quantify how much they count by comparison with each other. I realize, however, that this intuition may be in tension with one of the potential responses in the previous comparison with some non-human animals. If the divergence regarding valuable capacities makes a difference in that case, why would it not make a difference in this one? And if it doesn’t make a difference in this latter case, why would it in the former? Again, weaker and stronger versions of Inclusive Dignity are possible here. On the stronger version, comparable interests demand equal treatment across the board. On the weaker version, comparable interests might be treated dissimilarly for some reason to be specified.<sup>34</sup> My own efforts in reaching

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<sup>33</sup> Because of this, the approach would also discourage a sweeping strategy of opacity regarding differences in people’s capacities above thresholds for range properties. (See Carter 2011 on the opacity strategy.) Consider health care and educational policies: ignoring cognitive differences would make it impossible to give diverse individuals the kind of support that they need to survive and flourish in their own particular and changing situations (Gilbert 2019: 307-9). Here as in other matters of justice, to simultaneously cater for equality and diversity, a stance oriented by the socialist slogan “From each according to their ability, to each according to their needs!” might be fitting.

<sup>34</sup> I thank a referee for comments on this point. Even within a weaker interpretation, there is space for possibilities. Kagan (2019: chs. 5 and 11) offers interesting resources to limit hierarchical tendencies, such as the consideration of potential and modal status and practical realism to discuss the status of people below some threshold of capacities and above it but still differing in various ways. The first factor in how individuals will likely develop in the future and how they would have developed had they not been impacted by some event that blocked their trajectory, and the second builds on the fact that we have serious cognitive and motivational deficiencies when it comes to appreciating the diverse capacities of others. These are worth exploring further. It would also help, I think, to take into account that different normative exercises may impose different constraints. A theory of justice and rights for institutions may

reflective equilibrium must proceed further to sharpen my views on this matter.<sup>35</sup> But as I said at the outset, my objective here has not been to resolve the issues, but only to show that the Dignitarian Approach can be inclusive and offer a fruitful perspective. It is a challenge for future inquiry to develop a dignitarian theory of justice and rights that systematically and holistically accounts for the full sweep of the dignitarian moral nexus.

## 5. Conclusion

I believe that the philosophical framework sketched in this paper provides fruitful resources to develop an Inclusive Dignity view. The risks of dignitarian talk in inviting unjustified hierarchies are real. But every core moral and political idea carries risks of this kind, as can readily be seen in the use of freedom to block distribution that supports the poor and equality to crush civil liberties. Just as we can interpret freedom and equality in ways that prevent these implications, we can interpret dignity in an inclusive way that is duly responsive to the rights of non-human animals and of all human beings in their rich diversity. Dignitarian talk is in any case entrenched in moral and political discourse and will not go away any time soon. It makes more practical sense to engage the idea of dignity to cast it in an inclusive key than to vacate the debate on how best to understand it and hand it over to the exclusionists.

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carry different strictures than one only centered on individuals' acts, for example. For a recent account defending a threshold-based conception of moral status, see Miklosi (2022). See also the contributions in Steinhoff (2014).

<sup>35</sup> The search for deliberative reflective equilibrium is a dynamic task. The primary focus is not to describe what we already believe, but, deliberatively, to determine what *to* believe (Scanlon 2003).

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## Acknowledgments

For comments and discussion I thank referees, Matthew Barker, Rainer Ebert, Giacomo Floris, Valery Giroux, Will Kymlicka, Ben Laurence, David O'Brien, Matthew Perry, Jiewuh Song, Federico Zuolo, Ariel Zylberman, and the audiences in a workshop at the Centre de Recherche en Ethique (Montreal), the workshop "Moral Equality in the Margins" (hosted by the University of Warwick), and the 2023 Central Division congress of the American Philosophical Association.

### **Declaration of conflict of interests**

The author(s) declared no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.

### **Funding**

Research for this paper was funded by an Insight Grant from the Social Sciences and Humanities Research Council of Canada.

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