

Two Types of ‘Dignity’ and Their Role in International Human Rights

By LIU Renxiang

FICHL Policy Brief Series No. 68 (2016)

1. ‘Dignity’ as an Unsound Foundation of Human Rights?

The International Human Rights Movement of the twentieth century sought to protect some universal rights of each human being. It emphasised human ‘dignity’, which is considered universal. According to Christopher McCrudden, the concept of human ‘dignity’ plays a central role in contemporary human rights discourse.¹ He mentions that “the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR) both state that all human rights derive from the inherent dignity of the human person”.²

In a policy brief published in this Series in 2014, CHEN Bo infers in this context that ‘dignity’ serves as “the foundation or source of human rights in international law”.³ However, he proceeds to argue that the Western interpretation of ‘dignity’ “based on the premise that human beings have agency”⁴ is an insufficient and even inappropriate foundation. With an underdeveloped theoretical foundation, international human rights law faces difficulties in being fully adopted in states like China, where “the link between the individual and society, between our duties and rights”⁵ is emphasized.

As regards the interpretations of ‘dignity’, CHEN seems to acknowledge the inevitability of a conflict between individual rights and the common good. Even

1 Christopher McCrudden, “Human Dignity and Judicial Interpretation of Human Rights”, in *European Journal of International Law*, 2008, vol. 19, no. 4, p. 656.

2 International Covenant on Economic, Social and Cultural Rights (<http://www.legal-tools.org/doc/06b87e/>); International Covenant on Civil and Political Rights (<http://www.legal-tools.org/doc/2838f3/>); McCrudden, 2008, *ibid.*, p. 656.

3 CHEN Bo, “‘Dignity’ and the Incomplete Grounding of International Human Rights”, FICHL Policy Brief Series No. 21 (2014), Torkel Opsahl Academic EPublisher, Brussels, 2014.

4 *Ibid.*

5 *Ibid.*

in his references to a “Confucian perspective”, all he expects is that the two sides will get along “in co-existence”.⁶ The role of “the rich Chinese tradition”, so to speak, is only to suggest the “link between” the two.⁷ This implies that the individual and the community (sometimes called “society” by him) are basically two equal and opposite sides. Under this presupposition, CHEN concludes that the ‘dignity’ of “subjects possessing rights upon which they make claims against each other”⁸ (or, put in Griffin’s term, “normative agents”⁹) stands primarily on the side of the individual, not the community. Hence, it can be inferred that the importance of the community should receive new emphasis, to which the Chinese tradition might contribute considerably.

2. The Default Historiography of ‘Dignity’

Does CHEN’s critical perspective on the Western conception of ‘dignity’ mean that we should search other traditions for some ‘remedy’ to the suggested lack of depth and clarity in the concept? It seems to me that, despite its appearance of combining the individual and the community, the Chinese tradition rather preserves a primordial memory of the ethics *before* the conflict between the two was introduced. Moreover, this memory can be found not only in East Asian traditions.

The image of a Western tradition suffering from an inherent disadvantage, namely the conflict between individual and community, comes presumably from a Whig interpretation of the history of ‘dignity’.¹⁰ This interpretation, as is shown in both McCrudden’s and CHEN’s

6 *Ibid.*

7 *Ibid.*

8 *Ibid.*

9 See James Griffin, *On Human Rights*, Oxford University Press, 2008, p. 2.

10 For the concept of Whig interpretation of history, see, for example, Herbert Butterfield, *The Whig Interpretation of History*, W.W. Norton & Company, 1965.

historiography, considers the history of ‘dignity’ as a progression in which the scope of people who enjoy ‘dignity’ grows broader and broader. Both of them find Cicero to be the first to propose “dignity of human beings as human beings”, and then tell us the story from medieval thinkers to Kant who finally introduced “inherent” dignity in all human beings. In his argument, ‘dignity’ is considered universal and is not endowed by a source external to human beings themselves.¹¹ It seems that, according to this historiography, some individuals in the past were deprived of ‘dignity’ by the community, and that we must inevitably emphasise the value of the individual in order to restore their ‘dignity’.

It is precisely this historiography that veils the fact that at least the ancient thinkers knew not of a conflict between individual and community. For example, both McCrudden and CHEN mention that in classical Roman thought the concept of *dignitas hominis* was largely correlated to “status”.¹² Both of them use this to show that ‘dignity’ was confined to a certain group of people rather than everyone. However, if we examine the classical Roman definition of ‘dignity’ carefully, we may agree with Cancik that, instead of denoting “an attribute of those worthy”,¹³ this term “denotes worthiness, the outer aspect of a person’s social role which evokes respect, and embodies the charisma and the esteem presiding in office, rank or personality”.¹⁴ Confining ‘dignity’ to “those worthy” implies that others are not worthy at all, yet this would be a claim that the ancient thinkers did not make.

Thus the real difference between ancient and modern ‘dignity’ lies not in their scope, but rather in the way people gain it. This brings us to our distinction between ‘intrinsic dignity’ and ‘extrinsic dignity’.

3. Intrinsic Dignity and Extrinsic Dignity

According to Cancik’s definition, ‘dignity’ in classical Roman thought has something to do with one’s social role, charisma and esteem.¹⁵ We call this ‘intrinsic dignity’, for one naturally possesses it (more or less) through various kinds of social and political practice. A father has his ‘dignity’ as a father, a warrior his ‘dignity’ as a warrior, and so on. ‘Dignity’ accords with one’s *locus* (or status) in the community in which one is vividly involved. Metaphysically, ‘intrinsic dignity’ is not an “attribute”, for the human being is not Aristotelian “matter” without

attributes that awaits someone else to “attribute” properties to him. Accordingly, human rights based on ‘intrinsic dignity’ cannot be given, they can only be achieved.

This idea of ‘dignity’ is also found in traditional Chinese thought. For example, when Confucius proposed that “sons [should] behave filially, fathers paternally, kings royally and subjects loyally” (Jun jun, chen chen, fu fu, zi zi),¹⁶ he was not talking about social suppression of the individual. He was arguing, rather, that everyone would be respected if he or she could act according to his or her status. This means that everyone should behave actively to serve his position, and it is only in this process that he or she can achieve his or her ‘dignity’.

On the other hand, ‘extrinsic dignity’ is exactly an “attribute”. It might come from God, from natural law, from anthropology, or from the Kantian categorical imperative. The point is that if we acknowledge ‘extrinsic dignity’, the first step would be to deprive the human being of ‘intrinsic dignity’, namely to isolate him or her from the status and rights (sometimes tacit ones) that he or she has in his communal and political relations, to make him ‘naked’. It is not until the second step that these identical ‘naked’ people are attributed again with ‘external dignity’ (for example, normative agency) and thus offered some universal but more abstract rights – the right to life, freedom of speech, and so forth.

This view of ‘dignity’ is somewhat mechanical. Its theoretical background may be called the political atomism of human rights. As Klein has commented, as modern men “we consider our mind as a mind shut up within its own cell”, “we consider our soul as a soul isolated and without any possible contact with the outside world”, and people are “preconceived as being entirely dissociated and alienated from the world”.¹⁷ From his point of view, the modern man is essentially non-political. Therefore the only dignity he might have is ‘extrinsic dignity’: he receives this as some favour done by God, by natural law, or simply by some theorists.

On the other hand, modern political theory inherits a kind of ‘methodologism’ from modern science. It makes universal claims by means of isolating its objects from their background. Called *mathesis universalis* by Descartes, the very idea of this methodologism is to find out a certain way that can, through deduction, solve all the problems.¹⁸ In this way, the more universal a definition

11 See McCrudden, 2008, *supra* note 1, pp. 659–660; CHEN, 2014, *supra* note 3.

12 See McCrudden, *ibid.*, pp. 656–657; CHEN, *ibid.*

13 CHEN, *ibid.*

14 Hubert Cancik, “‘Dignity of Man’ and ‘Personal’ in Stoic Anthropology: Some Remarks on Cicero, *De Officiis* I 105-107”, in Kretzmer and Klein, *The Concept of Human Dignity in Human Rights Discourse*, 2002, p. 19; McCrudden, 2008, *supra* note 1, p. 657.

15 Cancik, *ibid.*

16 Confucius, *Confucian Analects*, Chapter 12.

17 Jacob Klein, “Modern Rationalism”, in Robert B. Williamson and Elliott Zuckerman (eds.), *Lectures and Essays*, St. John’s College Press, 1985, p. 58.

18 Consider Klein’s description: “More exactly, the ‘universal science,’ in the form of the ‘art’ of algebra, is nothing else but the finding of the way of finding the truth. Therefore, science as an art becomes primarily a method. Our modern idea of science is inseparably linked with the idea of a methodical procedure, according to certain rules. It is noteworthy that the idea of procedure as a

of ‘dignity’ is, the less concrete content it has and the more difficult it can be to adapt it to different kinds of societies.

Therefore, ‘external dignity’ has nothing to do with the genuine or embodied agency, but is in fact similar to what Isaiah Berlin calls “negative freedom”, namely the exemption from interference and domination by others or by the community.¹⁹

In this sense, although for Kant the concept of ‘dignity’ became “inherent”²⁰ – that a human being has dignity precisely because he or she is human (rather than because of divine grace) – this is still abstract and formal. It is applied to everyone without distinction. In other words, even Kant’s so-called “inherent” dignity belongs to our category of ‘extrinsic dignity’.

4. The Emphasis on Extrinsic Dignity and Its Drawbacks

The transition from ‘intrinsic dignity’ to ‘extrinsic dignity’ comes presumably from the rise of Christianity, for in a Christian worldview all human beings are created. There is an infinite gap between human beings and God, hence the difference between humans seems comparatively meaningless. And it is curious that, even in Kant’s anthropocentrism, human rights stem essentially not from people themselves, for there has to be someone (like Kant himself) to *judge* that the human being should have a list of these rights. The philosopher fills the vacancy that is left by God. Ideas of ‘extrinsic dignity’, be they religious or not, underestimate the entelechy of human beings and, as Nietzsche criticized, degrade them to *slaves* who bear no value in themselves.

Clearly, it is ‘extrinsic dignity’ that the Modern Human Rights Movement takes as the foundation of human rights protection. In fact, it goes hand-in-hand with state politics in the modern age. The extrinsic perspective of both national and international politics is explained in Arendt’s comment:

Politically, the fallacy of this new and typically modern philosophy is relatively simple. It consists in describing

goal in itself was totally excluded from Greek science. In modern science there are no definite borders between pure science on the one hand and the so-called applied sciences and technics on the other. Modern science, as a whole, is not only applicable to certain procedures, the result of which is technics, but is in itself technical. Despite its heritage of the idea of ancient science, modern science is not so much the understanding of nature as the art of mastering nature. The rationalism of modern science consists mainly in the rationalization of methods, and it results in that extraordinary organization of our whole life, which we mentioned earlier”, in Klein, *ibid.*, pp. 59–60.

19 See Isaiah Berlin, “Two concepts of liberty”, 1958, in his *Four Essays on Liberty*, Oxford University Press, 1969.

20 Jack Donnelly, *Human Dignity and Human Rights* (<http://www.legal-tools.org/doc/e80bda/>), 2009, p. 22; CHEN, 2014, *supra* note 3.

understanding the whole realm of human action, not in terms of the actor and the agent, but from the standpoint of the spectator who watches a spectacle. But this fallacy is relatively difficult to detect because of the truth inherent in it, which is that all stories begun and enacted by men unfold their true meaning only when they have come to their end, so that it may indeed appear as though only the spectator, and not the agent, can hope to understand what actually happened in any given chain of deeds and events.²¹

The shift from the intrinsic view of ‘dignity’ to the extrinsic one may be considered a part of the transition of political thinkers from agents to spectators. In this way, they were likely to neglect the vivid social interaction from which ‘intrinsic dignity’ derives. They remained indifferent in order to reach the truth – and this truth can only be a formal and abstract one.

The abstractness of ‘extrinsic dignity’ gives rise to some weaknesses in the Modern Human Rights Movement, for example, Arendt states:

[The French Declaration] proclaims the existence of rights independent of and outside the body politic, and then goes on to equate these so-called rights, namely the rights of man qua man, with the rights of citizens. In our context, we do not need to insist on the perplexities inherent in the very concept of human rights nor on the sad inefficacy of all declarations, proclamations, or enumerations of human rights that were not immediately incorporated into positive law, the law of the land, and applied to those who happened to live there. The trouble with these rights has always been that they could not but be less than the rights of nationals, and that they were invoked only as a last resort by those who had lost their normal rights as citizens.²²

This is to say that it would be difficult for human rights based on ‘extrinsic dignity’ to become embodied and contextualized. Furthermore, human rights become something that people might lack: we have to give people *their own* rights. It is not difficult to find in the modern human rights discourse something like: “people should have had this right, but the government/state/culture suppresses it, so we must liberate them from the suppression”. Although this statement is not meaningless in a contemporary political context, it reduces human rights to negative freedom. In a comment on Robespierre, Arendt wrote:

Yet, no sooner had he defined the chief aim of constitutional government as the ‘preservation of public freedom’ than he turned about, as it were, and corrected himself: ‘Under constitutional rule it is almost enough to protect the individuals against the abuses of public power.’ With this second sentence, power is still public and in the hands of government, but the individual has become powerless and must be protected against it. Freedom, on

21 Hannah Arendt, *On Revolution*, Penguin Books, 1990, p. 52.

22 *Ibid.*, p. 149.

the other hand, has shifted places; it resides no longer in the public realm but in the private life of the citizens and so must be defended against the public and its power. Freedom and power have parted company, and the fateful equating of power with violence, of the political with government, and of government with a necessary evil has begun.²³

Based on the distinction between intrinsic and extrinsic ‘dignity’, we can understand from this text that the individual becomes powerless and must be protected against the government just because he or she is reduced to a naked man seen from the perspective of ‘extrinsic dignity’. Politicians and theorists may still speak for people’s rights, but the rights are no longer those stemming from people themselves.

Moreover, precisely because the individual is isolated from his natural relationship in the view of ‘extrinsic dignity’, he becomes a Cartesian subject, an agency with voluntary freedom. This enables him to become ‘selfish’. His rights then conflict inevitably with the common good. On the other hand, ‘common good’ becomes a discourse usually undertaken to suppress individual interests and pursuits, for in fact this community, organized under equally abstract rules, has nothing concrete to do with the individual.

5. Conclusion

As the basis of international human rights law, the concept of ‘dignity’ is sometimes criticized for its latent overemphasis on individual rights and for ignoring responsibility towards the community. However, given the historical analysis above, the tension between individual and community can be recognized as a result of the transition from ‘intrinsic dignity’ to ‘extrinsic dignity’: that is, ‘dignity’ is no longer what people achieve from their status and their concrete social and political practice, but rather something universal that is attributed to a formal conception of human beings who have been theoretically deprived of everything concerning their vivid public life. This transition, in turn, comes from the Christian image of the human being as well as the rise of methodologism in the modern age, and it gives rise to some problems that the Modern Human Rights Movement is confronted with.

It might be argued that in a world already organized

upon the presupposition of ‘external dignity’ we cannot act as if it had not been invented. If we cease to ask for basic and universal rights of the human being, people in autocratic states might suffer. After all, autocrats have also gotten used to the idea of ‘external dignity’, and this is part of the reason why they feel free to arbitrarily deprive subjects of it. No wonder we shall still insist on universal human rights.

However, reflecting on the distinction between intrinsic and extrinsic ‘dignity’, we may promote international human rights in a more appropriate way. One proposal is to start from what Arendt called “the elementary republics of the wards”, for it allows a “tangible place where everyone could be free”.²⁴ If we first respect rights that man has within a community in which he can show his face, speak and listen to his fellows as well as have considerable influence on public decisions concerning his own everyday life, we revive insights of ancient times and enhance human rights, deriving them from ‘intrinsic dignity’. In a modern political context, the idea of ‘intrinsic dignity’ might be interpreted as an appeal to preserve the rights of people as active citizens rather than donate rights to people as passive subjects.²⁵ Put in Arendt’s words, “no one could be called either happy or free without participating, and having a share, in public power”.²⁶

With the distinction between intrinsic and extrinsic ‘dignity’, we can also better understand the setbacks the Modern Human Rights Movement encounters when it adapts itself to a particular society or culture, and we may therefore do something other than merely being astonished that these states refuse the priceless treasure of universal human rights.

LIU Renxiang, Department of Philosophy, Peking University.

ISBN: 978-82-8348-047-4.

FICHL-PURL: <https://www.ficHL.org/pbs/68-liu/>.

LTD-PURL: <http://www.legal-tools.org/doc/833b63/>.

²⁴ *Ibid.*, p. 255.

²⁵ Arendt wrote that “the danger was that all power had been given to the people in their private capacity and that there was no space established for them in their capacity of being citizens”, *ibid.*, p. 253.

²⁶ *Ibid.*, p. 255.

²³ *Ibid.*, p. 137.