The Dignity of Groups*

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1.

Citizens of South Africa do not need me to tell them how important the idea of dignity is in our modern conceptions of human rights. Human dignity is the first of the values on which the South African Constitution is founded and, along with equality and freedom, it is the basis of South Africa’s Bill of Rights.¹ Dignity is asserted as the foundation, too, of much of international human rights law. The United Nations Charter tells us that the enterprise of setting up the UN is predicated on ‘faith . . . in the dignity and worth of the human person,’ and ‘the inherent dignity of the human person’ is also said to be the basis from which the contents of the International Covenant on Civil and Political Rights are derived.² The implication is that if you want to understand human rights, you had better begin by understanding human dignity. The meaning of dignity is key to the meaning of rights.

2.

Maybe that is too quick. Some dismiss the language of dignity as mere decoration. It is a fine-sounding phrase and there may be reasons to use it in human rights rhetoric that do not have much to do with the conveying of any determinate content. Sixty years ago, Bertram Morris observed that ‘[f]ew expressions call forth the nod of assent and put an end to analysis as readily as “the dignity of man”’.³

* Delivered as the 2007 Ben Beinart Memorial Lecture at the University of Cape Town, July 23, 2007. It was a pleasure and a privilege to be invited to deliver the Ben Beinart Memorial Lecture for 2007. I did not know Professor Beinart. But I have read a little of what he has written – in particular, a fine article in Acta Juridica on the Rule of Law (1962 Acta Juridica 99) – and that is enough to fill me with admiration for his work as a jurist. It was an honour to be able to talk about human dignity in a lecture dedicated to his memory. I am grateful to Laurie Ackermann, Arthur Chaskalson, Drucilla Cornell, Dennis Davis, David Dyzenhaus, Frank Michelman, Allen Wood, and others for helpful comments in the discussion that followed the lecture.

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¹ Constitution of the Republic of South Africa, 1996, s 1: ‘The Republic of South Africa is one sovereign democratic state founded on the following values: (a) Human dignity, the achievement of equality and the advancement of human rights and freedoms’; s 7 (1): ‘This Bill of Rights is a cornerstone of democracy in South Africa. It enshrines the rights of all people in our country and affirms the democratic values of human dignity, equality and freedom’; s 10: ‘Everyone has inherent dignity and the right to have their dignity respected and protected’.

² Charter of the United Nations, Preamble; International Covenant on Civil and Political Rights, Preamble.

³ B Morris ‘The dignity of man’ (1946) 57 Ethics 57 at 57.
I know a number of people – analytic philosophers mainly⁴ – who say they doubt whether ‘dignity’ really has any meaning at all to add to the idea of human rights, or at least any meaning that could not be more lucidly conveyed by a simpler and less pompous expression. Just tell us, they say, what rights we are supposed to have and give us a clear and straightforward account of each one of them; but an appeal to this vague overarching idea as a sort of über-right – a right to dignity from which all other rights derive – is at best redundant and at worst a confusing conceit.

Usually I have little sympathy for this sort of analytic destructiveness. But in this context I think it is worth pressing a little on the meaning of ‘dignity’, to see what distinctive meaning it brings to the human rights context. For there is an important question about dignity that needs to be answered – a question about its relation to the individualism of human rights.

Michael Ignatieff said in his Tanner Lectures that dignity goes with individuality and that ‘there is no way round the individualism implicit in the idea of dignity’.⁵ Was he right about that? That is what I want to ask? Since the beginning, human rights talk has been criticised as needlessly individualist.⁶ Some have resisted that characterisation and striven mightily to introduce into human rights discourse talk of group rights, such as cultural rights and language rights, and the rights of whole peoples to self-determination. It is an uphill struggle, because certainly there is some sort of bias in the human rights tradition towards the rights of human individual. But claims about group rights continue to be made. And the question that I think is worth asking is this: does the introduction of dignity into the equation load the dice in favour of (or more heavily than they are already loaded in favour of) an individualistic conception of rights? Does the repeated emphasis on dignity in the South African Constitution, for example, make that charter more of an individualistic document than it needed to be or than it otherwise aspired to be? It is an interesting question because in other ways the South African Constitution is distinguished by the emphasis that it already puts upon group rights as well as individual rights.⁷ But is that emphasis undercut by its

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⁵ M Ignatieff Human Rights as Politics and Idolatry (2001) at 166.

⁶ See the discussion in J Waldron Nonsense Upon Stilts: Bentham, Burke and Marx on the Rights of Man (1988).

⁷ See Constitution of the Republic of South Africa, 1996, s 235: ‘The right of the South African people as a whole to self-determination, as manifested in this Constitution, does not preclude, within the framework of this right, recognition of the notion of the right of self-determination of any community sharing a common cultural and language heritage,
repeated statements about human dignity as the basis of all rights? Does the rhetoric of dignity make the acknowledgement and upholding the rights of groups, communities and peoples more difficult or somehow less credible?

That is what I want to ask in this lecture, and that – rather than any destructive analytic agenda – is why I think it is worth posing some hard questions about the meaning and content of the concept of dignity itself.

3.

There is one confusion in the concept of dignity that I would like to put to one side. We sometimes use dignity to characterise the content of certain rights, as opposed to the foundation of rights. We say that people have a right to dignity, rather than that rights are based on dignity. In the United States for the last few years or so – to our shame – we have had to be preoccupied with our country’s compliance or non-compliance with Common Article 3 of the Geneva Conventions, dealing with the treatment of detainees, which prohibits ‘outrages upon personal dignity’, including ‘humiliating and degrading treatment’. Common Article 3 conveys a right to dignity, a right not to be insulted and humiliated.

But I want to talk mostly about human dignity as a foundational right – ‘the inherent dignity of the human person’ which, as I said, is supposed to be the basis from which other rights are derived.

So what is foundational dignity? What does it amount to? What is being said about human beings when we say that they have inherent dignity, and that attention to this dignity is the premise for our conclusions about rights?

A sceptic might say two things about this. He might say, first, that we mostly never get a straight answer to these questions, but just platitudinous generalities about the precious value of the human person, platitudes that do not support but simply repeat the proposition that persons have rights and that there are certain things that must not be done to them. Or, secondly, the sceptic might say that when we are given determinate answers to their questions about the meaning of ‘dignity’, we get a different answer from each dignitarian philosopher. No two uses of dignity are the same. And that makes the sceptic suspect that ‘dignity’ is just a label each theorist puts on his favourite theory of rights, rather than a concept that would convey any recognisable shared meaning to add to the context in which it was used.
The sceptics say that if you talk to a Kantian – those working in the tradition of Immanuel Kant – you’ll get a sense of dignity that associates the term with the irreplaceable non-fungible worth of each human being as an end-in-itself, a sense of dignity associated specifically with the Kantian thesis that the worth of a person has no price, admits of no substitute, cannot be traded off for anything in the world. That’s one foundational idea.

But if you look at Ronald Dworkin’s latest book – *Is Democracy Possible Here?* (by ‘here’ he means the United States) – you’ll see that dignity stands for something like a principle of self-determination, the principle that each person has a special responsibility for how his or her own life goes.8

So which is it – self-determination or irreplaceable worth? Since ‘dignity’ is used ambiguously to refer to one idea in the mouths of the Dworkinians and another idea in the mouths of the Kantians, maybe it would be less confusing if we just dropped the term altogether, and let Kant talk directly about ends-in-themselves and let Dworkin talk directly about people’s special responsibilities for how their lives go.

4.

Actually I propose to add to the confusion by associating a quite different idea with dignity. I went back to the dictionary for clarification – the *Oxford English Dictionary*9 – and found two things. The first was that dictionaries are not much use for clearing up ambiguities because they list dozens of meanings and rarely attempt to establish priorities among them. I learned that ‘dignity’ has a use in astrology to mean ‘[a] situation of a planet in which its influence is heightened, either by its position in the zodiac, or by its aspects with other planets.’ I also learned that ‘dignity’ is the technical term for a company of canons (‘canons’ in the ecclesiastical sense).

But one thing the dictionary did indicate, very clearly and very persistently, was an old connection between dignity and rank.10 Dignity

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9 All dictionary references are to the Oxford English Dictionary on-line at [http://dictionary.oed.com/cgi/entry/50063966?single=1&query-type=word&queryword=dignity&pagefirst=1&max-to-show=10](http://dictionary.oed.com/cgi/entry/50063966?single=1&query-type=word&queryword=dignity&pagefirst=1&max-to-show=10).
10 T Iglesias ‘Bedrock truths and the dignity of the individual’ (2001) 4 *Logos: A Journal of Catholic Thought and Culture* 114 at 120–1: ‘The idea of dignitas was central to Roman political and social life and closely related to the meaning of honor. Political offices, and as a consequence the persons holding them, like that of a senator, or the emperor, had dignitas. Honor and dignity were so valued in Rome that they had to be preserved even at the cost of waging war. It is claimed that Caesar, for example, engaged in his Civil War for the sake of dignitas. The office or rank related to dignitas carried with it the obligation to fulfill the duties proper to the rank. Thus ‘decorum,’ understood as appropriate dignified behavior, was expected of the person holding the office. . . . The Roman meaning of dignitas played a role in determining distinctions of
is sometimes identified with nobility, or high rank or high office. The dictionary cited the 1399 statute taking the crown away from Richard II –

1399 Rolls Parl. III. 424/1 Ye renounsed and cessed of the State of Kyng, and of Lordeshipp and of all the Dignite and Wirsshipp that longed therto.

It cited Edmund Burke's lament over the persecution of French royalty and aristocracy in the early 1790s:

1793 BURKE Corr. (1844) IV. 149, I cannot see the dignity of a great kingdom, and, with its dignity, all its virtue, imprisoned or exiled, without great pain.

Dignity, in this sense, is an intensely hierarchical notion. The dignity of a bishop is not the same as the dignity of a king; the dignity of an earl is different from that of a baron, and different again from that of a duke. Among the dignities of office, the dignity of a judge is different from the dignity of a Secretary of State. As a teacher of Roman Law, Ben Beinart would have known that the Latin term *dignitas* was not the egalitarian concept we take it to be today but an inherently stratified and hierarchical one, and the idea of equality of all people before the law, central to Beinart's argument about the Rule of Law, which I referred to at the beginning, would have been anathema, would have seemed a stunning affront to the differentiated dignity of the nobles and dignitaries of the Roman republic.

So there we have it: an old association of dignity with rank. And it was always high rank: no one ever talked, except ironically, about the dignity of a peasant or the dignity of a day-labourer or a slave. One might talk perhaps about the dignity of a citizen, but citizenship itself was a rank, which a considerable mass of the common people failed to attain.

I find this connection between dignity and rank an oddly stimulating idea even in human rights context, and I think we are working with it in a paradoxical back-handed way when we talk of the inherent dignity of man or of dignity as the basis of human rights, the rights which even the most debased and wretched specimen of humanity is supposed to possess as a shining and compelling birthright. I believe that when we attribute rights to people in virtue of their human dignity, we actually do so on account of some high rank we hold them to have.

I know this seems an unpromising idea for the discourse of human rights. The language of rights is characteristically egalitarian, associated as it is with the denial that humans have inherent ranks that distinguish some people in front of the law. There was no equal punishment for everyone for equal offenses in Roman law; everyone was not equal in front of the law. Punishment was conditioned, measured, and determined according to one's *dignitas*.1
of them as worthy of special dignity, in the way that (say) a duke or a bishop might be. (In America, for example, we associate the rights-talk of the opening lines of the Declaration of Independence with the Constitution’s insistence that ‘No title of nobility shall be granted by the United States.’) An equation of dignity and nobility seems to fly against the spirit of human rights, which repudiates the distinctions that an aristocratic theory licenses, and aims specifically to avoid the air of discrimination and distinction, the element of class or even caste, that nobility connotes.

It looks unpromising. But I suspect that this sense of ‘dignity’ offers more to a genuinely egalitarian discourse of rights than meets the eye. I have been inspired in this by some observations of a former colleague of mine from Berkeley, Gregory Vlastos, a great classical scholar, who, in a neglected essay, ‘Justice and Equality’, wrote that, in respect of rights, we organise ourselves like a caste society but with just one caste, or we organise ourselves like an aristocratic society but with just one rank (and a pretty high rank at that) for all of us. The egalitarianism of human rights does not level us down; it levels us up. Every man a duke, every woman a queen, everyone entitled to the sort of deference and consideration, everyone’s person and body sacrosanct, in the way that nobles were entitled to deference or in the way that an assault upon the body or the person of a king was regarded as a sacrilege.

My idea is that there has been what Friedrich Nietzsche would have termed a ‘transvaluation’ of dignitary values – so that the common people now get the benefit of an idea associated originally with rank and stratification. It is a transvaluation that was prefigured in wonderfully humane irony of some of the Romantic poets – William Wordsworth in his meditation At the Yew Tree Seat: ‘True dignity abides with him alone [w]ho, in the silent hour of inward thought, [c]an . . . still revere himself, [i]n lowliness of heart.’ Or – most notably – Robert Burns in his great ode to equality and brotherhood, A Man’s a Man for A’ That:

A prince can mak a belted knight,/A marquis, duke, an’ a’ that;
But an honest man’s abon his might,/Gude faith, he maunna fa’ that!
For a’ that, an’ a’ that,/Their dignities an’ a’ that;
The pith o’ sense, an’ pride o’ worth,/Are higher rank than a’ that.

Or consider this, which is more a point about ontology than poetry:

11 US Constitution, Article 1:9(8).
12 This essay is included in my collection on Theories of Rights (1984).
13 Ibid at 54.
when we talk about human dignity as such (as opposed to the dignity of humans belonging to this or that class) we may be saying something about rank, but not about the rank of some humans over others. We may be talking about rank of humans generally in the great chain of being. The dictionary cites Richard Hooker as writing in *Ecclesiastical Polity*, of stones' being 'in dignitie of nature inferior to plants'.\(^\text{16}\) Well, presumably in this ranking, plants are in turn inferior in dignity to beasts, and beasts are inferior to humans, and humans are inferior to angels, and all of them of course are inferior in dignity to God. Catholic dignitary teaching continues to draw on this idea of the special rank accorded to all humans in the great chain of being. Unlike the lower beings, each of us is made in the image of God and each of us bears a special dignity in virtue of that fact.

Now it is often a striking implication of this sort of ranking of creation that, *within* each rank, everything is equal: and this has been of the greatest importance for theories of human equality. So, for example, John Locke writes at the beginning of the *Second Treatise*:

> [T]here [is] nothing more evident, than that creatures of the same species and *rank*, ... born to all the same advantages of nature ... should also be equal one amongst another without subordination or subjection, ... [B]eing furnished with like faculties, sharing all in one community of Nature, there cannot be supposed any such subordination among us that may authorize us to destroy one another, as if we were made for one another's uses, as the *inferior ranks* of creatures are for ours.\(^\text{17}\)

The idea of rank is here used to articulate an aggressively egalitarian position. Humans are basically one another's equals, because denial of equality in this fundamental sense would relegate some to the status of animals or elevate some to the status of angels. And so when we refer to human dignity, it is that rank that we have in mind, a high rank, which carries its own very great privileges and responsibilities. But within that high rank we are all one another's equals and bear all the same worth, the same rights and the same responsibilities. I believe very strongly that the foundational concept of dignity, in human rights discourse, is meant to convey these ideas.

5.

Well, this is all very interesting. But have we not just added to the confusion? Now we have a third cluster of meanings for 'dignity' to add

\(^{16}\) The OED citation is as follows: '1594 HOOKER Eccl. Pol. I. vi. (1611) 12 Stones, though in dignitie of nature inferior to plants.'

\(^{17}\) John Locke *Two Treatises of Government* edited by P Laslett (1988) II §§ 4 and 6 (my emphasis).
to the Kantian idea about non-fungibility (no trade-offs) and the Dworkinian idea of self-determination. With dignity as transvaluated noble rank, we now have a three-way ambiguity. Non-fungibility, self-determination, and now transvaluated rank; we are worse off than we were before.

Or are we? Sometimes the various ideas associated with what we suspect is an ambiguous term are so disparate in their logic and character, that it may be a mistake to treat them as being on a par, as rivals for the coveted status of the true meaning of the term. Sometimes, we might say instead that in their sharp differences from one another they make complementary contributions, rather than rival contributions, to its meaning.

Consider an analogy. Some people say that ‘democracy’ means ‘rule by the people’. Some say democracy means ‘political equality’. (Joseph Schumpeter notoriously tried to deflate democratic theory by saying that it is just a political system that secures stability over time by providing for regular competition for power among élites on an institutionalised basis.) Now we can see these three meanings as rival definitions if we like, and complain about the ambiguity of the term. But we should first check whether the alleged ambiguities might not be combinable as complementary contributions to a single multi-faceted idea: democracy is a system of regularised competition among political élites, organised on the basis of political equality, with the effect of giving the common people substantial control on the overall direction of government. We combine the three meanings in a single consistent, but complex definition.

So it might be with human dignity. As a foundational idea, human dignity might ascribe to each person a very high rank, associated with the sanctity of her body, her control of herself and her determination of her own destiny, values and capacities that are so important that they must not be traded off for anything. The three definitions we have been considering make disparate but complementary contributions to this complex idea. The rank definition tell us about the ontological basis of dignity, the Kantian contribution tells us about the axiological status of the values involved, and the Dworkinian idea points us towards the capacities that are going to be privileged and treasured in this way. In this way, we turn the tables on the destructive analytic critic, by insisting that what he reads, superficially as ambiguity, is in fact a reflection of the rich and complementary aspects of the meaning of this multi-faceted term.

18 Joseph Schumpeter Capitalism, Socialism and Democracy (1950) at 269 ff.
6.

So that is the conception of dignity that I have in mind and with which I now want to approach this question about dignity as a possible attribute of groups.

'Everyone has inherent dignity', says s 10 of the South African Constitution, and everyone has 'the right to have their dignity respected and protected'. Every one what? Every single individual certainly – every man, woman, and child – but what about other human entities like families, peoples, groups and communities? Do they also have dignity? Can the complex meaning of dignity that I have set out apply to groups? And even if it does, might we not run into difficulties in talking, in this rights-oriented way, both about the fundamental dignity of groups and about the fundamental dignity of their individual members? Are these consistent? Can dignity be fundamental at both levels?

7.

As a matter of usage – I suppose as a matter of logic – there is no doubt that the language of dignity can be used and has been used to apply to groups and collectives.

I have heard people talk of the dignity of this or that profession or this or that institution. I seem to remember a book called The Dignity of Legislation. We talk also of the dignity of communities. On the day that I delivered the Ben Beinart Lecture, I visited the 'District Six Museum' in Cape Town and was made vividly aware of the preciousness and the non-fungibility, the irreplaceability, of communities. Once that community was destroyed then, despite the assurances of the government, there was no way of replacing it. There is no doubt that we sometimes attribute dignity to entities far greater in scale than a single individual. People talk of the dignity of nations. In 1913, the American Journal of International Law, in an 'Editorial Comment,' commended the new US Secretary of State William Jennings Bryan for encouraging the nations of Latin America 'to continue their development and to assume in the society of nations the rank, dignity and importance which belong to them as independent states'. The equal application of the rights of sovereignty to all nation-states seems to be an equivalent at the group level of the sovereign dignity or rank that we apply to individuals. Ronald Dworkin's idea of dignity as self-determination – the principle

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19 The Constitution is at pains to talk, in s 8, about the application of fundamental rights to juristic as well as natural persons: 'A juristic person is entitled to the rights in the Bill of Rights to the extent required by the nature of the rights and the nature of that juristic person.'


21 See www.districtsix.co.za/frames.htm.

22 Anon 'Editorial Comment' (1913) 7 The American Journal of International Law 329 at 334.
that each person has a special responsibility for how his or her own life goes – can readily be adapted to operate at this level also. We often regard self-determination as the leading privilege of sovereign states,\textsuperscript{23} and, indeed, the South African Constitution is willing to assign this value of self-determination to groups even with the nation. So s 235 tells us:

The right of the South African people as a whole to self-determination . . . does not preclude . . . recognition of . . . the right of self-determination of any community sharing a common cultural and language heritage, within a territorial entity in the Republic or in any other way, determined by national legislation.\textsuperscript{24}

So: the non-fungibility idea, which Kantians associate with dignity, can apply to groups; the idea of equal rank, which I associate with dignity, can apply to groups; and the self-determination idea, which Dworkin associates with dignity, can apply to groups. Where is the difficulty?

8.

Here is one problem: the sense of dignity that we apply to groups may not be a foundational sense. When we attribute dignity to an institution or even to a nation or an autonomous community, there are ways of understanding that attribution that do not necessarily involve the attribution of foundational dignity and fundamental rights-bearing status to the group or entity in question. For if we were asked to give an account of the dignity of an institution or a nation, we might well answer in terms that focused mostly on the contribution the entity makes to the well-being and rights and dignity of the individuals who live under it. It is not clear, in other words, that we are getting to any idea of a foundational or inherent dignity of groups when we talk of the dignity of the nation-state or the dignity of this or that institution or community. If our political philosophy makes the value of the nation-state a function of its contribution to the well-being and rights of its individual members – in the way that liberal political philosophy does – then the dignity of the group is bound to be derivative, not inherent. I do not mean by this to disparage any group, but simply to say that the very great value to be

\textsuperscript{23} Article 1 of the International Covenant of Civil and Political Rights (ICCPR) tells us that ‘[a]ll peoples have the right of self-determination’. It continues: ‘By virtue of that right they freely determine their political status’. See also the African Charter on Human and Peoples’ Rights 1981, Article 19: ‘All peoples shall be equal; they shall enjoy the same respect and shall have the same rights. Nothing shall justify the domination of a people by another’, and Article 20: ‘. . . All peoples shall have the right to existence. They shall have the unquestionable and inalienable right to self-determination. They shall freely determine their political status and shall pursue their economic and social development according to the policy they have freely chosen’.

\textsuperscript{24} Constitution of the Republic of South Africa, 1996, s 235.
accorded to a group might nevertheless at the end of the day be explicated in a way that does not challenge Michael Ignatieff's suggestion that ultimately dignity is about the status of individual men, women, and children.25 The dignity of a group – such as it is – may depend on how it serves the dignity of individuals.

Moreover, once we accept this service-account of group dignity (as I shall call it)26 – this account of dignity for the group as deriving entirely from the service that it does for individuals – it is an entirely open question whether the groups that are conceived to have dignity should be thought of as having equal dignity. For example, the dignity that section 235 of the South African Constitution envisages for certain territorial entities within the Republic is surely not supposed to be the same as the dignity of the Republic itself. In some contexts it may be important to associate the service-dignity of institutions with equality. When the editors of the American Journal of International Law talked in 1913 about the nations of Latin America 'assume[ing] in the society of nations the rank, dignity and importance which belong to them as independent states,'27 they presumably meant the equal sovereign dignity which, in international law at least, accrues to each sovereign state. But whether equal dignity is called for, seems to vary from context to context.

9.

There is also another set of problems. If we start making too much of the dignity of groups like states or nations, we may be led into a realm of value that is not particularly congenial.

Let me use an American example. In an article on 'Human Dignity in American Constitutional Law',28 my former Columbia colleague, Gerald Neuman cites a telling dissent by Justice Souter in the case of Alden v Maine, a case dealing with the doctrine of the sovereign immunity of states.29 (I mean individual states in the US like New York, New Jersey, and California.) In Alden v Maine, the US Supreme Court upheld the doctrine of the sovereign immunity of states against suit by their own citizens and used the idea of the states' dignity to elaborate and defend this doctrine. Writing for the Court, Justice Kennedy said this:

The federal system established by our Constitution preserves the sovereign status of the States. . . . [I]t reserves to them a substantial portion of the

25 See text accompanying n 5 supra.
26 I have adapted this from Joseph Raz's 'service-conception' of authority: see J Raz The Morality of Freedom (1986) at 56 ff. and J Raz 'The problem of authority: Revisiting the service conception' (2006) 90 Minnesota LR 1003.
27 See text accompanying n 22 supra.
Nation's primary sovereignty, together with the dignity and essential attributes inhering in that status. . . . The generation that designed and adopted our federal system considered immunity from private suits central to sovereign dignity. 30

That reference to dignity elicited a blistering dissent from Justice Souter. He said it was symptomatic of the weakness of the Court's position that it sought to buttress the argument by relying on 'the dignity and respect afforded a State, which the immunity is designed to protect'. Justice Souter pulled out his copy of William Blackstone's Commentaries to discover that sovereign immunity traditionally derives from the regal dignity of a monarch. Blackstone had said this about 'royal dignity':

The law . . . ascribes to the king . . . attributes of a great and transcendent nature; by which the people are led to consider him in the light of a superior being, and to pay him that awful respect, which may enable him with greater ease to carry on the business of government. This is what I understand by the royal dignity. . . . 31

And Justice Souter asked, incredulously, do we really want to use that idea to capture the respect due to states in the federal structure of American democracy?

It would be hard to imagine anything more inimical to the republican conception [of government], which rests on the understanding of its citizens precisely that the government is not above them, but of them, its actions being governed by law just like their own. Whatever justification there may be for an American government's immunity from private suit, it is not dignity. 32

There is food for thought here, particularly in view of what we have said about the relation between dignity and rank. The attribution of dignity to a group - in this case a state - seems to involve something like the attribution of a special and transcendent status to its sovereign, as though the sovereign were a monarch raised to a rank and standing above the law and above all of its subjects. What is the effect of this on the equal dignity of the individual subjects? Justice Souter's comment in his dissent in Alden v Maine is a salutary reminder that before we get comfortable with the idea of group dignity, we need to explore the ramifications it may have for individual dignity. And I think this is true of group-dignity discourse generally. We may talk fluently enough about the dignity of peoples as well as persons; but it is not enough just to juxtapose the two.

30 Ibid at 714.
32 Ibid at 802-3.
Conceivably, the dignity of peoples may generate a perspective on the worth or standing of individuals that is not necessarily compatible with the equal dignity of persons. It may introduce by the back door, the very idea of hierarchical rank that the transvaluation of the rank-connotations of dignity in human rights theory was supposed to supersede. That is the danger.

10. I say this danger may arise; and it arises, I think, in *Alden v Maine*, where the doctrine of group dignity is used to dismiss John Alden's complaint against his state government as impertinent. But it does not always do so. There may be other ways of attributing dignity to groups – or perhaps attributions of dignity to groups of a different kind – which do not necessarily involve the backdoor reintroduction of unequally differentiated rank and hierarchy as part of the group's privileged identity. At the risk of exasperating those who are expecting from me a root-and-branch denunciation of group-dignity, I really do want to explore both sides of this issue. I think that if we look at groups that are, in some sense, more natural or less constructive than nations or states, we may be able to make better less dangerous sense of 'dignity' as an inherent characteristic of groups.

11. Sometimes there is talk of the dignity not of states but of peoples. Human rights advocates say individual persons have dignity, certainly, but so too do whole peoples, considered as something more than aggregations of individuals. The Catholic Church no doubt takes the dignity of individual life as seriously as any institution, but its Catechism still manages to come up with the formulation that '[p]eace cannot be attained on earth without . . . respect for the dignity of persons and peoples'.

Some of the clearest examples have to do with the rights of indigenous peoples. It is often said that, as peoples, they have a dignity that demands something better of the world than the wretched and insulting treatment handed out to them by colonial or creole regimes. Such demands are associated with, but are not rendered redundant by, assertions that

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33 The issue in *Alden v Maine* was a suit brought by probation officers in the State of Maine against their state government for violating the overtime provisions of the Fair Labor Standards Act of 1938 (a federal statute). The US Supreme Court held that the action could not lie because a state could not be subjected to suit in its own courts by the federal government without its own consent.

individual members of indigenous peoples also have dignity. So, for example, the United Nations Draft Declaration on the Rights of Indigenous People tells us that '[i]ndigenous individuals and peoples are free and equal to all other individuals and peoples in dignity and rights'. The World Bank's operational policy on indigenous peoples says that its aim is to ensure 'that the development process fully respects the dignity, human rights, economies, and cultures of Indigenous Peoples'.

Even President George W. Bush was heard to say in a 2003 radio address that 'the peoples of Africa deserve to live in freedom and dignity'—though with President Bush, it is never entirely clear whether he associated dignity with 'peoples' rather than 'persons' deliberately, i.e. as a statement of political philosophy, or as one of a long line of malapropisms that have distinguished the rhetorical side of his Presidency.

So let us think about the dignity of peoples—not states, but nations in the pre-political sense, or ethnic groups, or even races, if the idea of race makes sense. What does it mean to talk of the dignity, the foundational dignity, the equal dignity of these entities?

Once again, however, there may be a question about how fundamental this attribution of dignity is. When we say that a group has dignity, it is often for the following reason: an attribution of dignity to the group affects the way we rank the individuals who are its members in a broader context. For example, insisting on the dignity of a group, G, can be a way of insisting that membership in G should not be a way of denigrating or detracting from the high and equal human rank of that individual.

The matter is clearest in the case of race, particularly in countries, like South Africa or the United States, which have a history of racist denigration. Some respond to that history in the way by denying the objective reality of race. The Princeton philosopher Anthony Appiah does this: objectively, says Appiah, there are no such things as racial groups or racial kinds. But others, acknowledging at least the phenomenal or social reality of these groupings, say that the appropriate move is an insistence on the dignity of each of them and an insistence on


their equal dignity. There is no master-race; there are no inferior races; each distinct line of human descent has its own equal dignity. And this equal dignity pays off in the inference that nobody is to be denigrated in their individual dignity on account of their belonging to a particular racial or ethnic group.

I understand that this set of ideas has been very important in South African jurisprudence. I have in mind the line of South African cases that includes President of the Republic of South Africa v Hugo and Minister of Finance v Van Heerden. In the Hugo case, which concerned gender discrimination, the South African Constitutional Court held that 'the purpose of our new constitutional and democratic order is the establishment of a society in which all human beings will be accorded equal dignity and respect regardless of their membership of particular groups'. And the court said that this dignitarian conception lay at the heart of the prohibition of unfair discrimination. The matter was elaborated more explicitly in Van Heerden:

Human dignity is harmed by unfair treatment ... premised on the assumption that [a] disfavoured group is not worthy of dignity. At times, as our history amply demonstrates, such discrimination proceeds on the assumption that the disfavoured group is inferior to other groups. And this is an assault on the human dignity of the disfavoured group. Equality as enshrined in our Constitution does not tolerate distinctions that treat other people as "second class citizens, that demean them, that treat them as less capable for no good reason or that otherwise offend fundamental human dignity".

I think this is a tremendously important set of ideas, and it does give a clear sense of the relation between individual human dignity and the standing of groups. I shall call this non-discrimination sense of group dignity 'Hugo-dignity' for short.

But notice this about Hugo-dignity: it is mainly a negative idea. As the formulation in Hugo indicates, it is primarily a way of blocking the impact of group characterisations on individual dignity, rather than a way of talking affirmatively about the dignity of groups. Hugo-dignity does not involve or require any sense that groups themselves have dignity, only that group characteristics do not affect the equal foundational dignity of individuals. In the last analysis, Hugo-dignity, even when applied to groups is still an individualist idea. In the sense that Michael Ignatieff

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40 1997 (4) SA 1 (CC).
41 2004 (6) SA 121 (CC).
42 Hugo (n 40) para 92, citing Goldstone J.
43 Van Heerden (n 41) para 116.
indicated, it is still finally and fundamentally oriented towards equal foundational dignity of individuals.  

So the analytic reductionist in me is inclined to say that the Hugo-sense of group dignity is not really a conception of group dignity at all. Also I can imagine someone saying that the group referred to in Hugo is not really a distinct group at all, just a set or agglomeration of people who possess a common characteristic, that of being male or female, or black or white. And when we insist that that characteristic should not be used to undermine individual dignity, there is no real group—certainly no group in the sense of an entity such as a community—involved here at all.

But in other cases that reductionism may be altogether too slick. It may be a mistake to think that combating racism, for example, or combating ethnic or even some gender and sexual preference discrimination comes down in the end to nothing more than how we as a society regard certain individual characteristics.

For think of it from the other side, i.e. from the racist side of things. It may be that one cannot come to certain forms of prejudice, like race prejudice, except by seeing (say) Indians or Arabs or Africans en masse as groups or communities of disfavoured kinds. I have no particular insight into the racist mentality, but I suspect it is not just a response to individual characteristics. The hallmark of residual racist-talk in America is when a white politician is heard to say, of African Americans, ‘these people’, or even to say to an African American audience ‘you people’. Some Americans may recall the immense negative impact on Ross Perot’s presidential campaign in 1992, when he referred to African-Americans as ‘you people’ during a speech to the NAACP. There was an immediate interruption from the audience, for African-Americans know what that phrase promises. My point is that there is a collective dimension to these prejudices, not just in the sense that the prejudice is held by a community as a communal heritage (though that also is true), but in the sense that it is referred to a community: it is the contempt of one human group, as a community, for another human group, as a community. And it does no harm to combat the prejudice at that level too, by insisting, more affirmatively than the grudging versions of Hugo-dignity do, on the equal dignity of groups as a positive response to the denigration of individuals on account of their race.

Maybe it is a little harder to apply this analysis to gender discrimination, inasmuch as gender discrimination is often a view about how one’s

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44 See text accompanying n 5 supra.

own group should be organised, a view about the place that women should have in one's own group, rather than a view held by one group about another. But one can certainly imagine applying the group analysis more affirmatively to discrimination against homosexuals, where there seems to be both an unfair repudiation of the individual characteristic and an antipathy to, say, the gay community as a group.

My point in all this is to say that it may in the end be naïve to think that prejudices of these various kinds can be combated without an insistent affirmative emphasis on the equal worth and dignity of groups. If a dignitary slur on an individual is based wholly or partly on contempt for the group to which that individual belongs as a collective entity, then perhaps nothing less than an assertion or a reassertion of its dignity as an entity, its equal foundational dignity as a group, will succeed in combating or rebutting such prejudice.

14.

There are some in the human rights community who would say that if we go beyond either the Hugo idea or the service-conception of groups that I mentioned earlier, we have gone too far. Groups have no value in and of themselves apart from their value to individuals, they may say. Michael Ignatieff says something along these lines:

[T]he ultimate purpose and justification of group rights is not the protection of the group as such but the protection of the individuals who compose it. . . . Rights language cannot be parsed or translated into a nonindividualistic, communitarian framework. It presumes moral individualism and is nonsensical outside that assumption.

Ignatieff acknowledges that sometimes group rights may be needed to protect individual rights, but that is as far as he will go.

But, again, I want to proceed more carefully than that. We cannot rule out the possibility that groups and group entities may have a value in themselves. We cannot rule out the possibility that Ignatieff's formulation or the formulation of what I have called the service-conception may be misleading or unhelpful as to the actual relation between group values and individual values. To see the one as simply instrumental to the other, may neglect all the ways in which individual values may be partially constituted by group values. The realm of value is not an easy one to parse and we should approach it with as open a mind as we can.

In my thinking about all this, I have long profited from the work of Joseph Raz, particularly the chapters on rights in The Morality of Freedom,

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46 See text accompanying n 26 supra.
47 Ignatieff (n 5) at 67.
48 Ibid.
which taught me, even in the context of deep background commitment
to liberalism, to be open to other possibilities here. Raz explained how
even liberal commitments to individual autonomy can implicate impor-
tant group- and communal values.\(^49\) And it is possible that something
similar may be true for dignity.

In certain liberal circles, it is easy to solicit applause by just denouncing
all forms of group-value or group-rights. But as I said earlier, my
approach in this lecture is an exasperating exhibition of 'on the one
hand... and 'on the other hand...'. I have not felt able to join
enthusiastically in Michael Ignatieff's repudiation of group values, or the
celebratory dimension of his association of dignity with moral individual-
ism.\(^50\) But nor have I been able wholeheartedly to endorse the idea of
group dignity either.

Here is what I really think. There is no way as a matter of logic to rule
out the idea of the inherent dignity of groups, or group rights and we
should not be trying to rule it out as a matter of liberal dogma. It is
possible that everything we want to say about the dignity of a people
could by some heroic effort of analysis be reduced in the end to an
account of the massive contribution that a given community makes to
sustaining the dignity of its individual members. But it is also possible a
people *qua* community has a human importance – in terms of culture,
identity, destiny – that goes beyond what is severally or cumulatively
good for the human individuals that it comprises, an importance that can
not be characterised except in communal terms.\(^51\) It is possible that even
though groups are in the end nothing but composites of individuals, yet
there is *something* in the group as such that has importance in itself. We
should be ready to give the best account we can of this something, if it
exists, and it may be impossible to do so without characterizing it in
dignitary terms.

Not only that, but if it proves impossible to give a proper account of
the importance of a certain sort of group except in terms of group dignity,
then we must accept and face up to the risks that are posed by talk of
group dignity. We know that talk of group dignity can be abused. But
that is not a reason for eschewing it, when it is appropriate. It is a reason
for being careful with our characterisation. A moral realist would say that
the accuracy of a way of characterizing moral phenomena is no guarantee
of its harmlessness. And even if one is not a moral realist – i.e., even if one
chooses value-characterisations for pragmatic reason rather than meta-
physical ones – still there is no guarantee that the pragmatic reasons all

\(^{49}\) See Raz (n 26) at 198 ff.

\(^{50}\) See text accompanying nn 7 and 49 supra.

\(^{51}\) See also the discussion in my essay 'Can communal goods be human rights? in J Waldron
line up tidily on one side. There may be important things to be gained from talking of group dignity even while there are important values endangered by such talk. Either way, if we are led to the idea of inherent group-dignity by our sensitivity to the elements of value involved in these situations, we should be clear-headed both about our reasons for describing things in this way, and also about the risks and the dangers that such characterisations involve.

15.

So let us consider both sets of reasons. As to the reasons that we might want to take the dignity of groups seriously, I have mentioned already that this is not strictly necessary in order to appreciate the contribution that groups make to individual well-being nor is it strictly necessary to sustain a non-discrimination approach. Neither the service-dignity of groups nor the Hugo-dignity of groups needs to be regarded as foundational or inherent. Nevertheless, as our discussion of Hugo-dignity showed, it may well be the case that we need a deeper analysis to combat discrimination and racism at the deep collective level where they seem to thrive and that analysis may well require an affirmative commitment to the equal inherent dignity of (say) racial groups.

Beyond that, however, there are one or two reasons that are commonly given for emphasizing group dignity and group rights that are really not good reasons. It is not necessary to talk of group dignity in order to sustain rights like religious freedom. Even though it is true that people worship in groups and that their church or their mosque - in general, their religious community - matters as much to them as their individual creeds, still we can accommodate all of that in a traditional individualist conception, just as we can accommodate the importance of political parties and collective self-determination within the framework of individual political rights.

Nor is it necessary, as some think, to believe in group dignity in order to ground social and economic rights (as opposed to civil and political rights, which can of course be grounded in the old individualistic conceptions). In fact, social and economic rights can be given an individualistic grounding too. Though they may appeal to notions of group solidarity, the solidarity is more a matter of mass altruism among individuals rather than a strong valuation of the group considered as an entity apart from the needy individuals who compose it. Talk of group dignity is not necessary to sustain a sense of altruistic obligation. The

53 See, for example, M A Glendon Rights-Talk: The Impoverishment of Political Discourse (1991) at 76 ff.
The idea of individual rights, rooted in the dignity of the individual person, already sustains a sense of obligation that people have to one another. Obligation comes packaged with entitlement; as Hohfeld showed, any affirmation of the one is an affirmation of the other.54

Neither of these in itself is a good reason for talking about the dignity of groups. If we do want to talk about the inherent dignity of groups we should do so for the right reason — that there is something of value about groups or something of concern with the human experience of groups that can be expressed in no other way.

On the other hand, things are not always so simple. The examples I have given concerning socio-economic rights and religious rights may have dimensions of inter-group prejudice that bring them within the ambit of the considerations I raised in the previous section of this essay. It may be a significant aspect of the persecution of certain individuals for their faith that they are conceived to belong to a community whose way of life is antipathetic to that of the mainstream society. And equally it may be the case that some people are neglected economically in times of famine or hardship because of some sense that ‘their kind’ might as well be left to perish.55 When this is so, there will be something morally obtuse about a refusal — even one motivated by analytic reason — to say that the dignity of these groups is at stake.

Also, even when individual rights and obligations are at issue, groups may develop a stake in those issues that requires to be respected as much as the dignity of the individuals originally affected. For example, it may be that, in some cases where the primary injustice we are fighting is injustice at the individual level, talk of group dignity can be a way of conveying respect for the community that has taken upon itself the burden of remembering the injustice and of trying to do something about it. Some of the men and women in a group may have been starved, persecuted or murdered, and the task of remembering those events has been taken on by the community to which the victims belonged. In this situation, attributing dignity to the group in regard to this injustice can be a way of conveying respect for the substance and the burden of that memory. We may say that the primary issue of dignity in these circumstances is the violated dignity of the individual victims. But again it will be obtuse not to acknowledge the indirect way in which group dignity is implicated as well.

55 See, for example, A Sen Poverty and Famines: an Essay on Entitlement and Deprivation (1981).
I said we should be clear-headed both about our reasons for attributing inherent dignity to groups, and about the risks and the dangers of doing so. What are the risks and the dangers?

I have talked about some of these difficulties in other contexts. I want to end this essay by talking about one set of difficulties that are particularly salient in the dignitary context, that is, in the context of a commitment to dignity.

Of the various groups we have talked about, some are natural or quasi-natural like racial groups or lines of human descent. Some are aggregative, more like sets than groups, like the group of all women, for example. Some are purely artificial like states or other institutions. And many are structured and articulate, like communities, cultures, and religious groups. Let me draw the focus in upon organised groups, like communities, cultures and religious groups, and also artificial groups like states and institutions.

Groups like these are 'structured' in the sense that they often have roles and ranks and hierarchies. Communities are not necessarily egalitarian, states rarely are, and, as Susan Moller Okin argued, cultures often assign particular roles – important roles, but necessarily empowering roles – to women. It has long been a standard criticism of group rights that group rights are a sort of Trojan horse that has the potential to insinuate inequality back into the heart of an accommodating liberal jurisprudence. That danger takes on a particular poignancy in the context of dignity, as I understand it.

For remember what I said at the outset. The story of dignity as a value associated with human rights is in large part the story of the transvaluation of a principle associated originally with inequality and hierarchy. The

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57 In a powerful body of work, the late Susan Moller Okin, a political theorist and a New Zealander, argued that: [T]he sphere of personal, sexual, and reproductive life provides a central focus of most cultures. . . . Religious or cultural groups are often particularly concerned with “personal law” – the laws of marriage, divorce, child custody, division and control of family property, and inheritance. As a rule, then, the defense of “cultural practices” is likely to have much greater impact on the lives of women and girls than those of men and boys, since far more of women's time and energy goes into preserving and maintaining the personal, familial, and reproductive side of life. Obviously culture is not only about domestic arrangements, but they do provide a major focus of most contemporary cultures. Home is, after all, where much of culture is practiced, preserved, and transmitted to the young. In turn, the distribution of responsibilities and power at home has a major impact on who can participate in and influence the more public parts of the cultural life, where rules and regulations about both public and private life are made.” Susan Moller Okin, 'Is Multiculturalism Bad for Women?' available at www.bostonreview.net/BR22.5/okin.html. Okin's argument is also available in book form in S M Okin Is Multiculturalism Bad for Women? (1999), and in earlier articles such as 'Feminism and multiculturalism: Some tensions' (1998) 108 Ethics 661.
term 'dignity' or 'dignitas' was once commonly used in a way that conveyed the thought that there are different kinds of human being, that humans belong to different ranks, and that they are to be accorded different worth, different levels of inherent value. We use 'dignity' now in a way that repudiates all that, but ironically we use it still in a way that holds onto the idea of a high status that humans can occupy – only we insist now that that high status is occupied by all humans, not just by a few. This egalitarian transvaluation of dignity is quite an achievement, involving as it does this maintenance of the high value of dignity whilst renouncing the notion of multiple ranks, this maintenance of the high value of dignity in the mist of equality. It is a beautiful and challenging idea.

But here is the thought that troubles me: the groups to which dignity might be accorded are not always egalitarian in their internal structures; they are often structured according to the very ideas of rank which the egalitarian transvaluation of dignity was supposed to overcome. This is by no means a necessary truth, but it is a common truth. So, if we accord dignity to groups, it is possible that we may be dignifying the very structures of rank and privilege that egalitarian dignity-talk aims to transcend. We may be undermining the transvaluation that lies at the heart of the association of dignity with human rights. We may be revalidating the very hierarchies we sought to transvaluate.

After all, structures, hierarchies and inequalities do not exist in the abstract. They are part of the life of a group. The transvaluation of dignity that is associated with the dignity of the individual is a transvaluation of something group-ish, something social, something cultural. It is a radical transvaluation – and qua radical, it is a potential insult to the group whose hierarchies and sense of rank is being transformed in this way. Since the transvaluation of individual dignity may be read as an affront to group dignity, equally the reassertion of group dignity may be read as an attack upon the egalitarian enterprise of transvaluation. The group may regard it as crucial to its dignity that the dignity of its members – its dukes and commoners, its Brahmins and untouchables, its husbands and wives – should be seen in the light of the rules, roles, and hierarchies that some will say define the group's identity.

The transvaluation of individual dignity from an idea associated with differential rank to an idea that assigns all humans to the same high rank is, as I said, a massively important move in the history of the modern idea of human dignity. But it is also a recent and quite a fragile movement; and it remains intensely vulnerable to reversal. One very clear way of reversing it is to associate group dignity with the preservation of the ranks and

58 See above, section 4, text accompanying notes 9–17.
hierarchies that compose its identity and to assert group dignity, so understood, as something that needs to be defended against the insult of this radical transvaluation at the individual level. So that is the danger with talk of the dignity of groups. It has the potential to undermine the transvaluation of individual dignity that is key to that concept's modern association with human rights.\textsuperscript{59}

But it need not do so. For one thing, at least some of the groups whose equal dignity \textit{qua} groups is asserted in this sort of talk do not have this sort of internally differentiated structure. Some of them, like racial groups, are hardly structured at all. Some structured groups are already structured by norms of equality that are consistent with and are not threatened by the transvaluation of individual dignity.

But even for groups that are structured unequally, we can avoid the danger I have been talking about if we are just a little more careful and discriminating about how we use the term 'group dignity.' I do not mean that we should divide groups into two categories: the ones that accept fundamental principles of liberal equality and the ones that do not, and affirm only the dignity of the former groups. That is a very common manoeuvre by liberal philosophers: dignity for liberal groups only!\textsuperscript{60} But it is lazy, question-begging and patronizing. It is not the account that I want to suggest. The idea that group dignity is for liberal groups only ignores the fact that some of the ideas we value in the notion of group dignity do actually still apply when the group is illiberal in its structures and practices.

Let me explain what I mean. A group can be illiberal, but prejudice against the group can still do great harm in human affairs. It would be quite wrong to deny what I have called the Hugo-dignity of an illiberal group — to say, for example, that because a group treats its own members in a way that violates individual dignity, therefore it is alright for outsiders to discriminate against members of that group on the ground that the group has forfeited its dignity. This, I believe, is happening to Muslim

\textsuperscript{59} Some human rights scholars appreciate this challenge. See, for example, this argument by R. Howard 'Dignity, community and human rights' in A.A. An-Na'im (ed.) \textit{Human Rights in Cross-Cultural Perspective} (1992) 81 at 83: 'Dignity is not a claim that an individual asserts against a society; it is not, for example, the claim that one is worthy of respect merely because one is a human being. Rather, dignity is something that is granted at birth or on incorporation into the community as a concomitant of one's particular ascribed status, or that accumulates and is earned during the life of an adult who adheres to his or her society's values, customs, and norms.' Howard's position effectively abandons the enterprise of transvaluation associated with dignity, and consigns the term back to the ranks and hierarchies, the differentiations of worth and merit, that groups and communities define. Human rights, she says, is simply a different idea and we do ourselves no favors by mixing it up with dignity talk.

\textsuperscript{60} See, for example, the exchange between Will Kymlicka and Chandran Kukathas: C. Kukathas, 'Are there any cultural rights?' (1992) 20 \textit{Political Theory} 105; W. Kymlicka 'The rights of minority cultures: Reply to Kukathas' (1992) 20 \textit{Political Theory} 140; and C. Kukathas 'Cultural rights again: A rejoinder to Kymlicka' (1992) 20 \textit{Political Theory} 674.
groups all over the world. Islamophobic liberals feel themselves entitled to discriminate against Muslims in matters of religion and dress code and so on because, they say, the illiberal practices of these groups disentitle them to group dignity. So they force young women to remove head-scarves and wear mini-skirts because they (the liberals) do not accept that there is any dignity associated with the beliefs and practices about modesty that Islamic communities hold and practice. Self-righteous liberals believe they are entitled to stigmatise Muslims precisely because they think Muslim groups are not entitled to the dignity that liberal groups may have.

That is certainly not what I mean when I say we should be more careful in the way we use the idea of group-dignity. Instead, what I suggest we do is separate the two issues—separate the element of group dignity from any assessment of the group based on our commitment to individual dignity. They are distinct issues and the second should not be treated as a precondition for the first. Even if we criticise a group for its violation of individual dignity, we may still think it important to have regard to its group dignity. We may still want to insist, for example, that Islamic religious groupings have as much right to be respected as Christian groups and Jewish groups, even though we wish they were organised in a more egalitarian way. It is worth remembering that we have been this way in the West before: for years it was thought acceptable to discriminate against Catholics as a group because the Catholic Church was organised into an objectionable hierarchy, or to discriminate against Communists because the party or the Soviet Union had a dictatorial structure that we disliked. The remedy is to see the dignity of the group as separable from our dignitarian critique of its structure.

Or think of what we say about the sovereign dignity of a nation. A nation does not lose the right to control its own destiny because its rulers have organised it oppressively for the time being. The dignity of the nation continues to make demands on us and limit what we outsiders can do, even when we have no choice but to give a profoundly negative dignitarian assessment of its treatment of its own citizens.61

Of course it may be difficult or impossible to separate the issues in this way if the defenders of the group’s dignity insists on regarding the objectionable cultural or political structures as essential to its identity. If an imperious clerical structure is crucial to the identity of Catholicism,62 if the subordination of women is the heart of Islam, if Mugabe’s

62 John Locke’s struggle with this in the case of Catholicism is instructive: see J Waldron God, Locke and Equality; Christian Foundations of Locke’s Political Thought (2003) at 220–23.
oppressive rule is regarded as the key to the identity of the Zimbabwean people, then we cannot separate the issues in the way I have suggested.

But reflection on at least the last of these examples should convince us of the mistake of identifying a group — let alone all the members of a group — with the current structures of its politics or its culture. Identity politics is a misbegotten evil in all its manifestations, whether it is the politics of individual identity or the essentialist politics of group identity. Identity, as the name suggests, tends to run ideas together and make it difficult for us to observe and maintain the separability of issues — like issues of individual dignity and group identity that my analysis tries to separate. Please understand: I am not saying that the two are unconnected. There are a myriad of important and articulate connections between them. But identity claims always tend to obliterate rather than illuminate articulate connections, replacing complex predications with an homogenous and blinding dogma of unity. So: group dignity without identity — that is my slogan.

17.

This lecture has not been particularly conclusive. I am not willing to say, as a great many liberal political philosophers are, that ‘Yes, of course dignity is nothing but an individualistic right and a jolly good thing too.’ A great many of them say things like that without having engaged in any sustained consideration of what dignity means; they are perfectly happy to use the concept of dignity, but when they say that groups cannot have dignity, it seems to me that that is simply a reflection of their independent hostility to group rights rather than the result of any serious thinking about the concept of dignity itself.

On the other hand, I am not saying that we should be entirely comfortable with talk about group dignity. I think it is possible to talk of the inherent dignity of groups, and sometimes it is necessary if we are to convey the full nuance of a set of moral concerns. One has to be very careful, for it takes us into treacherous and slippery territory. But talk of group dignity cannot be dismissed out of hand in the way that the bludgeoning rhetoric of some hard-line liberals suggests.

What I have tried to show is that we have to get beyond the sense that this is just competition among individualists and their opponents for possession of a pompous and grandiose phrase. The phrase ‘human dignity’ has a complex and challenging meaning — associated as it is with the overcoming of the various hierarchies of rank among persons and peoples that have existed in the world. I believe that careful consideration of this meaning can help us appreciate what the dignity of a group may amount to; certainly nothing but careful consideration of its meaning can help us appreciate and measure the dangers inherent in such talk.