

## KANT ON HUMAN DIGNITY: A CRITICAL APPROACH<sup>1</sup>

### KANT E A DIGNIDADE HUMANA: UMA INTERPRETAÇÃO CRÍTICA

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**Abstract:** In this article, I intend to reframe and qualify Kant's moral philosophy for the understanding human dignity. Some Kant's formulas *seem* to grant to the human being an inherent and absolute worthiness, when they are read (often) in a very decontextualized way. To achieve this objective, I identify the basic characteristics we commonly attribute to the contemporary model of human dignity. This model has some expressions in the axiological field (inherent and absolute worth), and, *at the same time*, in the legal-political field (cornerstone of human rights and guiding principle of the Rule of law). I intend to see if we can find some of these latter characteristics in the mentioned usages that Kant gives to the term "dignity" and of formulas supposedly connected ("end in itself", "autonomy", "humanity"). When contextualizing these expressions, either in the motivations or in the results of Kant's philosophy, I arrived to the conclusion that Kant was less concerned with the intrinsic worthiness of the human beings, than with establishing the authority of morality.

**Keywords:** Categorical imperative. Human dignity. Humanity. Kant. Rights.

**Resumo:** Nesse artigo, pretendo revisar a importância da filosofia moral de Kant para a compreensão do conceito atual de dignidade humana. Algumas expressões do Kant parecem dotar ao ser humano um valor inerente e absoluto, quando estas mesmas estão lidas (frequentemente) de forma pouco contextualizada. Para alcançar tal objetivo, identifico primeiro as características básicas do modelo contemporâneo de dignidade humana. Esse modelo se concretiza no âmbito axiológico (valor inerente e absoluto) e, simultaneamente, no campo jurídico e político (fundamento dos direitos humanos e princípio superior do Estado de direito). Segundo, procuro ver se podemos detectar essas últimas características nos usos do Kant do termo "dignidade" e de outras formulações supostamente associadas (autonomia, fim em si mesmo, humanidade). Quando essas expressões estão contextualizadas - tendo em conta em particular os motivos e os resultados da filosofia de Kant - chego à conclusão que Kant não pretendia construir ou defender o valor do ser humano, mas justificar a autoridade do seu modelo de moralidade.

**Palavras-chave:** Dignidade. Direitos. Humanidade. Imperativo categórico. Kant.

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## Introduction

According to Habermas (2010), “In Kant . . . human rights derive their moral content, which they spell out in the language of positive laws, from a universalistic and individualistic conception of human dignity” (p. 475). On her turn, Nussbaum (2008) refers to the “. . . intuitive idea of dignity”, that is to say: “If something has dignity, as Kant put it well, it does not merely have a price: it is not merely something to be used for the ends of others, or traded on the market” (pp. 353-354). For Rawls (1999), even if a theory of justice cannot derive from human dignity, he explains, “. . . the lexical priorities of justice represent the value of persons that Kant says is beyond all price” (p. 513). To put it briefly and following Taylor (2006), “. . . this modern theme of the dignity of the human person . . . will become an explicitly central theme with Kant” (p. 152). It seems therefore to exist, a consensus about Kant’s influence in the construction of the current concept of human dignity. If it is not an influence, it seems that we can understand human dignity only through, or *especially* through, Kant’s lenses. This study intends nevertheless to qualify this perspective. Without detracting from the importance of Kant’s philosophy for the genealogy of human dignity, my attempt is to show the following goal: contrary to what it is generally admitted, Kant does not conceive the human being as having an inherent and absolute value, characteristics that define, as we will see, our current model of human dignity. To accomplish this objective, I will begin, in a first part, with the basic features we imply when we refer to human dignity and in a second part, I will confront them with the traits that Kant attributes to his notion of dignity.

### 1 The Contemporary Model of Human Dignity

In order to define the basic features of the contemporary model of human dignity, I will approach the following two fields: the first one has legal and political implications. In this field, human dignity is related with both human rights and the rule of law (subjective and objective dimensions). The second field is axiological and defines this notion as an inherent and absolute worthiness of all human beings. The contemporary model of human dignity derives from the distinctive features that emerge from those two fields.

#### 1.1 Subjective and Objective Dimensions

According to Peces-Barba (1999): “. . . the concept of rights requires an idea of the human person valid under all circumstances and moments and that cannot be built when the idea of the human person is denied. Without the acceptance of the ideal of the dignity of the person we cannot have human rights” (p. 94). One of the main features of this contemporary model of human dignity consists in being defined as the cornerstone and the justification of the fundamental human rights. Because of the objectives of our study, I will not discuss if this moral grounds is useful or not for the guarantee of the human rights (Waldron, 2013), or if human rights have become retrospecti-

vely morally charged with the concept of human dignity (Habermas, 2010, p. 466). My goal here is much more modest and consists in underlying that in the contemporary model of human dignity a connection has been made between, on one side, the individual rights and on the other side, the intrinsic worth of the person. In parallel, this connection does not entail that each legal norm of a fundamental right requires – as a condition of efficiency – a moral or ethical counterpart (Chueca, 2015, p. 47). In a more general way, and following Arendt's (1977, p. 296-297) famous words about it, human dignity may appear therefore as the right to have rights. Each individual would have the right to be the citizen of a political organized community, which assures him the entitlement of some rights.

We can observe that this conceptions of human dignity as the grounding of human rights is a recent legal construction: not only it does not appear, as we know it, in the Declarations of the 18th century, but its apparition in the international texts of the second half of the 20th century was also ambiguous, and may have been the product of a conservative political agenda (Moyn, 2015). In fact, the legal definition of human dignity as the cornerstone of human rights is not as explicit as we may think in the first post-war texts. In the Declaration of the United Nations of 1945, for example, the second paragraph of the Preamble reaffirms the “. . . faith in fundamental human rights of man, in the dignity and worth of the human person.” The notion of dignity does not appear as the ground of individual rights; it is contemplated on the same level as rights and the worth of the human person. The very first lines of the Preamble of the Universal Declaration of 1948 consider that “. . . the recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.” Dignity does not appear either as the moral ground of rights, but together with those rights, they build the “foundation” of the post-war world order. We have to wait the International Conventions of 1966 (on Civil and Political Rights and on Economic, Social and Cultural Rights) to read: “. . . these rights derive from the inherent dignity to the human person.” (third paragraph of the Preambles). Later on, in 1993, the World Conference on Human Rights held Vienna, will insist in this sense that “. . . human rights derive from the dignity and the worth inherent of the human person, and that the human person is the central subject of human rights and fundamental freedoms.” It is convenient to underline that in two of the four texts mentioned previously, the notion of dignity (the notion of *human* dignity did not even appear) emerges simultaneously with the formula of the “worth of the human person”, which means that this first notion (dignity) was not always perceived as conveying explicitly this second idea (inherent worth of the person). Anyway, and for the purposes of this study, a first theoretical aspect of the contemporary model of human dignity, consist in framing this notion as the cornerstone and the justification of the fundamental human rights, the latter becoming “the ultimate regime of human dignity” (Sousa Santos, 2013, p. 9). The *Charter of Fundamental Rights of the European Union* (in force since 2009) encapsulates well this idea. When it reminds in its preamble

the universal value of human dignity, it insists that the Union “places the individual at the heart of its activities” and later, dedicates Chapter I about “Dignity”, identifying four basic rights.<sup>2</sup>

Together with this first aspect that enfolds a subjective dimension, there is another aspect, more “objective”, as it locates the value of human dignity as a “. . . *prius* of the public ethics of modernity” (Peces-Barba, 2003, p. 12). Thus, human dignity would have become a prerequisite of the rule of law, whose institutions should respect and protect. Even from a formal point of view, Fuller and Raz consider, respectively, that the rule of law, thanks to the generality and the publicity of its laws, is strictly related with the respect of human dignity.<sup>3</sup> At a constitutional level, the notion of “dignity of the human person” constitutes one of the so-called “fundamental principles” of the Federative Republic of Brazil, which constitutes itself as a “Democratic Rule of Law” (art. 1 CF88). In a similar way, this same dignity appears as the “ground of the political order and of social peace” of the “Spanish Nation” which is consolidated as a rule of law (art. 10.1 Constitution of 1978). According to Sarlet (2006), human dignity appears therefore as a norm-principle in a way that the “State exists in function of the human being and not the other way around, as the human being constitutes the most important end, and not the means of the State’s activities” (p. 65). It should be reminded though that the notion of human dignity was not first recognized, exclusively and judicially by the democratic constitutional regimes of the 20th century. The very first constitutionalisation of the notion of dignity would have happened in 1937, in the Constitution of Ireland, as a religiously inspired root concept to the subordination of the otherwise sovereign polity to God (Moyn, 2014, p. 44). Also, the so-called Brazilian “Institutional Act n. 5”, of December 13, 1968, opens considering that the

. . . Brazilian Revolution of March 31, 1964 had . . . grounds and purposes that aimed to give the Country a regime that, attending the requirements of a legal and political system, assured an authentic democratic order, based on freedom, on the *respect to the dignity* [emphasis added] of the human being, on the combat to subversion and the antagonic ideologies to the traditions of our people . . . (Ato Institucional n. 5, 1968).<sup>4</sup>

Over twenty years before, the Franco dictatorship proclaimed in 1945 its fundamental Law, the *Fuero de los Españoles*. The Article 1 of the preliminar chapter opens with the following words:

The Spanish State proclaims as a basic principle of its acts the *respect to dignity* [emphasis added], the integrity and the freedom of the human person, acknowledging man, as the bearer of eternal values and member of a national community, entitled with duties and rights, whose exercise guarantees in order the common good (Gobierno de España, 1945).<sup>5</sup>

<sup>2</sup> Right to life, right to the integrity of the person, prohibition of torture and inhuman or degrading treatment or punishment, prohibition of slavery and forced labour (Official Journal of the European Communities, 2000).

<sup>3</sup> Fuller (1965): “There conscientiously, is, therefore, in a ordered system of law, formulated and administered a certain built-in respect for human dignity, [emphasis added] and I think it is reasonable to suppose that this respect will tend to carry over into the substantive ends of law” (p. 665). Raz (1977): “. . . the law cannot sanction arbitrary force or violations of freedom and dignity [emphasis added] through total absence of generality, prospectivity, or clarity is no moral credit to the law” (p. 205-206).

<sup>4</sup> All translations from Portuguese are mine.

<sup>5</sup> All translations from Spanish are mine.

If the notion of dignity may be among the fundamental principles of democracies as well as among those of dictatorships and authoritarian regimes, it does not imply so much that its content is ambiguous and malleable, as its meaning depends on the political ideologies that have constantly reframed it. In order for the State to be conceptualized “. . . at the service of the evolution of the individual”, contemplating therefore “. . . the individual as a power, as an independent sphere” (Jellinek, 2005, p. 384), the contemporary notion of dignity is seen to be built precisely from its transition of the sole moral sphere (and therefore compatible with any kind of political regimes) to the legal sphere of individual rights. The notion of dignity will not only imply moral obligations (in relation to a “national community”, for instance), but “reciprocally established and accorded rights” that stem from the “self-confident demand for legal recognition” as self-determined subjects (Habermas, 2010, p. 472). Alongside this dialectical process, dignity may be considered also as an effect, an ersatz, resulting from the conflation and overlapping of power relations. As Chueca (2015, p. 50) points it out, the contemporary success of human dignity would be a product of the failure of the previous and traditional forms of legal subjectivity. Thus, the concept of dignity would enable a “. . . making of the human being as the center of legal investments.” To explain this insight of Chueca, one might reckon on a foucauldian framework: man – as he is thought by human sciences and humanism – is a figure to population, just like the subject of right was to the sovereign (Foucault, 2009, p. 110). The concept of human dignity might be a third figure - underpinning man *with* the subject of right – that has become *also* a convenient dispositive for biopolitics as it takes on the task of effectively taking charge of individuals and their well-being (Foucault, 2008, p. 62).

No matter the genealogy of dignity – the dialectical process it enfolds or the relations of power from which it might have emerged – there is, for the contemporary model of human dignity, a thin relation between this “objective” aspect related with law and public institutions (informing the legal systems, and representing the ultimate end of the public institutions) and a subjective aspect of dignity that justifies the entitlements of some rights and contributes to define the legal status of individuals. Together with these two legal and political aspects of human dignity, as the cornerstone of human rights and as the basis of the social and political organization, we can point out two other features that shape the meaning of human dignity in the axiological field: human dignity as an inherent and absolute value of all human beings.

## 1.2 Inherent and Absolute Value

One can define human dignity as an inherent and absolute worthiness of the human person. In relation with the first aspect (*inherent value*), an intrinsic (or internal) worth is acknowledged in all human beings in order to justify not only their autonomy, but also the equality of all individuals (*equal dignity*). As this value is inherent to the human person, the individual does not have to behave in a certain way to obtain or develop this value within himself. Frequently, a notion of humanity understood as a “human nature”, is used in order to identify the traits, which will come to justify this

*inherent* character. As those attributes are distinctive and embedded in this human nature, it is intended to demonstrate that human dignity is also, and as consequence, an embedded and non-removable value. This humanity could serve to ground human dignity from a variety of characteristics proper to the human being. Nussbaum (2011, p. 32) refers in this way to some “capabilities” as the respect for life, the protection of the physical and psychological integrity, and the expression of the emotions that allow human beings to express their autonomy and to manifest several ways of existence. This perspective of Nussbaum starts from what the individuals share according to “. . . an intuitive idea of the dignity of the human being” and converts those capabilities in political objectives (Monereo, 2014, p. 99). Kateb conceives human dignity as a new kind of value that he calls “existential” (different from a moral value). Human dignity, according to Kateb (2011), would derive from “uniquely human traits and attributes” (pp. 131-134) with, in particular, free and moral agencies. Therefore, and as an inherent value, human dignity does not seem to require *a priori* that the individual develop duties in relation to himself and others. Human being does not have to gain his dignity: “. . . every human being is unique and individual without having to try to be” (Kateb, 2011, p. 12). Sensen condenses well this formulation: in justifying why one should respect others because of their inherent dignity, “the good (the inherent value of the individual) is seen as prior to the right (the principle that demands respect for others)”. As an inherent value, dignity would have therefore a “non-relational property”: it does not depend on the circumstances or the relations in which a human being is to be found (Sensen, 2011, pp. 72-73). According to Waldron (2007), this meaning would be the “estipulative option” of human dignity, understood as an intrinsic value, “. . . non-negotiable, non-fungible worth that inheres in every human being” (p. 209). We attribute a value to the human being without making reference to his positions in relation to other beings or things. As it is inherent, it is embedded in human nature; it does not need to be enhanced and cannot be lost.

The second characteristic (*absolute value*) refers explicitly to the invulnerability (or inviolability) of the human being, or to put it in other words, to the protection of the vulnerability and integrity of the human person. The Charter of Fundamental Rights of the European Union indicates, for instance, that “. . . human dignity is inviolable. It must be respected and protected” (art. 1). This absolute value of human dignity is materialized for example in the prohibition of practices that threaten the integrity of human beings, the prohibition of torture and of all kinds of degrading and inhuman activities.<sup>6</sup> It can also be related with certain material conditions under which a “decent life” can be achieved, justifying social and economical rights (Garzón Valdés, 2006, p. 274). The consideration of human dignity as an absolute value can also be located in areas that overlap the field of the fundamental rights, and be applied, for instance, in bioethics. Human dignity has been used for instance to prohibit not only reproductive human cloning but also the patenting of human living materials.<sup>7</sup> Therefore, when we refer to human dignity, as an absolute value, we do not refer to its

<sup>6</sup> This is, for example, the case of the prison population. Because of the failure to respect minimum rules of hygiene, in several of its prisons, France was condemned by the European Court of Human Rights (2013).

<sup>7</sup> The European Court of Justice prohibited in this regard the patentability of stem cells. See: Judgment of the Court (Grand Chamber), 2011.

grounding role, i.e., giving reasons to recognize rights to individuals, but to what I call its “mirror-property” that sheds light on the practices that threaten and deny the moral relevance of human existence (Dworkin, 1998, p. 309; Andorno, 2013, p. 139).

As a consequence of this axiological aspect of human dignity, the intersubjective relations imply, on the one side, that each part recognizes in the other this same property or “status” (Waldron, 2007, p. 208). On the other side, those axiological dimensions of human dignity do not derive neither from the social positions of the individuals, nor from some specific obligations (in relation to oneself, for example). Indeed, with this value, the individual is entitled with some rights: it requires that we recognize every person as a bearer of rights. It is an intrinsic value, i.e., an objective and unconditional value, and as such, independent and above any kind of process of subjective moral evaluation.<sup>8</sup> The axiological dimension of dignity, as an inherent and absolute value of the human being, is understood as a notion prior to law and more generally prior to any kind of legal or moral principle stating what is fair or right. Human dignity can have some relations with other moral principles, but it does not depend on them. It is conceptually independent of morality (Kateb, 2011, p. 12). In this sense, the good (dignity) precedes the principle that states what is right, and the rights, which derive from this good, precede the possible duties of the agent (Sensen, 2011, p. 73). Following and reinterpreting Rawls (1999, pp. 21-22),<sup>9</sup> what is right has an instrumental value in relation to the preservation and the maximization of the good (dignity).

To sum up, we may consider that the contemporary model of human dignity takes root and invests two fields, one of legal-political aspects and another of axiological properties, the second justifying, apparently, the first one. With the first one, human dignity can be used to justify and ground the fundamental human rights. It also comes as a principle informing and structuring ideally the social and political organization of the rule of law. As Nino (2007, p. 240, 287) reminds us, the concept of dignity of the human person implies to preserve the “moral status” of each individual. It counters the so-called “normative determinism” proper to the totalitarian regimes, where the political and social institutions aim to determine the decisions and the behaviour of individuals. Recently, Forst (2011, p. 969) seems to paraphrase the idea of Nino when he stipulates that dignity entails a *basic right to justification*: individuals should not be subjected to norms and institutions which cannot be properly justified. Thus, within this human dignity framework, individuals are free to find their own ends, to develop their own moral criteria of happiness and to participate in the making of political and legal processes.

The second field makes reference to the special worth of dignity, as an inherent/absolute value recognized in all human beings. It justifies not only their freedom (as moral and free agents for instance) but also their equality. This value does not have to be acquired nor enhanced according to specific social behaviour or moral virtues. Four particular features may emerge from this

<sup>8</sup> For a dissenting opinion see: Langton (2007), especially pages 177-178: “It is because we value human beings as ends in themselves that they are ends in themselves. It is because human beings have conditioned, that is, conferred, value that they have unconditioned value. It is because human beings have extrinsic value that they have intrinsic value.”

<sup>9</sup> We refer of course to the distinctions made by Rawls between teleological and deontological theories.

perspective. First, such dignity cannot be taken away from the human being. Second, the individual does not have to behave in a certain manner to obtain, maintain, or enhance this dignity. Third, the conflation of these two characteristics (inherent and absolute value) has turned human dignity into a “marker” of circumstances where social human groups are suffering discriminations and mass violations of human rights. Fourth, this very same conflation has “morally and critically charged” human dignity. Indeed, it often inspires movements and social struggles for the due recognition of justice and human rights (Habermas, 2010, p. 22; Pele, 2010, p. 53).

Consequently, it seems legitimate to put forward that Kant’s conception of dignity can be useful to understand the contemporary model of human dignity, if its properties coincide, or at least, do not contradict the basic attributes of the contemporary model. As a starting point, my point of view considers that formulating *an* idea of dignity in a moral/philosophical field is not sufficient to infer some necessary and implicit premises for the contemporary model of human dignity. If it were the case, we would be forced to accept that the references to human dignity in the legal sources of authoritarian regimes (as we have seen) also constitute basic premises for the current version of this concept. It would be a contradiction that would not allow a critical investigation about this notion. We must then understand what Kant understood with the term “dignity”, what kind of functions he attributed to this notion and what value he assigned and recognized in it. Only through this process, we will be able to assess and understand in which ways the contemporary model of dignity depends or not on Kant’s conception of this idea.

## 2 The Concept of Dignity in Kant

To understand Kant’s concept of dignity, I will explain in a first part the connections between this idea and his notion of humanity. My aim is to see that such relations generate different results from those that derive from the contemporary model of human dignity. In a second part, I will go through the notions of “end in itself” and respect. Once again, and unlike what it is commonly taken for granted, the moral implications of those two ideas in Kant’s philosophy are quite distant from those of human dignity in its contemporary version.

### 2.1 Dignity and Humanity

In a famous passage of the *Groundwork of the Metaphysics of Morals* (1785), Kant (2006) wrote the following:

In the kingdom of ends everything has either a *price* or a *dignity*. What has a price can be replaced by something else as its *equivalent*; what on the other hand is raised above all price and therefore admits of no equivalent has a dignity. . . . What refers to general human inclinations and needs has a *market price*; that, which even without presupposing a need, conforms with a certain taste, that is, with a delight, satisfaction in the mere purposeless play of our mental powers, has an *fancy price*; but what which constitutes the condition under which alone

something can be an end in itself, has no merely a relative worth, that is, a price, an inner worth value, that is, *dignity* (p. 42).

Three basic remarks can be made about this passage. First, Kant seems to have been inspired in (Roman) stoicism, with Epictetus and Seneca in particular, when they used to distinguish precisely the idea of *dignitas* from the *pretium*. Both classical philosophers used the term *dignitas* not to define the intrinsic worth of human beings, but to describe ethical and social behaviors that deserved esteem and recognition.<sup>10</sup> Kant seems to embrace the same standpoint: he would not conceive “dignity” from an axiological perspective, but as a concept related to the ideas of self-esteem and honor. Just like his predecessors, “dignity” might also refer to a distinctive feature located in human nature (virtue/morality) that shows invariability and consistency – unlike external things and human emotions –. Second, the term “value” – that does appear twice in the passage quoted above – would not be axiologically charged in the sense that it would not express an objective or ontological quality. It would strictly refer to the “. . . prescription of what one should value independently of inclinations, or a description of what a being fully governed by reason would value” (Sensen, 2009, p. 272; Waldron, 2007, pp. 212-213). Indeed, the term “value” should be reframed in Kant’s times, as Sensen reminds us: the German word “*Werth*” and its English equivalents were economic terms, and referred to the price an object can fetch on the market. Even the distinction between intrinsic and extrinsic value was used in this context: “. . . it did not refer to an ontological distinction, but marked the price an object can fetch before and after human labor was attached to it” (Sensen, 2009, p. 272). Third, Kant distinguishes what is an “end in itself” from the idea of “dignity”. These two concepts might be related, but are not confounded. Kant is clear in this regard: what has dignity is the “. . . condition under which alone something can be an end in itself.” If we are looking for the nature of this “condition” that carries this dignity, Kant (2006) follows:

Morality is the *condition* under which alone a rational being can be the end in itself, since only through this is it possible to be a lawgiving member in the kingdom of ends. Hence morality, and humanity insofar as it is *capable of morality*, is that which alone has *dignity* (p. 42).

To put it in a nutshell, what has dignity is not the human being as such but morality. As the so-called “humanity” can behave *under* to this moral law,<sup>11</sup> it can also express such dignity, or what Kant would also define as something “holy” (Kant, 2002, p. 167).<sup>12</sup> There is, therefore, a

<sup>10</sup> “For it is you who know yourself, how much you are worth to yourself, and what price you sell yourself; for men sell themselves at different prices. . . . For he who has once brought himself to deliberate about such matters, and to calculate the value of external things, comes very neat to those who have forgotten their own character [dignity]” (Epictetus, 1995, p. 15). “The good of the body are certainly good for the body, but they are not good overall. They will have a certain value, but they will not possess excellence [dignity]: they will differ from each other by substantial margins, and some will be smaller, others greater” (Seneca, 2007, p. 31).

<sup>11</sup> See also: “. . . if there is indeed to be a final purpose, that reason has to indicate apriori, then it can only be man (or any rational being in the world) under moral laws” (KANT, 1987, para. 87, p. 338).

<sup>12</sup> “. . . it now follows on its own that in the order of purposes the human being (and with him every rational being) is a purpose in itself, i.e., he can never be used merely as a means by anyone (not even by God) without being in this at the same time a purpose himself, and that therefore the humanity in our person must be holy to ourselves. For he is the subject of the moral law and hence of that which is holy in itself [and] on account of which and in agreement with which alone anything

process of transfer of dignity from the moral law to humanity, when the latter updates and echoes this moral law. Dignity is not derived from humanity itself, but from a specific predisposition *in* humanity, and more precisely from a potentiality imposed to this humanity. That is why Kant (2006) later writes: “. . . the dignity of humanity consists just in this capacity to give universal law” (p. 46-47).

We have here radical differences with the idea of human dignity as an inherent/intrinsic worth, since, as we have seen, it claims to stem from “non-relational” traits, i.e., regardless of the conduct or the circumstances in which the individual could be. In Kant’s approach, the concept of dignity seems to be relational and does not seem to have any axiological dimension: it refers to the quality of something compared with other things (dignity vs. price). It is first applied to a moral behavior, and second, it means that such behavior is particularly superior compared to other types of conducts (relative or determined). Third, individuals *must* update such morality if they want to realize the full potential of their humanity, understood as a distinctive moral nature. Kant’s notion of dignity seems to evolve in an opposite direction from the contemporary model of human dignity: the latter aims to construct an ideal of the worthiness of all individuals, grounding their value in some distinctive traits embedded (allegedly) in human nature. In Kant, dignity refers to a particular self-imposed pattern of morality that aims to elevate individuals from their original human nature, so they can/must realize their full moral/spiritual potentials.

Thus, Kant uses the concept of “humanity” to develop a mediating role between this moral law and the individual, and not as much to recognize an implicit equality among human beings – because of their shared moral capacity for instance –, but to make this same moral capacity an obligation to be developed by each individual. This is an obligation because this humanity has, in particular, a rational nature that enables individuals - despite the imperfections of their rationality - to accept certain unconditional principles of conduct, that is, categorical imperatives (Hill, 1980, p. 86). When Kant (1996) defines humanity as “. . . distinguished from animality” and as “. . . the capacity to set oneself an end”, he also states in parallel that this humanity is performed first when one meets and complies with certain duties in relation to oneself, and more precisely through “. . . the cultivation of morality within us” (392}, pp. 154-155). This humanity does not appear as the source of rights that one might claim to be respected, but of moral duties towards oneself. In this sense, the moral philosophy of Kant reflects a certain ethical perfectionism different from the bases that seem to support the idea of rights.

Just after having considered that reason may impose specific actions upon will (guided by the categorical imperative), Kant (2006) writes: “This estimation therefore lets the worth of such a *cast of mind* [emphasis added] be cognized with dignity and puts infinitely above all price, with which it cannot be brought into comparison or competition at all without, as it were, assaulting its holiness” (p. 43).

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can indeed be called holy at all. For, this moral law is based on the autonomy of his will, as a free will which, according to its universal laws, must necessarily be able at the same time to agree with that to which it is to subject itself.”

What has dignity is not the human being as such, but “such a cast of mind” that means, the predisposition that enables human being to follow the moral law. Once again, Kant does not refer to dignity as an ontological property of the individual, but to the requirement of what one should value regardless of his natural inclinations, or to the description of what might be valued by an individual wholly governed by reason (Sensen, 2009, p. 272). In *The Conflict of the Faculties* (1798) for example, Kant reiterates this view of a humanity depending intrinsically on morality. He refers, in this case, to “something” in human beings that grant them a kind of superiority:

For there is something in us that we cannot stop to wonder at when we have once seen it, the same thing that elevates *humanity* in its idea to a dignity we have never suspected in *man* as object of experience . . . we do wonder our *ability* so to *sacrifice* our sensuous nature to morality, that we *can* do what we quite readily and clearly conceive we *ought* to do. This ascendancy of the supersensible man in us over the sensible . . . is an object of the greatest *wonder*, and our wonder at this moral predisposition in us, inseparable from our humanity, only increases the longer we contemplate this true (not fabricated) ideal (Kant, 1979, [VIII, 58-59], pp. 105-107).

It is striking that Kant has not italicised “dignity”, which shows implicitly that his intention is not - at least in this text - to conceptualize and justify this notion. In order to describe the human being, he prefers to use the terms “wonder” and “admiration”, concepts that were recurrent in the making of the humanist model of the so-called “*dignitas hominis*”. To put it briefly, in this paradigm, it was to celebrate the superiority and excellence of the human being thanks to his moral and mundane abilities to advance through the “great chain of beings” (*scala naturae*) and meet the highest spiritual purposes.<sup>13</sup>

Kant seems to reckon on this model, as human beings should also leave their initial “human” nature, in order to detach and elevate their true moral being towards the highest degree of morality. There is in this sense and following his words, a “duty to make ourselves worthy of humanity” (KANT, 1996, {392}, p. 154). It is because he is able to perform these duties - with such “sacrifices” for the sake of morality - and to overcome his basic natural condition, that the individual must achieve a certain pattern of moral perfection. The concept of dignity in Kant carries traits that hardly seem compatible with the contemporary model of human dignity. First, and as a general framework, it is not used to depict the intrinsic worthiness of the individual, but refers to a property that must be carried out through a precise moral conduct. Second, it does not express any axiologic dimension, insofar as it only relates to the qualities of elevation and superiority – from the initial human nature – which result and accompany this same moral behavior. In fact, the concept of dignity in Kant resembles such characteristics of superiority, which he also attributes to his notion of

<sup>13</sup> See the famous quote of Pico Della Mirandola (2012, in his Oration on the Dignity of Man (1486), pronounced as a public discourse: “We have placed thee, shalt ordain for thyself the limits of thy nature. We have set thee at the world’s center that thou mayest from thence more easily observe whatever is in the world. We have made thee neither of heaven nor of earth, neither mortal nor immortal, so that with freedom of choice and with honor, as though the maker and molder of thyself, thou mayest fashion thyself in whatever shape thou shalt prefer. Thou shalt have the power to degenerate into the lower forms of life, which are brutish. Thou shalt have the power, out of thy soul’s judgment, to be reborn into the higher forms, which are divine” (pp. 7-8).

“sublime”.<sup>14</sup> While in the current model, human dignity is considered as intrinsic and immutable, in Kant, it is built around three layers: first, as a descriptive attribute of morality; second, as a moral predisposition of the individual (his humanity); and third, as the condition of superiority or of elevation that derives from this same predisposition. Finally, this property in Kant does not ground nor relate to individual rights but justify moral obligations. If the contemporary notion of human dignity derives from Kant’s approach to dignity, it should therefore be explained how the characteristics that Kant attributes to this concept, have been able to pave the way to the basic traits that are included in the current version concept of dignity: prior to the principle stating what is right, intrinsic worthiness of human beings, cornerstone of fundamental human rights. It is not my goal here to undertake this work or to consider that Kant’s concept of dignity had no influence at all in the current definition of human dignity. My aim just consists in revealing some discontinuities between those two versions of this idea.

One might object that Kant’s consideration of the human being as an “end in himself” resembles the current conception of human dignity: it encompasses the autonomy of the individual (justification of his dignity) and requires a due respect. In fact, some passages in Kant’s works seem to abound in these ideas. My task is, at first, to understand the possible meanings that Kant ascribes to such interwoven formulas (end in itself and respect). In a second time, I will untie the meanings of these expressions from the senses they have adopted when they are used in relation with the contemporary model of human dignity.

## 2.2 End in Himself and Respect

Kant (2006) defines autonomy of the will as “. . . the property of the will by which it is a law to itself” (p. 47) and even describes it as the “. . . ground of the dignity of human nature and of every rational nature” (p. 43). Regarding the notion of respect, it emphasizes that the rational human being, as an end in himself, has a *dignity*, an “absolute inner worth”, through which it instills respect (Kant, 1996 {435}, pp. 186-187). Furthermore, and according to the categorical imperative, all rational beings “. . . stand under the *law* that each of them is to treat himself and all others, *never merely as means*, but *always at the same time as an end in themselves*” (Kant, 2006, p. 41). It is hard not to see in those expressions premises that have constructed our common understanding of human dignity. Indeed, Kant *seems* to define dignity as an “absolute internal value”, grounded in the autonomy of human beings, that enables them to treat one another with respect. Despite the appearances, I would like to show these concepts do not have the meanings we give them in relation to the current concept of human dignity. What matters is what Kant is doing with those notions and his approach departs from what it is explicit and implicit in human dignity today.

<sup>14</sup> Kant (1987) defines the sublime as “what is absolutely large”, that is to say “what is large beyond all comparison” (KANT, para. 25, p. 103).

On autonomy, several contemporary approaches related to human dignity insist on the idea of autonomy as the grounding or the core expression of this idea. For instance, autonomy is defined as the individual agency for self-determination on critical issues of our daily existences (Sarlet, 2006, p. 49). In a more general way, it is the ability to choose and to carry out personal projects (Peces-Barba, 1999, p. 312). However, the notion of autonomy used by Kant has little in common with these definitions because it is closely linked to a model of virtue. The human being is an end in himself when he is not determined by natural inclinations (self-interest, pleasures), but when he is able to make a proper use of freedom, so that “. . . a free will and a will under moral are one and the same” (Kant, 2006, p. 53). The idea of autonomy in Kant does not hold nor is related to a certain freedom of choice in the mundane field that seems to articulate the contemporary model of human dignity. If one look at some passages of *Metaphysics*, for example, the Greek concept of *arete*, originally associated with strength and valor in the battle becomes a *fortitudo moralis*, the courage and strength to execute and carry out morally good choice.<sup>15</sup> The cultivation of spiritedness must be incorporated into a pedagogical process that will lead eventually to conduct oneself as individual of morally good character, that is to say, as actively putting into practice one’s moral insight (Felicitas Munzel, 1999, pp. 317-319). Kant seems to follow, along with a puritan/pietist ethics (Kant, 2006, p. 7; Weber, 2003, p. 270), a certain stoicism that insists on the ascetic side of virtue, as strength and moral upliftment over desire and irrational impulses. Thus, Kant (1996) refers to virtue as a “moral strength” ({405}, p. 162).<sup>16</sup> He opposes moral weakness to virtue, so that the latter provides an “inner freedom” to the individual who becomes now an end in himself. He is now able of self-restraint and to master himself (Kant, 1996, {407}, p. 166). Autonomy in Kant does not encompass the free exercise of one’s will, but a moral conversion and transformation of the individual. Such a transformation is accomplished by means of understanding and following the categorical imperative. The latter would have, in turn, as it is known, several formulas: universal law, autonomy, humanity, kingdom/realm of ends.<sup>17</sup>

Among these formulas, the one that interest us here is particularly the so-called “formula of Humanity” (FH) which states: “So act that you to use humanity, whether in your own person or in the person of any other, always at the same time as an end, and never merely as a means” (Kant, 2006, p. 38). It is usually deduced from this precise formulation the idea according to which respect should be owed to the human being as a consequence of his intrinsic dignity (Oro Boff & Bortolanza, 2010, p. 256). From a broader perspective, the moral law (in Kant) would make sense only if it refers to beings endowed with dignity (Cattaneo, 1981, p. 21). In parallel, respect should be due

<sup>15</sup> “Now the capacity and considered resolve to withstand a strong but unjust opponent is fortitude (*fortitudo*) and, with respect to what opposes the moral disposition within us, virtue (*virtus, fortitudo moralis*)” (Kant, 1996, (380), p. 14).

<sup>16</sup> Therefore, “. . . the true strength of virtue is a tranquil mind with a considered and firm resolution to put the law of virtue into practice” (Kant, 1996, {409}, p. 167).

<sup>17</sup> “All maxims have, namely: 1) A form, which consists in universality; and in this respect the formula of the moral imperative is expressed thus: that maxims must be chosen as way as if were to hold as universal laws of nature. 2) a matter, namely an end, and in this respect the formula says that a rational being as an end by its nature and hence as an end in itself, must in every maxim serve as the limiting condition of all merely relative and arbitrary ends; 3) a complete determination of all maxims by means of that formula, namely that all maxims from one’s own lawgiving are to harmonize with a possible kingdom of ends as with a kingdom of nature” (Kant, 2006, pp. 43-44).

to the human being because he would have become the source and the evaluator of all other values (Korsgaard, 1998, p. 63; Langton, 2007, p. 177; Hill, 2003, p. 72). It is however possible to refine the latter interpretations of Kant's categorical imperative.

It is quite striking that the concept of dignity does not appear in any of the formulas of the categorical imperative which could be legitimate to expect if Kant wanted to make of this concept the basis of his moral system (Sensen, 2009, p. 321). As a result, the categorical imperative dispenses with any axiological basis or justification. Habermas (2010) acknowledges, "the concept of human dignity does not acquire systematic importance in Kant" (p. 474), because (as we have seen), Habermas (2010) follows: ". . . the complete burden of justification is borne by the moral-philosophical explanation of autonomy instead." Therefore, we cannot deduce from the categorical imperative, the idea that the latter would be unfolded from the worthiness of human dignity, and also, even if this dignity were to be understood as implicit in the categorical imperative.

The categorical imperative is a regulative principle of the conducts and the motivations of the rational agents, which can be explained better without any references to an axiological principle. For instance, it might embrace a theory of justice, identifying universal principles (O'Neill, 1995, p. 258). It may also guide the rational agents in their respective pursuit of happiness (Paton, 1999, p. 129). It may also conceive those agents in their reciprocal relations, and as such, affected one another by the actions they intend to perform. It is a "procedure" which is applied to us as humans situated in a social world (Rawls, 2000, p. 162). Therefore, if it cannot be inferred from the FH of the categorical imperative an axiological principle of human dignity - that would have justified its moral relevance for instance -, one should find another reason or basis. Kant cannot be more straightforward in this respect: the categorical imperative is justified in order to counter the imperfection of human rationality and the ". . . frailty and impurity of human nature" (Kant, 2006, p. 19). That is why the FH applies first to one's own person and then to others. From this perfectionist point of view, one has the obligation and must straighten the "crooked wood" of its nature in order to be able to establish moral relations with others. What motivates the obligation to follow the categorical imperative is not the worthiness of the human being, but the only commandment of morality. Kant (2006) writes that morality must be followed because ". . . all rational beings are *under the law* [emphasis added] that each of them is to treat himself and all others. . ." (p. 41) accordingly to this categorical imperative. The categorical imperative does not arise from the respect for the dignity of the individual agent, but from a necessity and a moral obligation. On the one hand, if Kant thought that morality and the categorical imperative were motivated by the value of the human being, he would have been certainly much more explicit about this. He would have, for instance, included the words "dignity" or "value" among the different formulas of the categorical imperative. On the other hand, and as harsher critic, if Kant would have meant to justify the categorical imperative from a value, this very same movement, would have qualified and relativized the categorical character of this imperative. It would not depend on itself anymore but on exterior and subjective notions. From a broader perspective, this approach would have contradicted the very objectives that Kant had

proposed in the determination of a pure moral philosophy.<sup>18</sup> One respects the human being - in his quality of rational and moral agent - not so much because he has an absolute dignity that would have motivated this respect, but because the latter is commanded by the moral law. Respect due to human beings is not a consequence of an intrinsic/absolute worthiness embedded in human beings but the effect of a moral command.

Human nature in itself does not arouse in Kant any kind of celebration. We have seen a certain contempt of Kant (1979, [VIII, 58-59], p. 105) regarding the “sensible man” who should disappear before the “supersensible man”. He also considers that “the human being is indeed unholy enough” while the moral law is “holy”.<sup>19</sup> As a result, respect is not directed to the human being as such, but to humanity, understood, as we have seen, as a moral attribute. To put it shortly, it is, first, respect for the moral law, second, respect for humanity (as a moral/rational nature) and third, respect for the human being.<sup>20</sup> As a final point, according to Kant (2006), the moral law is not only the sole entity that has a dignity, but it also determines the value of all other things:

Nothing can have a worth other than that which the law determines for it. But the lawgiving itself, which determines all worth, must for that very reason have a dignity, that is, an unconditional, incomparable worth; and the word respect alone provides a becoming expression for the estimate of it that a rational being must give (p. 43).

The assumed worthiness of the human being is therefore secondary and a product of the moral law. On the contrary, as we have seen at the beginning, the current concept of human dignity is built ideally as a value prior to the principles defining what is right both in the moral and legal fields. In Kant, there is no value prior to the moral law, because it is the latter that produces and shapes the remaining values. An approach about what is right (the moral law) precedes the good (dignity) and the latter depends on the former, just as morality, as we have seen, is the “condition” for the human being to be an end in himself. Following the analysis of Reath (2003, pp. 137-138) Kant’s moral theory is deontological. His moral considerations derived from a pure practical reason that has an absolute deliberative priority over all other kinds of reasons and values, limiting their weight, and, in case of conflict, discarding them. While the contemporary concept of human dignity is used, from its axiological dimension - intrinsic and absolute value - to grant legitimacy to a particular political system and to justify fundamental human rights, Kant does not use this concept to justify the validity of the categorical imperative or to explain the reasons to follow the moral law.

<sup>18</sup> “. . . is it not thought to be of the utmost necessity to work out for once a pure moral philosophy, completely cleansed of everything that may be only empirical and that belongs to anthropology?” (KANT, 2006, p. 2).

<sup>19</sup> “The moral law is holy (inviolable). The human being is indeed unholy enough, but the humanity in his person must be holy to him. In all of creation everything one wants and over which one has any power can be used merely as means; only the human being, and with him every rational creature, is a purpose in itself ” (Kant, 2002, {87}, p. 112).

<sup>20</sup> “The object of respect is therefore simply the law. . . . Any respect for a person is properly only respect for the law (of integrity and so forth) of which he gives us an example” (Kant, 2006, p. 14 [footnote]).

## Conclusion

Kant's concept of dignity seems to recognize an inner and absolute value to the human being because of his humanity. This recognition seems to imply a duty of respect to be followed by the individuals in their relationships with themselves and with others. Without further explanations, this perspective might lead us to think that it has been a concluding factor for the construction of the contemporary model of human dignity. However, Kant uses the concept of dignity with several aspects that contradict the current idea of human dignity. First, his use of the term "value" does not refer to an axiological attribute, but only to a comparative property. Second, he does not grant this quality to the human being as such, but only to the moral and rational qualities of his nature. What has "dignity" is the moral law, and individuals become the means for the realization of the former. Third, Kant's conception of dignity is not used in a moral philosophy that aims to justify rights, but only moral obligations and duties.

One might criticize our approach, and insists that human dignity - in its current version - not only would have but *should* have been previously conceived in the fields of morality to later acquire its legal relevance. It is, however, a retrospective reading of history that distorts both the past and the present. A similar way of thinking implies that the current characteristics of human dignity were latent and implicit in its earlier formulations. They only had to expect the favorable legal and political conditions (its connection with human rights in particular) to awaken and become recognizable. If the contemporary model of human dignity continues to be defined almost exclusively from hasty readings of Kant, we may lose the opportunity to identify other contributions, maybe contemporary that are involved in the construction of its meaning. At the same time, it would also be possible to use Kant's moral philosophy as a source of constructive critique of the current way of understanding human dignity. Thus, it opens the possibility to understand how this concept has been embedded with a specific value, shaped by law and other relations of power.

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