

The Inherence of Human Dignity.

2 volumes. Edited by Angus J. L. Menuge and Barry W. Bussey. London: Anthem Press, 2021. Vol. 1, *Foundations of Human Dignity*. Pp. 254. \$125.00 (cloth), \$40.00 (digital). ISBN: 9781785276484. Vol. 2, *Law and Religious Liberty*. Pp. 276. \$125.00 (cloth), \$40.00 (digital). ISBN: 9781785276521.

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In its opening words, the Preamble to the Universal Declaration of Human Rights identifies the recognition of “the inherent dignity” and “the equal and inalienable rights” of every member of the human family as the foundation of freedom, justice, and peace. The Preamble invokes the notion of human dignity a second time when it observes that “the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom.”¹ On the basis of these and several additional principles in the Preamble, the General Assembly of the United Nations proclaimed the Universal Declaration of Human Rights “a common standard of achievement for all peoples and all nations.”

In the articles that follow the Preamble, the concept of human dignity appears in three separate places. First, Article 1, which along with Article 2 sets forth general principles applicable to all human beings, declares, “[a]ll human beings are born free and equal in dignity and rights.” Article 1 adds that all human beings are endowed with reason and conscience and instructs that all humans “should act towards one another in a spirit of brotherhood.” Second, together with Articles 23 to 27, Article 22 recognizes the economic, social, and cultural rights of every person, and it declares that these rights are “indispensable for [each human person’s] dignity and the free development of his personality.” Third, Article 23(3) calls for “just and favourable remuneration” for work, which is to be “supplemented, if necessary, by other means of social protection” to ensure “an existence worthy of human dignity.”

¹ G.A. Res. 217 (III) A, Universal Declaration of Human Rights (Dec. 10, 1948). The Preamble to the United Nations Charter articulates the determination of “the peoples of the United Nations” “to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small.” Charter of the United Nations (1945), preamble, <https://www.un.org/en/about-us/un-charter/preamble>.



Considering the early and repeated mention of the concept of human dignity in the Preamble and the strategic deployment of the concept elsewhere in the Declaration, it is clear that human dignity was an important concept to the framers of the Declaration and their understanding of basic rights.² The framers did not, however, reach agreement on the foundations of the fundamental rights that they recognized. This lack of agreement is reflected in the anecdote of French Catholic philosopher Jacques Maritain, who was a member of the Committee on the Theoretical Bases of Human Rights, about an inquirer who wondered how individuals from opposing schools of thought could reach agreement on the basic rights. Maritain recounted the response, “‘Yes,’ they said, ‘we agree about the rights *but on condition no one asks us why.*’” Maritain added an observation: “That ‘why’ is where the argument begins.”³ In addition to not reaching agreement on the foundations of the fundamental rights, the framers did not explain the sense in which they understood dignity to be “inherent” in all members of the human family. Such an explanation was not offered, even though the United Nations Educational, Scientific and Cultural Organization, in discussing the grounds of an international declaration of human rights, acknowledged that “[t]he history of the philosophic discussion of human rights, of the dignity and brotherhood of man, and of his common citizenship in the great society is long”⁴ and that “[t]he philosophies of our times, notwithstanding their divergencies, have deepened the faith in the dignity of man and have vastly expanded the formula for his happiness.”⁵

Three quarters of a century later, the questions that the framers of the Universal Declaration did not resolve continue to call for answers. For instance, questions continue to be raised regarding the nature and the foundations of human rights,⁶ and authors continue to offer answers.⁷ Likewise, the meaning, the foundation, and the source of the concept of human dignity continue to invite scholarly reflection,⁸ and scholars in a wide range of disciplines remain active in the study of what it means to be human.

In their two-volume work *The Inherence of Human Dignity*, Angus J. L. Menuge and Barry W. Bussey offer essays by a wide array of contributors who consider these questions from a range of perspectives, offer answers, and explore the implications for law. Asking these questions and seeking answers to them are a pressing concern to the editors because the notion of human dignity continues to encounter sustained skepticism and because the energy of the modern human rights movement seems to be waning.

This work stems from a special workshop, “The Inherence of Human Dignity,” held on July 8 and 9, 2019, at the 2019 IVR World Congress meeting in Lucerne, Switzerland. The concept of human dignity was one of the lead themes of the congress meeting, and Menuge and Bussey convened the workshop to examine the notion that human beings have a special, inherent dignity. This workshop built upon special workshops at the 2011 and 2015 IVR

² Mary Ann Glendon has observed that human dignity is “[a]n obvious candidate” as an “ultimate value whereon those rights depend.” Mary Ann Glendon, “Knowing the Universal Declaration of Human Rights,” *Notre Dame Law Review* 73, no. 5 (1998): 1153–90, at 1172, quoting Jacques Maritain, introduction to *Human Rights: Comments and Interpretations*, ed. UNESCO (New York: Columbia University Press, 1949), 9–17, at 16.

³ Maritain, introduction, 9.

⁴ Appendix 2 in UNESCO, *Human Rights*, 256–72, at 260.

⁵ Appendix 2 in UNESCO, *Human Rights*, 260–61.

⁶ See, for example, Nigel Biggar, *What’s Wrong with Rights?* (Oxford: Oxford University Press, 2020).

⁷ See, for example, John Witte, Jr., review of *What’s Wrong with Rights?*, by Nigel Biggar, *Oxford Journal of Law and Religion* 10, no. 2 (2021): 342–47.

⁸ See, for example, George Kateb, *Human Dignity* (Cambridge, MA: Belknap Press of Harvard University Press, 2014); Ruth Macklin, “Dignity Is a Useless Concept,” *BMJ* 327, no. 7429 (2003): 1419–20; President’s Council on Bioethics, *Human Dignity and Bioethics: Essays Commissioned by the President’s Council on Bioethics* (Washington, DC: Government Printing Office, 2008); Michael Rosen, *Dignity: Its History and Meaning* (Cambridge, MA: Harvard University Press, 2012).

World Congress meetings that had examined the foundation of human rights claims and the nature of religious liberty. Like the special workshop in 2019, the special workshops in 2011 and 2015 resulted in published works that collected and made the papers more broadly accessible.⁹

Menuge and Bussey, the co-conveners of the workshop and the co-editors of this collection, brought both deep expertise and rich experience to the project. Menuge is the chair of the philosophy department and the co-chair of the classical education program at Concordia University Wisconsin, and he is past president of the Evangelical Philosophical Society. In addition to organizing and editing the books associated with the special workshops at the 2011 and 2015 IVR World Congress meetings regarding human rights and religious liberty, he has written and edited works on the philosophy of mind, the philosophy of science, and Christian apologetics. Bussey is president and chief executive officer of the First Freedoms Foundation and associate adjunct professor of law at the University of Notre Dame Australia. In addition to nearly three decades of legal practice advocating for civil liberties, he has published several articles and written a dissertation addressing religious liberty concerns, and he has edited multiple works regarding law and religion. He has also served as director of legal affairs at the Canadian Centre for Christian Charities.

This collection work is well conceived and thoughtfully structured. The first volume, *Foundations of Human Dignity*, explores the ground or justification for the concept of human dignity. It opens with an introduction by Menuge, which is followed by thirteen essays organized into two parts. The authors of the seven essays that make up part one consider the meaning, nature, source, and justification of the concept of human dignity. Readers learn about the concepts of inherent and achieved dignity in the Universal Declaration, interact with religious and secular accounts of human dignity, and consider a phenomenological approach and a practical, nonconceptual approach to human dignity.

The authors of the six essays in part two consider competing conceptions of human dignity. Readers encounter the agency and well-being theories of dignity and consider the implications of a personalist conception of human dignity for law. They are urged to see the individual, associational, and communal dimensions of human dignity and rights and encouraged to appreciate that disagreement over the meaning of human dignity is likely and that universal acceptance of a particular meaning is unlikely. They also learn how nominalism undermines dignity and why a constructed dignity is inadequate, and they are invited to consider how to analyze human dignity and artificial dignity as artificial intelligence technology advances.

The contributions in the second volume, *Law and Religious Liberty*, explore the implications of the concept of human dignity for law. It opens with an introduction by Bussey, and the thirteen essays are, again, organized into two parts. The authors of the six essays that make up part one consider human dignity as the foundation of law. Readers are guided to think about the need for a moral center to human rights and international humanitarian efforts that appeals to conscience and the law's contemporary disrespect of the diversity of humanness (the ability to believe differently) through its use of decontextualized abstractions (such as equality, inclusivity, diversity, discrimination, and values). Readers are provided an assessment of human dignity as a fundamental right, a principle, and an interpretive criterion for law that should be provisioned in constitutions and a study of human dignity in adjudication in the Court of Justice of the European Union. They are also introduced to a distinction between "the old dignity" (dignity as a fixed, universal, and equal characteristic that is intrinsic to being human) and "the new dignity" (dignity as a

⁹ Angus J. L. Menuge, ed., *Legitimizing Human Rights: Secular and Religious Perspectives* (Farnham: Ashgate, 2013); Angus J. L. Menuge, ed., *Religious Liberty and the Law: Theistic and Non-Theistic Perspectives* (Milton Park: Routledge, 2017).

constructed, personal, and self-definitional quality that is autonomously chosen by each human being) and invited to consider whether the new concept of human dignity has produced judicial decisions that are unintelligible, arbitrary, inconsistent, unstable, and untrustworthy. Finally, readers are encouraged to think critically of a shift toward the concept of group dignity in international human rights instruments.

The authors of the seven essays that make up part two consider the interrelationships among law, religious liberty, and human dignity. Readers are invited to consider religion as an irreducible aspect of human well-being and fulfillment that must be respected, to honor the dignity of both the individual and the religious community, and to recognize that the dignity of the religious community arises out of the inherent dignity of the individual. Readers are shown the need for rule of law programs to embrace a dignity-infused, rights-based system focusing on primary fundamental freedoms, including religious freedom, and the appropriateness of deliberative bodies (such as legislatures, but not courts) in resolving conflicts between the prerogative of individuals and groups to manifest identity-based beliefs and the prerogative of service providers to refuse the transmission of such a message. They are also invited to ponder the ability of a court to superficially understand and misapply the abstract concepts of equality, dignity, and diversity, the potential for a law to be passed based upon a perceived harm to the dignity of some without recognizing a harm the law causes to the dignity of others, and the appropriateness of courts deciding cases that involve religious doctrine and the implications of such decisions for the dignity of religious organizations.

Among the concerns that led Menuge and Bussey to convene the workshop at the 2019 IVR World Congress and to produce *The Inherence of Human Dignity* were the loss of energy in the modern human rights movement and the continued skepticism exhibited toward the concept of human dignity. Additionally, Menuge and Bussey hoped that the collection would play a part in countering the current tendency to trivialize dignity claims, clearing up some of the ambiguities regarding the concept, and showing the justification for dignity-related discourse. They would likely quickly concede that no single book (even in two volumes) is capable of accomplishing these ambitious goals. However, these two volumes represent real movement in that direction as they show that discourse regarding human dignity is meaningful, especially in human rights law, and that discourse regarding human dignity is warranted as a means of supporting the claims of individuals and organizations to religious freedom and other rights. These volumes also succeed in returning attention to the modern human rights movement and showing that sound reasons exist for understanding human dignity to ground human rights. These volumes may not have succeeded, however, in clearing up ambiguities regarding the concept of human dignity. Readers may find that as their understanding of the concept of human dignity expands and deepens, the gains in understanding are offset by additional questions regarding the meaning of the concept and new ambiguities. For instance, readers will discover a growing list of terms (such as individual dignity, group dignity, inherent dignity, achieved dignity, natural dignity, new dignity, and artificial dignity) that are formed by qualifying the word *dignity* with various adjectives, and they will learn that significant disagreement exists regarding the meaning and the appropriateness of these terms.

The Inherence of Human Dignity has many strengths. Menuge and Bussey have brought together a collection of essays by contributors from diverse backgrounds who are trained in a range of disciplines and who have rich experience with the topics on which they have written. As a result, the essays offer a range of perspectives that are informed by history, philosophy, theology, law, and political science, and these various perspectives help to illuminate both areas of agreement and areas of disagreement. Additionally, the collection includes a mixture of theoretical analyses and reflections on practical applications that gives readers the opportunity to consider human dignity conceptually and then see

concepts worked out in cases. Furthermore, the two introductions and the twenty-six essays are well written, well organized, well focused, and readable. The introductions and the essays conclude with helpful reference lists that direct the reader to important works on the subjects treated therein, and each volume concludes with a helpful index that allows readers to explore subjects, authors, and sources.

In the final analysis, *The Inherence of Human Dignity* deserves a wide readership. It will reward both nonspecialist readers and specialists in the fields of philosophy, theology, and law and the interdisciplinary field of law and religion. Nonspecialist readers will find themselves drawn to particular essays based upon their topics, and the reference lists at the conclusion of each essay will assist readers in identifying other works to extend their study. Nonspecialist readers will also benefit from the indexes, which will allow them to locate topics of interest in these volumes. Students of philosophy and theology will be drawn to a range of essays, including those that explore the concept of human dignity and the foundations of dignity and rights, those that interface with moral theory, rights theory, and legal theory, and those that consider the contributions of key philosophers and theologians to the development of the concept of human dignity. Students of law will be drawn to essays exploring the jurisprudence of human dignity, international human rights law, constitutional law, religious freedom, and religious organizations law. Both nonspecialist and specialist readers will find themselves agreeing with some contributors and disagreeing with other contributors, and they will likely conclude that some of the questions that the framers of the Universal Declaration of Human Rights did not answer remain unanswered. But they will appreciate the contribution that these volumes make to the discussion of human dignity and the insightful reflections that this collection offers on “the inherent dignity” of every member of the human family, which the framers of the Universal Declaration thought, together with recognition of “the equal and inalienable rights” of every human being, provides “the foundation of freedom, justice, and peace in the world.”