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SHOULD INHERENT HUMAN DIGNITY BE CONSIDERED INTRINSICALLY HEURISTIC?

Bharat Ranganathan

ABSTRACT

What are “human rights” supposed to protect? According to most human rights doctrines, including most notably the Universal Declaration of Human Rights (UDHR), human rights aim to protect “human dignity.” But what this concept amounts to and what its source is remain unclear. According to Glenn Hughes (2011), human rights theorists ought to consider human dignity as an “intrinsically heuristic concept,” whose content is partially understood but is not fully determined. In this comment, I criticize Hughes’s account. On my view, understanding inherent human dignity as an intrinsically heuristic concept tethers it to an “indeterminateness of sense,” which leaves it open to exploitation from theorists unsympathetic to the moral salience of rights and what rights are supposed to protect.

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Introduction

In “The Concept of Dignity in the Universal Declaration of Human Rights” (2011), Glenn Hughes claims that the notion of inherent human dignity, which underwrites human rights doctrine, ought to be considered an intrinsically heuristic concept. He bases this claim on the framing of the Universal Declaration of Human Rights (UDHR). Its framers were deeply divided about various metaphysical issues and did not want to endorse any particular anthropology; consequently, they could not agree on the ground for “inherent human dignity,” which is the basic value acknowledged in the Preamble to the UDHR that grants *all* human beings inalienable human rights. By not fixing a ground, Hughes notes, the framers proffered a “noncontextualized principle” (2011, 7). In his essay, he discusses this principle, which he believes serves a heuristic function and leads us to better appreciate inherent human dignity. On his view, such a principle should be considered a strength rather than a weakness.

I disagree. Such a principle is susceptible to criticism regarding not only the existence of human rights but also what they aim to protect, even in light of Hughes’s defense of the principle. In this comment, I will explain why. In the second section, I will highlight an area where Hughes and I largely agree. Specifically, he and I agree that human rights doctrine must be articulated and defended in such a way that it includes all humans, regardless of any morally arbitrary characteristics. Then, in the third section, I will coarsely reconstruct Hughes’s view of transcendence, which he believes anchors inherent human dignity.¹ I will also examine some problems associated with his defense. Specifically, I will illustrate that Hughes’s language, despite his purported commitment to a noncontextualized principle, ultimately seems grounded in a Christian metaphysics. On my view, if a particular metaphysics is necessary to defend the notion of inherent human dignity, then Hughes should defend it on such grounds.

¹ Hughes’s account seems to turn on two senses of transcendence—one “weak” and the other “strong.” I will register my agreement with weak transcendence and disagreement with strong transcendence.

Agreement

Let me chart an area where we largely agree. On Hughes's view, the *inherency* of human dignity means that each and every individual possesses dignity simply by virtue of being human (2011, 10). That is to say, one does not possess human dignity by virtue of belonging to some voluntary association or by some performative act. To generalize from a famous distinction, dignity is based on "recognition," not "appraisal."² Hughes also emphasizes the moral nature of human rights: one possesses them regardless of whether a political regime respects them or whether that regime's legal institutions instantiate them in law. In other words, to be human is to have a particular (and equal) status in the human moral community. The moral nature of human rights, then, aims to protect this inherent human dignity, which again was recognized by the framers as the basic value upon which rights are predicated. According to Hughes's reconstruction, the framers based human rights on human dignity because of their recognition of human beings as "self-determining, unique, and vulnerable beings," who "have an inalienable right to those conditions and opportunities" in order to "freely and fully develop as persons" (2011, 10). That human beings possess such a dignity is (at least in theory) normative for others—it "generates the articulation of such freedoms and protections as are listed in the Declaration as civil, political, economic, social, and cultural rights" (2011, 12).

Disagreement

How might one defend the notion of inherent human dignity? If human rights aim to protect all human beings, Hughes avers, then there must be something common about them. This assertion rightly contradicts theorists like Kant who claim that one must be capable of normative agency in order to have human dignity (2011, 14).³ If only those who possess some qualified sense of dignity have human rights,

² Darwall 1977 develops this distinction. Hughes also draws on it.

³ Hughes's claim stands in contrast to other theorists, including James Griffin (2008, 33–37), who believe human rights only attach to "persons." Compare Griffin's view to Tom Regan (2004, 151–56), who distinguishes between "moral agents" and "moral patients." On Regan's view, some especially vulnerable populations—for example, infants, young children, and humans with severe cognitive disability—"are paradigm cases of human moral patients" (2004, 153). Human rights ought to protect both moral agents and moral patients.

then “human rights” is a misnomer. In support of his position, Hughes writes, “In order for the concept of inherent dignity to make philosophical sense, there must indeed be a human nature; if there is a human nature, then there must be something *essential to human beings as such*; and something essential to human beings must, by definition, be something beyond all material particularities, which are always changing. If there is a human nature, it must transcend differences of biology, culture, and history” (2011, 15–16). I agree with this claim, which we could say turns on a weak sense of “transcendence.” That is to say, if human rights aim to protect all humans, then whatever grounds them must transcend all arbitrary factors.

Hughes’s defense of weak transcendence is where matters get problematic. Despite his advertised commitment to a noncontextualized principle, Hughes turns to Christian metaphysics in order to defend human dignity. Such a turn is inconsistent with his commitment to a noncontextualized principle. Specifically, Hughes defends inherent human dignity via a strong sense of transcendence, which is a “dimension of reality not intrinsically conditioned by space and time.” He adds: “To affirm its reality is to recognize that the ultimate origin of human free will and of the capacity to think rationally and act morally is not directly accessible to human understanding” (2011, 16). The notion of inherent human dignity that anchors human rights, he believes, is an inherently heuristic concept that participates in this transcendent reality. On his definition, an “intrinsically heuristic concept means that [the concept] refers to an intelligible reality of which we have some understanding, but whose full or complete content remains, and will always remain to some degree, unknown to us” (2011, 8). In other words, we possess some basic grip on the content of human dignity. But we are simultaneously confronted with an indeterminateness of sense, which “invit[es] us to a further filling in of its meaning” (2011, 9).

On my reading, this description raises several further questions, which Hughes does not handle. If he is unable to answer these questions then his account will not be adequately positioned to respond to the problems facing contemporary human rights theorists. What are these problems? Hughes himself considers one problem: the framers of the UDHR largely agreed on what rights individuals ought to be afforded but were deeply divided about the grounds according

to which these rights were to be justified. The second problem is closely related. Since the Enlightenment, according to James Griffin (2008, 11–18), philosophers have been slowly filtering out the theological content from our common ethical concepts. But the remaining void has not subsequently been filled. Lacking content, Griffin argues, concepts like “rights” are left without normative force. This in turn affects human rights as both a theoretical enterprise and a practical morality. In other words, human rights suffer from an “indeterminateness of sense,” which leaves the human rights enterprise vulnerable in two respects. First, it is open to criticism from theorists who are unsympathetic with its theoretical justification.⁴ The second criticism is that the human rights enterprise is not properly action-guiding. That is to say, if theorists cannot agree on what human rights are to protect, then we cannot *rightly* implement one or another protective instrument. If human rights are to be more than a useful fiction, then these concerns and their attending problems must be resolved.

On my reading, Hughes is not in a position to respond to these concerns because his language seems conceptually unclear but ultimately seems grounded in a Christian metaphysics. For example, what, exactly, is the “absolute” or “transcendent reality” on which Hughes’s grounding turns? In defense of this grounding, he claims that inherent human dignity is imparted to the human being (2011, 17). But what imparts this dignity, which is possessed by all human beings and cannot be revoked by one or another human act or institution? Perhaps it is God? Nicholas Wolterstorff, for one, offers such a view: “Being loved by God gives a human being a great worth.” Moreover, standing in such a relationship with God “does not in any way involve a reference to human capacities” (2008, 352). The ground for human rights, on Wolterstorff’s view, is theistic: “Being loved by God is an example . . . (of) *bestowed* worth” (2008, 353). There is a striking overlap between Hughes’s and Wolterstorff’s respective arguments for the grounding of human rights, namely, that an individual’s worth is imparted. This overlap raises two questions. First, what has

⁴ Recollect, for example, Alasdair MacIntyre’s infamous words: “There are no such things as rights, and belief in them is one with belief in witches and unicorns. Every attempt to give good reasons for believing that there *are* such rights has failed” (1984, 69).

Hughes offered that is distinct from Wolterstorff's account? And second, if the overlap is not merely incidental, has Hughes not posited a view that is consistent only with a particular metaphysics? Even if the framers offered a noncontextualized principle—which Hughes claims was not only a strength of the document but also the intention of its framers (2001, 11)—Hughes seems to have contextualized it.

Hughes's contextualization seems to continue in his discussion of what it means to recognize inherent human dignity. Recognizing the inherent dignity of another person, he says, turns on love. On his definition, love is a "self-transcending concern for the well-being of another creature." In his defense of this position, he offers the following reasoning: One stands in a relationship with "the Logos" that in turn conditions one's regard for others (2011, 19). But this claim seems to be a mere rewording of a garden-variety account of neighbor-love, which is found throughout Christian theological ethics. This position illustrates Hughes's tacit reliance on particular Christian commitments. Such commitments, moreover, seem inconsistent with Hughes's insistence that the human rights enterprise, and the inherent human dignity that underwrites it, remain distinct from all comprehensive moral schemes. The other problem tracks the notion of love. Human rights are often construed as necessary to protect our most basic interests—for example, to bodily security—against those who would otherwise disregard them. Those who would disregard our most basic interests, we might say, are not interested in our well-being. This perhaps makes "rights talk" seem adversarial. But consider the torturer. The torturer displays neither neighbor-love nor regard for the inherent human dignity of the person being tortured. Instead, the torturer lords over and attempts to break the person being tortured. Therefore, the inherent dignity of the person being tortured has not made a claim on the torturer. Or if it has, the torturer simply disregards its normative force.⁵

⁵ On the different possible motivations for a torturer, see Reeder 2010.

Conclusion

I agree with several of Hughes's claims. But I find many of his arguments and the conclusion he draws unsatisfying. If the human rights enterprise is to be both philosophically plausible and normatively attractive, then those who believe in its moral necessity must labor to deliver an account that does not suffer from an indeterminateness of sense.⁶

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