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HUMAN DIGNITY AND HEALTH LAW: PERSONHOOD IN RECENT BIOETHICAL DEBATES

ZACHARY R. CALO*

I. THE TURN TO HUMAN DIGNITY

This Essay considers how the idea of human dignity has shaped and been shaped by recent bioethical debates, particularly concerning the issue of genetic engineering and enhancement. While the language of human dignity has long had a role in bioethics, the issue of genetic manipulation has raised anew fundamental questions about the nature of personhood and the meaning of dignity. In part because of these bioethical debates, the concept of human dignity has attracted more sustained scholarly attention in recent years than, perhaps, at any previous time. Human dignity has become a deeply contested moral category not only in bioethics but also within a broader spectrum of political and ethical debate.

That human dignity has received such serious and sustained scholarly attention is somewhat surprising. It has often been charged that human dignity is loosely invoked but rarely explicated. The concept, in other words, is a conclusion in search of an argument. There is certainly something to this charge, as human dignity is a notoriously malleable term for which there is no agreed upon meaning. As such, it is often used to add moral weight to political claims but without an accompanying defense or substantiation. References to human dignity within human rights documents are emblematic of this problem. Nevertheless, the spate of recent literature on human dignity has pushed the conversation in deeper and more sophisticated directions. While there is now even more profound disagreement over the meaning and meaningfulness of the term, it can no longer be fairly charged that human dignity has no role in serious moral discourse.

While human dignity is now established as one of the fundamental concepts in bioethics, the term is by no means of recent vintage. The roots of human dignity might be discerned within classical philosophy as well as Jewish and Christian theology. In many of these earlier expressions, however, dignity referred to particular aristocratic virtues that one cultivated rather than to a

* Associate Professor of Law, Valparaiso University School of Law.

universal characteristic inhering in all persons by virtue of their humanness. It took time for the democratic logic of human dignity to be worked out. A culminating event in this process was the rise of the international human rights movement in the years after the Second World War. The explicit turn to dignity as the linguistic and substantive basis for human rights norms fulfilled dignity's democratic promise and brought human dignity into the main of legal and political discourse. The foundational documents of the human rights movement all name human dignity as their ordering principle. The Preamble to the 1948 Universal Declaration of Human Rights, for instance, announces that the "inherent dignity and . . . the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world."¹ The International Covenant on Civil and Political Rights, adopted in 1966, similarly grounds "the equal and inalienable rights of all members of the human family" in "the inherent dignity of the human person."² Human dignity continues to serve a foundational role within human rights law. Article 1 of the Charter of the Fundamental Rights of the European Union, for instance, declares that "Human Dignity is inviolable" and "must be respected and protected,"³ while the Charter of the Organization of American States likewise invokes "dignity" as the basis for its claims.⁴ While these documents do not expound on how dignity is to be understood, or upon what it rests, dignity, at least in a symbolic sense, stands as the warrant for the universal claims of human rights law. At the heart of one of the great moral revolutions of the modern age lies an anthropological claim about the nature of human identity and personhood.

The relatively uncritical and unexamined way that human dignity operates within the human rights movement reflects the particular ambitions of this project as it took shape at mid-century. The aim of the human rights movement was not to achieve a deep consensus on the ontological grounds of human rights, but rather to advance in law certain universal principles that stood outside mere political will. In this context, references to human dignity were not intended to advance particular claims

1. Universal Declaration of Human Rights, G.A. Res. 217 (III) A, U.N. Doc. A/RES/217(III) (Dec. 10, 1948).

2. International Covenant on Civil and Political Rights, G.A. Res. 2200 (XXI) A, U.N. Doc. A/RES/2200(XXI) (Dec. 16, 1966).

3. Charter of Fundamental Rights of the European Union art. 1, 2000 J.O. (C 364).

4. Charter of the Organization of American States art. 29, Apr. 30, 1948, 2 U.S.T. 2394, 2422, 119 U.N.T.S. 48, 61-62.

about human nature, so much as to represent the given of politics—the background assumption that gave moral legitimacy to human rights. Within the human rights movement, human dignity served to name and validate shared humanistic values, yet with the tacit acknowledgment that these values are derived from plural sources. As Michael Novak observes, in describing the work of the drafters of the Universal Declaration of Human Rights, “[w]hile protecting the ability of diverse consciences to disagree radically about the premises and principles of ethical theory, they found a way to emphasize a number of basic findings of practical reason, to which a sufficient majority of peoples around the world had been driven.”⁵ By not demanding more of dignity than this signaling function, its invocation in the human rights movement occasioned little dissension or even comment.

Human dignity continues to maintain a significant role within human rights, but it is within bioethics that human dignity has acquired a particular prominence. No issue has raised more fundamental questions about the character of human personhood than developments in genetic engineering. As such, the category of human dignity has become one of the basic conceptual devices for examining the ethical challenges of biotechnology and clarifying our understanding of the human person. Whereas human dignity has served a largely symbolic and pragmatic role within the human rights movement, it serves a more constructive and foundational role in bioethical debate. If the human rights movement drew the language of dignity into the mainstream of political discourse, bioethical issues have drawn dignity into the center of a sustained scholarly debate.

A significant byproduct of this development has been that human dignity is now a deeply contested category. Human dignity proved largely uncontroversial in the human rights context, because it served as an unexamined background assumption that undergirded the established values of the human rights movement. The situation has proven far more contentious in the bioethics context, where the language of human dignity has not remained in the background, but rather has emerged as a central topic of debate. In the process, common ground has given way to division over the meaning and coherence of appeals to human dignity. As Roger Brownsword notes in summarizing the situation, “[t]here is less common ground and ethical conflicts are

5. Michael Novak, *Human Dignity, Human Rights*, FIRST THINGS, Nov. 1999, at 39.

more complex than they were.”⁶ Rather than providing a warrant for shared objectives, human dignity has instead accentuated deep and fundamental ethical cleavages concerning the nature of personhood. The consensus that defined human dignity within human rights has given way to fragmentation. As one commentator summarily notes, the “nature and importance [of human dignity] as a philosophical concept are intensely controversial.”⁷

II. HUMAN DIGNITIES IN CONTEMPORARY SCHOLARSHIP

Current discussions about human dignity reveal no consensus on the meaning of the term; rather, there are multiple dignities in circulation that advance fundamentally different theories. At best, it is possible to bring order to the field by means of broad typological classifications.

The debate about human dignity takes place along three main lines.⁸ The first line of argument rejects human dignity as void of meaning. Bioethicist Ruth Macklin has been a leading proponent of this position. Writing in the *British Medical Journal*, Macklin observes that, “[a]ppeals to human dignity populate the landscape of medical ethics.”⁹ Yet, Macklin asks, “Is dignity a useful concept for an ethical analysis of medical activities?”¹⁰ Her answer, in a phrase that has been much invoked, is that “dignity is a useless concept . . . and can be eliminated without any loss of content.”¹¹ Other prominent thinkers have offered similar arguments. The noted Harvard psychologist Steven Pinker, for instance, penned an essay in *The New Republic* titled “The Stupidity of Dignity,” in which he argued that the language of dignity represents little more than a way to oppose beneficial advances in biomedical technology. “The concept of dignity,” Pinker writes, “is natural ground on which to build an obstructionist

6. Roger Brownsword, *Human Dignity, Ethical Pluralism, and the Regulation of Modern Biotechnologies*, in *NEW TECHNOLOGIES AND HUMAN RIGHTS* 19, 83 (Thérèse Murphy ed., 2009).

7. Richard E. Ashcroft, *Making Sense of Dignity*, 31 *J. MED. ETHICS* 679, 679 (2005).

8. Richard Ashcroft proposes that contemporary scholarly approaches to human dignity can be organized around four central claims: dignity is an incoherent and meaningless concept, dignity is reducible to autonomy, dignity concerns capabilities and functions, and dignity represents a metaphysical property. The typology developed below follows Ashcroft in important respects, albeit with some notable points of departure. *See id.*

9. Ruth Macklin, *Dignity is a Useless Concept*, 327 *BRIT. MED. J.* 1419, 1419 (2003).

10. *Id.*

11. *Id.* at 1420.

bioethics.”¹² Human dignity, in other words, is little more than a philosophically dressed-up way of resisting developments that otherwise “would improve life and health and decrease suffering and waste.”¹³

One concern of these critics is that human dignity is an ineluctably religious term used to advance conservative positions. Steven Pinker thus describes dignitarians as “a group of intellectual activists” who reject “the Enlightenment roots of the American social order.”¹⁴ Human dignity, in Pinker’s assessment, is a barrier to progress and authentic human freedom. It is metaphysical voodoo that rejects the achievements and possibilities of modernity and science. The problem is thus not only that human dignity is devoid of serious philosophical content. It is, even more dangerously, a front for advancing retrograde ideas.

A second approach relates human dignity to human rights. In particular, while a broad array of approaches falls into this category, what unites such work is the claim that respect for the human person finds its proper expression in the liberal rights tradition. This liberal tradition has been understood in different ways. For some, human dignity as human rights demands, above all, respect for autonomy and consent. Such concerns represent the dominant impulse within contemporary bioethics. To respect human dignity is thus to respect a zone of negative liberty that circumscribes what might be done to a person absent consent. Human dignity, in other words, undergirds a principle of restraint that sharply delimits the circumstances under which individual liberty might be interfered with. Other thinkers, by contrast, define the link between dignity and rights in terms of empowerment. According to this line of thought, human dignity as human rights demands that the state promote and facilitate the actualization of certain ends consonant with human dignity.¹⁵ This position rests on the principle that when conflicts arise between autonomy and dignity, it is necessary to look outside the preferences of the willing individual.

What links these different modes of thinking about human dignity as human rights is a reluctance to elevate human dignity to a self-subsistent ontological category and to instead insist on its necessary relation to rights claims. Human dignity, in other words, is less a characteristic of human nature to be valued for its

12. Steven Pinker, *The Stupidity of Dignity*, NEW REPUBLIC, May 28, 2008, at 28, 30.

13. *Id.* at 28.

14. *Id.* at 30.

15. See, e.g., Brownsword, *supra* note 6, at 31 (discussing the French dwarf-tossing case).

own sake than a way of deriving and grounding the claims of human rights. In particular, thinkers standing broadly within this tradition typically engage two related questions. First, what about the nature of the human person demands recognition in rights? Second, what about the claims of human rights demand a foundation in dignity? These two questions define the work of assessing the relationship between human dignity and human rights: a project that, in all its variety, views the political through the lens of the anthropological, and defines the moral nature of modern politics in relation to an account of human nature and freedom.

The boundaries of this category are difficult to define with precision because connecting human dignity and human rights often depends on a prior assessment of human nature. As such, there is overlap between those who occupy this category and those who occupy a third category centered on defining human dignity primarily in terms of metaphysical properties that inhere within the person. Within this category, however, it is important to acknowledge a basic tension between those who ground these claims about human nature within a religious framework, and those who resist such a turn. In fact, there is yet another divide within the various non-theological approaches to human dignity between those who aim to ground human dignity in a foundational source, be it science or natural law, and those committed to advancing a non-foundationalist and post-metaphysical approach.

While these three categories are necessarily porous, they capture certain methodological impulses that have guided recent thinking about human dignity. In what follows, six recent books of importance will be discussed in order to illuminate these different approaches and to assess the state of debate: Ronald Green's *Babies by Design*, George Kateb's, *Human Dignity*, Gilbert Meilaender's, *Neither Beast Nor God: The Dignity of the Human Person*, Robert George's and Christopher Tollefsen's *Embryo: A Defense of Human Life*, Michael Sandel's, *The Case against Perfection*, and Jürgen Habermas's *The Future of Human Nature*. Of course, these texts are by no means comprehensive in their treatment of significant issues or in their representation of all the major lines of debate. Nor, for that matter, are these texts exclusively about bioethics, although the issue of genetic engineering provides the background for many of their discussions of human dignity. Nevertheless, these books by leading figures offer an overview of the different ways in which human dignity is being theorized and applied to issues of political and ethical import.

A. *Human Dignity as Human Rights*

Ronald Green's *Babies By Design* offers an extended ethical argument for embracing the possibilities of manipulating the genetic code to produce children with particular traits. Green's position on this matter is unequivocal: "I am deeply committed to progress in biomedical, reproductive, and genetic research," and this progress is to be found in "the impending revolution in genetic technology that will allow us to select or modify our children's genetic inheritance."¹⁶ In defending this claim, Green singles out for criticism those who promote a "conservative direction" which, he maintains, rests on an unreasonable attachment to the givenness of human nature.¹⁷ Green's central project is thus to grant ethical warrant to the work of genetic engineering by rejecting a static anthropology that locates normative significance in human nature as such.

One aspect of Green's argument rests on an appeal to bettering human life. Reproductive genetic technology should be embraced not only for its ability to prevent "serious disorders," but also for its potential to "*improve* the genetic endowment of our children so they can flourish in new ways."¹⁸ In making this case, Green's main task is to overcome any lingering "emotional attachments" and "anxieties" that limit our ability to imagine the benefits of genetic transformations.¹⁹ Time and again, Green pillories conservative resistance to genetic technology as being rooted "irrationally" in a "status quo bias,"²⁰ and an "uncritical acceptance of the status quo."²¹

It is not simply an enthusiasm for improvement that shapes Green's agenda but also his anthropological assumptions. At the heart of his argument is the claim that there exists no such thing as a fixed human nature that holds any normative significance. As such, moral space is opened to engage in a creative reworking of our genetic inheritance. No barrier exists within nature itself. But Green is also careful to reject the criticism that such genetic engineering would turn procreation into a mere manufacturing process like that described in Huxley's *Brave New World*. Birthing and breeding, Green argues, always share aspects of both guarding and gardening. Parents are guardians of their children inso-

16. RONALD M. GREEN, *BABIES BY DESIGN: THE ETHICS OF GENETIC CHOICE* 4 (2007).

17. *Id.*

18. *Id.* at 7.

19. *Id.* at 9, 23.

20. *Id.* at 104-05.

21. *Id.*

far as they allow their offspring to “become free and independent persons.”²² Even a child who has been created to have certain genetic traits is still a free being in possession of an open future. So fundamental is the human drive for freedom that it would be erroneous to claim that genetic manipulation can deny the child’s capacity to shape his or her own destiny. Knowing that one has been genetically endowed with certain aims in view says nothing of what the individual will do with that endowment.²³

At the same time, parents also operate like gardeners “who raise a crop not just for the plants’ sake but for their own sake as well.”²⁴ Children, in this respect, are not wholly free but are always molded, at least to some extent, into that which parents desire. Children are inevitably and appropriately, Green intimates, objects of parental will, and gardening by means of genetic intervention is no different from the more subtle forms of gardening that have always characterized the parenting process.²⁵ What, then, prevents this gardening activity from turning children into pure objects devoid of freedom and authentic selfhood? What differentiates genetic manipulation from Huxley’s mechanical breeding process? The answer Green offers seems to rest only in his enduring faith in parental love: “[p]arents will try to produce the children they desire, but in almost all cases, they will love the children they get no matter what qualities they possess.”²⁶ With the principle of PLAAP, “Parental Love Almost Always Prevails,” Green urges us to move forward with attempts to make humanity better through exerting greater control of our birthing and breeding.²⁷

While Green never systematically develops a constructive anthropology, he does name certain qualities of personhood that constitute the core of human identity. In particular, to the extent that Green names an aspect of human nature that must be honored, he focuses on the potential for dynamic freedom and creativity. The key move Green makes in linking the human capacity for free action with his larger ethical project comes through the claim that genetic manipulation actually enhances

22. *Id.* at 125.

23. *See id.*

24. *Id.* at 126.

25. *Id.* at 126–30

26. *Id.* at 116.

27. *Id.* at 114 (addressing the concern of critics that parents will become resentful when their children do not turn out to be what they had in mind when they selected their children’s genes).

human freedom.²⁸ Most notably in a chapter on “playing God,” Green goes even further and develops a positive account of genetic engineering as the supreme expression of human creativity. The principle targets of this chapter are religious thinkers who see gene enhancement as an impermissible interference with God’s sovereignty. Against this line of argument, Green presents human beings as co-creators (understood in a strictly non-theological sense) who work to heal and improve the shortcomings of human nature.²⁹ In fact, in a bold and somewhat curious declaration, Green proposes that genetic modification “might help us remedy not only physiological imperfections but also some of the serious moral and spiritual problems facing the world community.”³⁰

It is unsurprising that Green never invokes the language of dignity. For one, Green seemingly associates dignity with the conservative modes of thought he is rejecting. Dignity is not so much a useless concept as it is a dangerous one that stands against the progress of science. Second, dignity is an essentialist concept that attempts to convey something about human nature in itself, something that ought be protected and preserved as a zone of autonomy from science. Green’s anthropology, by contrast, possesses no such stability. The human person is not a fixed entity in possession of any discernible traits, short of radical freedom. Human nature is not about givenness but rather possibility, and responsible moral action demands that we make and remake this nature with the aim of making humanity ever more fully “human.” Dignity, in short, is not about being but becoming. In a normative system such as this, human dignity collapses as a meaningful category leaving Green with an account of the human engagement with nature defined by freedom and mastery. Bioethics, as a result, has little to say about the limits of science. Lingering sentiment alone remains to bind pure power. In this way, Green pushes the modern turn to autonomy to its full logical end and sees in human rights a space for the remaking of humanity.

A quite different version of the human-dignity-as-human-rights argument takes shape in George Kateb’s recent book *Human Dignity*. Kateb’s overarching project is to construct a systematic philosophical justification for the idea of human dignity. He aims to bring intellectual rigor to a concept that he argues is

28. *Id.* at 128.

29. *Id.* at 177.

30. *Id.* at 184.

essential to liberal rights but remains inadequately theorized.³¹ “[I]nternational documents in which human rights are declared appeal to human dignity to vindicate rights,” Kateb writes, “[b]ut quite a number of thinkers find the very idea of human dignity unacceptable.”³²

A defining feature of Kateb’s argument for human dignity is his commitment to doing so on secular grounds. This is not merely an intellectual exercise to determine the expanse of secular reason, but rather reflects his belief that theology is an intellectual crutch. To turn to religion as the ground of human dignity is easy in that it “appears to remove many of the conceptual difficulties that permeate the analysis of the idea of human dignity.”³³ But a meaningful defense of human dignity must take place within “the boundaries of warrantable speculation” and cannot “slip back” into the facile claims of religion.³⁴

Even though Kateb operates within a strictly secular framework, he opens his book with the intriguing observation that the human person is “partly natural”³⁵ and “partly not natural.”³⁶ Kateb defines the human person as such because of its capacity for creativity, potentiality, and surprise: “[t]he potentialities of any person can become actualized unexpectedly, and jump over boundaries or, at a minimum, push the boundaries back by converting role and function into a vocation that is creatively pursued.”³⁷ Humanity is thus not purely natural because it is “unpredictable in its conduct despite its genetic sameness from one generation to the next.”³⁸ In short, the human person is always, if only potentially, in the act of becoming and thus pushing at the boundaries that limit nature. To deny basic human rights to persons is to limit their capacity to be truly human—to be more than natural. It is to deny human dignity.

This cluster of anthropological claims, in turn, explains Kateb’s central assertion that human dignity is an existential, not a moral, value.³⁹ While morality is a necessary component for understanding human dignity and grounding human rights, it is insufficient without a concomitant defense of the claim that

31. GEORGE KATEB, HUMAN DIGNITY 1–3 (2011).

32. *Id.* at xii.

33. *Id.* at xi.

34. *Id.*

35. *Id.* at x.

36. *Id.* at 24.

37. *Id.* at 9.

38. *Id.* at 11.

39. *Id.* at 10.

every human being is “unique and individual.”⁴⁰ Morality, which Kateb defines in terms of removing suffering, is susceptible to instrumentalization and must therefore be deepened by “[t]he category of existential values, values of identity,” which includes “such cherished aspirations . . . as . . . autonomy, authenticity, freedom, equality, power for its own sake, virtues for their own sake, perfectionism of character or style of life, honor, glory, and fame.”⁴¹ These characteristics of human life and striving possess a “conceptual independence from instrumental practicality.”⁴² This existential description of human dignity is also the basis on which Kateb grounds personal dignity, the claim that “the dignity of every individual is equal to that of every other; which is to say that every human being has a *status* equal to that of all others.”⁴³ In what is perhaps his most insightful comment on equal status, Kateb writes that,

My rough determination is that equal individual status is shored up by the great achievements that testify to human stature because, in a remarkable, memorable, and graspable way, they rebut the contention that human beings are merely another species in nature, and thus prepare the way for us to regard every person in his or her potentiality.⁴⁴

To be a human person is to participate in the process of becoming, change, and possibility.⁴⁵ And this process is what establishes that “no other species is equal to humanity.”⁴⁶

One could perhaps challenge Kateb on the grounds that a secular defense of human dignity and human rights cannot prove finally conclusive. This line of argument has been pursued by a number of recent thinkers.⁴⁷ Yet, the real challenge for Kateb’s argument is not his lack of faith in a transcendent source of meaning, but rather his overweening faith in liberal democratic culture. Even while Kateb grounds the liberal rights tradition in an account of human dignity, the anthropological content of this dignity—the human person as free and autonomous bearer of rights—rests on the shoulders of a liberal world already created. Kateb’s human person reflects, in other words,

40. *Id.* at 12.

41. *Id.*

42. *Id.*

43. *Id.* at 5.

44. *Id.* at 8.

45. *Id.* at 10.

46. *Id.* at 6.

47. See, e.g., NICHOLAS WOLTERSTORFF, *JUSTICE: RIGHTS AND WRONGS* (2008).

the image of the modern self, and to respect dignity is therefore to affirm this anthropology. That which Kateb aims to warrant in his defense of dignity is already, in a sense, presumed. The fact that Kateb does not ground his account of dignity in something more elemental and universal produces a circular logic that is compelling only when one is already located firmly within the bounds of this moral worldview.

The limits of this methodology are particularly apparent if one applies Kateb's account of dignity to difficult and contested bioethical questions. In particular, while his commitment to equating human dignity with human rights might be useful in areas for which there exists meaningful political and moral consensus, it does little to illuminate new moral quandaries. It is one thing to say that human dignity demands a constitutional regime that promotes certain principles of justice. It is quite another to address how dignity ought to shape our thinking about such matters as genetic engineering. Kateb's anthropology provides few of the resources for such a task.

This limitation in Kateb's system is, in the final assessment, reflective of even deeper anthropological shortcomings. Kateb's account of dignity reveals little about how to adjudicate situations where the nature of the person is under debate, because his account of human nature is defined by freedom and creativity—the endless possibility of becoming. Kateb's human person possesses no universal or permanent characteristics other than the impulse for creativity. Kateb writes, for instance, that “human beings are unpredictable because they are often moved to act by a sense of unrealized potentiality in themselves or a sense of latent possibilities in their situation An atmosphere of freedom conduces to personal experimentation and collaborative daring.”⁴⁸ Because of his unwillingness to name anything as finally true and stable, Kateb can speak only about the person from the outside. There is no interiority to Kateb's acting person. Human beings are not defined by what they are by their nature, but rather by what they do. In a disenchanted world without the possibility of ultimate meaning, Kateb can describe dignity only in terms of verbs rather than adjectives. These verbs might well disclose genuine insights, but they also leave much of the human person shrouded in mystery. Dignity resides in the unknown, rather than in any universal or permanent characteristics. As such, it would seem nearly impossible to critique technology from within Kateb's system, particularly if this technology enhanced the creative freedom of the human person.

48. KATEB, *supra* note 31, at 169–70.

B. *Human Dignity as Human Nature: Religious Perspectives*

Gilbert Meilaender opens *Neither Beast Nor God: The Dignity of the Human Person* by noting that, “[t]his is not a work of theology in any technical sense, but it is, in certain respects, a piece of religious thinking.”⁴⁹ It is true enough that this is not a traditional systematic work of theological reflection but, at the same time, Meilaender’s engagement with the idea of human dignity, and the nature of personhood, more generally, is never far removed from touching on the transcendent. The nature of the human person, that which distinguishes it from the beasts, can only be understood for Meilaender within the context of a divine economy. As Meilaender writes,

I doubt whether we can understand dignity well without at least a modest anthropology—without some notion of what it means to be the sort of creature a human being is. And I, at least, do not think this understanding can possibly be right if we abstract the human beings we seek to understand from their relation to God.⁵⁰

While Sandel’s language of gift, discussed further below, also draws personhood into a framework that contains echoes of the transcendent, the echo is quickly silenced.⁵¹ The gift remains separated from the giver. Meilaender, on the other hand, insists that human dignity must be understood not only in terms of nature but “also in terms of destiny.”⁵² The giftedness of the human person is thus not an end in itself, but rather the emerging awareness of our relationship to—and just as importantly, our distance from—God, the giver of life.

The organizing concern of Meilaender’s book, captured well in the title, is to reflect on the peculiar and distinctive in-between character of human beings. Human beings, Meilaender posits, are neither beasts nor God, neither pure bodies nor pure spirits. We are bounded and bodily beings, “material organisms . . . [that] work to live as all organisms must,” but equally so we are creatures with an inner freedom that pushes against this boundedness.⁵³ Human dignity thus refers to the kind of flourishing particular to the “duality” that defines the character of human life and creatureliness. Human dignity is not a state or quality that resides in the human person. It is being fully human,

49. GILBERT MEILAENDER, *NEITHER BEAST NOR GOD: THE DIGNITY OF THE HUMAN PERSON* 2 (2009).

50. *Id.*

51. See SANDEL *infra* notes 78–90.

52. MEILAENDER, *supra* note 49, at 72.

53. *Id.* at 15.

a true humanism, in a way appropriate for an in-between creature. Of course, the task of discerning what it means to be fully human presents its own challenges. Because human beings are not mere bodies, we cannot speak of human flourishing in just natural or biological ways as we would with a plant or an animal. As Meilaender observes, “[b]ecause the life of human beings, though embodied, has an inner dimension, it will always remain somewhat mysterious.”⁵⁴ Describing the dignity peculiar to the human species rather requires mapping moral meaning and normative significance onto the ways of our natural being, for “we cannot understand the meaning of our humanity only in terms of our biological origins.”⁵⁵ A full account of human flourishing thus leads us, necessarily and ineluctably, to the insights of theology.

While Meilaender has written elsewhere about particular bioethical questions, this book is not to be regarded primarily as a contribution to such debates. Yet, such matters are not far removed. After all, the core of the book’s discussion of human dignity takes the form of a reflection on how the in-between status of human beings ought be respected in the most elemental of human experiences—“birth and breeding and death.”⁵⁶ Human dignity is thus acknowledged and respected by living properly into our condition as creatures of a certain sort. By extension, human dignity is denied when persons are treated as mere animals, for human beings are not beasts but free creatures who respond to the divine call. To deny the supernatural destiny of human beings is to deny a constitutive element of our humanness. Yet, dignity is equally violated when human beings try to overcome their embodied and limited character in order to become something other than the creatures they are. This is the posthuman temptation of genetic engineering, and an essential lesson of Meilaender’s book is that resisting this temptation begins with getting our anthropology right. A coherent objection to the unabated remaking of the givenness of human nature starts with affirming the meaning and meaningfulness of our creatureliness. Formulating such an anthropology, however, requires moving from a focus on dignity as autonomy and freedom towards seeking the final illumination of dignity’s meaning

54. *Id.*

55. *Id.* at 17. Personal dignity, in contrast to human dignity, “has to do not with species-specific powers and limits but with the individual person, whose dignity calls for our respect whatever his or her powers and limits may be. It is closely tied to our affirmation of human equality.” *Id.* at 8.

56. *Id.* at 4.

within theological wisdom.⁵⁷ Only through such an anthropology can it be stated that our life and our bodies are not ultimately our own.⁵⁸

What makes this such an artful book is its willingness to locate human dignity in an in-between space. It defines humanism and theological proclamation as being in a constructive rather than dualistic relationship. Theology does not stand against nature, but rather illuminates what is common about our nature. Likewise, the insights of our nature provide only a limited glimpse into what constitutes full humanity. Human nature is thus given a normative force by Meilaender but, equally so, this nature possesses no autonomy and finality. The normativity of nature comes not from nature alone, but from the knowledge that nature is oriented towards, and finally transformed by, grace. Locating human nature in this in-between place opens a creative tension but also makes for a fragile project prone to collapse between the weight of secular criticisms, on the one hand, and triumphalist theology, on the other.⁵⁹ The project of articulating a true humanism is always teetering, a fact Meilaender acknowledges in asking, “[w]hy should we want to be or remain human?”⁶⁰ For Meilaender, this question can only be answered within the context of a religious bioethics that makes sense of “this strange creature who can experience neither the uncomplicated wholeness of a beast nor the mastery of a god.”⁶¹ In a bioethical context where both science and theology close themselves off to each other, the modesty of Meilaender’s project is disarming.

C. *Human Dignity as Human Nature: Non-Religious Perspectives*

Robert George and Christopher Tollefsen’s *Embryo: A Defense of Human Life* is not, narrowly speaking, a book about human dignity, though at its core it is a book about the nature of human personhood. The primary interest of the book is with the question of whether it is “permissible to experiment upon embryonic human beings for the sake of the benefits, especially health bene-

57. See *id.* at 2, 81.

58. See *id.* at 2 (explaining that a true anthropology cannot ignore the aspect of man that is in relation to God, and any attempt to do so would be only an abstraction of what it is to be human).

59. See Nigel Biggar, *A Methodological Interlude: A Case for Rapprochement Between Moral Theology and Moral Philosophy*, in *GOD, ETHICS AND THE HUMAN GENOME: THEOLOGICAL, LEGAL AND SCIENTIFIC PERSPECTIVES* 116, 116–123 (Mark Bratton ed., 2009).

60. MEILAENDER, *supra* note 49, at 22.

61. *Id.*

fits, that might be made available from such experimentation[.]”⁶² This is an important text to consider in surveying the landscape of recent scholarship, because it attempts to defend a thick normative account of human nature that demands protection from certain technological intrusions on the basis of a purely secular philosophical and scientific argument. While the particular conclusions reached are important in their own right, the methodology employed in reasoning about human nature proves even more noteworthy.

At its most basic level, the authors argue that “the early human embryo is a complete, albeit developmentally immature, human being.”⁶³ As such, human life at its earliest stage is deserving of the same “full moral respect” due all persons.⁶⁴ Against those who associate personhood with the presence of certain characteristics, particularly sentient function, the book maintains that the embryo is to be understood as “a human being at the earliest stage of [its] development,” rather than as a “‘potential’ human being” or “‘pre’ human being.”⁶⁵ Personhood, in other words, is not something that “one may gain and lose at various points in one’s life.”⁶⁶ It is rather that which is acquired by virtue of possessing

the basic natural capacity to shape [one’s] life, by reason and free choice, even though that natural capacity may not be immediately exercisable (as when someone is in a coma), or may take months or years to become immediately exercisable (as with a human infant, fetus, or embryo), or may be blocked by disease or defect (as in severely retarded persons).⁶⁷

Holding otherwise makes personhood contingent rather than inviolable.

While the authors do not write extensively about dignity, they do make some general comments on the subject that emerges out of the overall architecture of their argument. The authors write, for instance, that “the natural human capacities for reason and freedom are fundamental to the dignity of human beings—the dignity that is protected by human rights.”⁶⁸ This description of human dignity emerges from the authors’ argu-

62. ROBERT P. GEORGE & CHRISTOPHER TOLLEFSEN, *EMBRYO: A DEFENSE OF HUMAN LIFE* 84 (2008).

63. *Id.* at 12.

64. *Id.* at 22.

65. *Id.* at 144.

66. *Id.* at 181.

67. *Id.*

68. *Id.* at 106.

ment for moving beyond both consequentialism and Kantian deontology in ethical deliberation. Against consequentialism, the authors reject the claim that “there will always be human beings who are dispensable, who must be sacrificed for the greater good,” a line of thinking that has infected much bioethical thought and created space for the instrumental use of the embryo.⁶⁹ Kant’s ethical theory is preferable in that it rejects instrumentalization and thus “gives voice to an important ethical truth” about the intrinsic value of human beings.⁷⁰ George and Tollefsen, however, contend that Kant’s principle that a person never be treated as an end leaves open the question of what constitutes human flourishing.⁷¹ Addressing this question demands considering the principles that lead us to act or not act in promoting integral human fulfillment. It is within this matrix that the authors locate human dignity, for to acknowledge and respect human dignity is to respect the goods that constitute human flourishing. As the authors argue, “it is with respect to the basic human goods as instantiated in our lives that our dignity can be either respected or violated.”⁷² In other words, human dignity is coterminous with the basic characteristics of humanity as such, which might be discerned through reasoned reflection on nature.

What is most notable about the authors’ argument is their commitment to advancing a natural law-based account of human personhood that makes no recourse to religion. George and Tollefsen maintain that a turn to religion in bioethical debate, particularly in the area of genetic research on embryos, undermines the credibility of the argument. The authors note that “what is asserted time and again by the proponents of this research is that the convictions of those opposed are guided entirely by religious sentiments. And for this reason, those convictions are ruled out of court as inadmissible evidence for the pro-embryo cause.”⁷³ Given this obstacle, George and Tollefsen start from the premise “that claims based in religious traditions or revelation are simply not necessary (and probably are not even sufficient) to arrive at correct understandings of embryo science, technology, and ethics.”⁷⁴ Philosophically informed reasoning alone is adequate for

69. *Id.* at 93–94.

70. *Id.* at 97.

71. *Id.*

72. *Id.* at 107.

73. *Id.* at 19.

74. *Id.* at 21.

concluding that it is morally impermissible to destroy human embryos.⁷⁵

The impulse behind this strategy is understandable, particularly given the oft-cited claim that the language of human dignity is but a covert way to drag theological arguments into secular bioethical debate. Yet, this approach is not without shortcomings. Even if the argument is internally coherent, the logical leap required to argue that because the embryo is fully human it is therefore deserving of absolute respect is less than persuasive on the terms presented. Part of the challenge is that human dignity is so deeply equated with natural personhood in George's and Tollefsen's account that it loses the capacity to hearken to that which lies beyond nature. The sacred quality of personhood, that which is often captured in talk of dignity, is lost in the turn to nature and reason. Even Kateb, who likewise develops an account of dignity from purely secular premises, speaks of the person as only partly natural, thus acknowledging the mysterious and dynamic quality of human nature.⁷⁶ Yet, this sense of wonder—the sort of wonder that demands respect because it reveals a spark of the *imago dei*—is lacking in *Embryo*. While consequentialism might have been logically bested, the authors do not do so in a way that fully undercuts its instinctive appeal within bioethical contests.

Equally so, one must question if a culture so deeply shaped by commitments to scientism and progress will find a natural law argument convincing. Perhaps it would be better to name opponents of the position developed in *Embryo* for what they by and large are: not people in need of better reasoning, but people who have adopted a worldview that advances fundamentally different normative positions. George and Tollefsen operate from the idea that reason within science operates on neutral terms. Yet, as Leon Kass observes:

Genetic technology, the practices it will engender, and above all the scientific teachings about human life on which it rests are not, as many would have it, morally and humanly neutral. Regardless of how they are practiced or taught, they are pregnant with their own moral meaning, and will necessarily bring with them changes in our practices, our institutions, our norms, our beliefs and our self-conception.⁷⁷

75. *Id.*

76. See KATEB *supra* notes 31–46, 48.

77. LEON R. KASS, LIFE, LIBERTY AND THE DEFENSE OF DIGNITY: THE CHALLENGE FOR BIOETHICS 163 (2002).

If Kass is correct in this assessment, it raises questions about the extent to which a natural law ethic, based as it is on an attempt to reason rightly about the nature of personhood, can meaningfully counter the normative moral impulses of scientific culture.

Michael Sandel's *The Case Against Perfection* and Jürgen Habermas's *The Future of Human Nature* critique developments in bioethics from a quite different perspective. Likewise operating out of a secular system of thought, the central concern of these two books is with critiquing aspects of the liberal, modern construction of human nature. Michael Sandel's short book considers the ethics of genetic manipulation employed to enhance human traits, be it athletic ability, physical appearance, intelligence, or lifespan. At the heart of Sandel's argument is a sustained critique of the liberal account of the human person. An ethic grounded in this anthropology cannot, Sandel claims, critically counter the advance of neo-eugenics⁷⁸ or, more basically, sustain a moral community and social order.⁷⁹ While genetic engineering is justified on the grounds of compassion and improvement, it ends up destroying "the moral sentiments that social solidarity requires," as well as our sense of obligation to the "least advantaged members of society."⁸⁰ A community that privileges the values of autonomy and freedom above all else cannot resist turning the body into an object of mastery and will, and by so doing disrupts the ways we encounter and care for the others in our midst.

The main critique Sandel levels against liberal anthropology is that it refuses to accept our bounded and creaturely nature. In the liberal account of human nature there are no essential qualities of humanness that demand respect or generate a capacity for awe. As a consequence, liberal society does not express respect for persons by acknowledging their humanness, but rather by respecting autonomy and consent. The only arguments that liberalism can generate against genetic engineering are on these terms. Cloning, for instance, might be deemed wrong "because it violates the child's right to autonomy."⁸¹ As a common argument goes, "[b]y choosing in advance the genetic makeup of the child, the parents consign her to a life in the shadow of someone who has gone before, and so deprive the child of her right to an open future."⁸² A similar charge might be leveled against genetic

78. MICHAEL J. SANDEL, *THE CASE AGAINST PERFECTION* 80–83 (2007).

79. *See id.* at 85–92.

80. *Id.* at 91.

81. *Id.* at 6.

82. *Id.* at 6–7.

manipulation of the embryo with the intent to create children with particular traits or attributes. Such arguments, Sandel proposes, reflect the fact that in liberal societies, people reach instinctively “for the language of autonomy, fairness, and individual rights” to express moral disease.⁸³ Yet, in the end, such concepts provide few resources for challenging the unfettered advance of genetic engineering, for these “familiar terms of moral and political discourse make it difficult to say what is wrong with reengineering our nature.”⁸⁴ Addressing the moral “predicament” created by the ability “to manipulate our own nature” requires instead turning to something deeper and ultimately more elusive than the language of liberalism. “I am suggesting,” Sandel writes, “that the moral stakes in the enhancement debate are not fully captured by the familiar categories of autonomy and rights.”⁸⁵

What is needed above all is a “stance toward the world” that rejects “mastery and domination” as the main features of our relation towards nature and other persons.⁸⁶ The language Sandel employs to represent this impulse is “gift.” Giftedness, he argues, can be understood in religious or secular terms, but at its core the “ethic of giftedness” refers simply “to appreciat[ing] children . . . as they come, not as objects of our design, or products of our will, or instruments of our ambition.”⁸⁷ Treating the child as gift thus stands against the ideology of liberal eugenics that treats children as “products of deliberate design.”⁸⁸ Most basically, the ethic of giftedness acknowledges “the moral status of nature” and grants normative value to that nature.⁸⁹ Sandel concedes that there is “something appealing, even intoxicating, about a vision of human freedom unfettered by the given.”⁹⁰ Yet the world that such freedom creates is one that ultimately destroys our very capacity to be human, a sentiment shared by Leon Kass who notes that “our views of the meaning of our humanity have been so transformed by the scientific-technological approach to the world and to life that we are in danger of forgetting what we have to lose, humanly speaking.”⁹¹ By contrast, focusing on the human person as gift mitigates against the

83. *Id.* at 9.

84. *Id.* at 6.

85. *Id.* at 96.

86. *Id.* at 83.

87. *Id.* at 45.

88. *Id.* at 75.

89. *Id.* at 9.

90. *Id.* at 99.

91. Kass, *supra* note 77, at 15.

“drive to master the mystery of birth.”⁹² Only an ethic that moves beyond liberal anthropology possesses the moral resources to critically engage the challenge of genetic engineering.

Sandel’s account is compelling in that it points to the limits and dangers of confronting genetic engineering from within the bounds of liberalism alone. The language of rights and autonomy can do little to resist the further movement of science against human nature. Not only does Sandel argue for the limits of liberalism, but also that this language undercuts our capacity to achieve and sustain the values needed to maintain a solidaristic society. Nevertheless, in light of the vast promise offered by these technologies, along with the cult of faith in science and progress that liberalism feeds, one must question if Sandel’s argument holds the resources needed to deeply shape cultural debate. It is particularly difficult to see Sandel’s idea of gift as an adequate counterweight to regnant liberal values, particularly because he does not present a firm grounding for which we should embrace the gift as given. Why, in other words, should the givenness of nature be taken to be normative? Why should we accept a static account of nature in the face of human suffering and limitation? Can an account of gift, particularly one without a Giver to imbue the gift with meaning, resist the awe of a future made anew by technology? In the end, Sandel never develops an anthropology on which the givenness of nature can establish a normative moral claim, thus revealing the limits of the secular post-metaphysical assumptions upon which he constructs his argument.

Similar concerns animate Jürgen Habermas, who likewise constructs a non-metaphysical defense of something approximating human dignity in *The Future of Human Nature*. As with Sandel, Habermas sees a danger in the ideology of genetic engineering that feeds off the fusion of liberalism and technology.⁹³ This fusion is not new but is rather a continuation of basic impulses deeply rooted within modernity. However, the possibility of using genetic technologies to make “an irreversible decision about the natural traits of another person” has raised new and troubling moral concerns.⁹⁴

Habermas is deeply aware of the link between genetic technologies and the liberal commitment to progress, prosperity, and choice.⁹⁵ He notes bluntly:

92. SANDEL, *supra* note 78, at 46.

93. JÜRGEN HABERMAS, *THE FUTURE OF HUMAN NATURE* 25 (2003).

94. *Id.* at 14.

95. *Id.* at 24.

From the sociological perspective, it is unlikely that society's acceptance of this [genetic enhancement] will lessen, as long as the instrumentalization of humanity's inner nature can be medically justified by the prospect of better health and a prolonged lifespan. The wish to be autonomous in the conduct of one's own life is always connected with the collective goals of health and the prolongation of lifespan.⁹⁶

Attempting to limit the scope of permissible activity thus "seem[s] but a vain attempt to set oneself against the dominant tendency to freedom of modern society."⁹⁷ How is it then possible to resist, or even question, the push for greater liberality in the reconstruction of human nature?

It is on this point, perhaps more than any other, that Habermas is particularly insightful, for he embeds the problematic within the ways that modernity has reconstructed moral order. There is, as Habermas sees it, no going back to a time when human nature was sacred—there will be no "moralizing human nature" by means of resurrecting a totalizing cosmic order.⁹⁸ Appeals to human dignity rooted in religious or metaphysical claims have no currency in a world on this side of modernity. If there is a place from which to criticize the scientific intrusion into human nature, it cannot take the form of a "vague antimodernistic opposition."⁹⁹ At the same time, however, modernity lacks the internal resources to pursue this task. The "buffers of traditions" on which modern society has relied for its moral architecture have "been nearly exhausted."¹⁰⁰ Without the "backing of metasocial guarantees," modern liberal societies "are no longer able to respond to new threats to their sociomoral cohesion by new secularizing impulses, let alone by yet another moral and cognitive recasting of religious traditions."¹⁰¹ At the heart of Habermas's inquiry is thus an examination of whether modern society possesses the capacity to preserve itself from the illiberal impulses of liberal eugenics. In particular, is it possible to construct a "normative self-understanding"¹⁰² in a "postmetaphysical age" for which neither theology nor traditional metaphysics can provide answers?¹⁰³

96. *Id.* at 24–25.

97. *Id.* at 25.

98. *Id.*

99. *Id.* at 25–26.

100. *Id.* at 26.

101. *Id.*

102. *Id.* at 29.

103. *Id.* at 1–2.

It should be noted that while Habermas aims to resist ever further scientific intrusions into human nature, he remains thoroughly modern in his thought, secular in his commitments, and liberal in his politics. As Sandel notes, “[Habermas’s] case against liberal eugenics is especially intriguing because he believes it rests wholly on liberal premises and need not invoke spiritual or theological notions.”¹⁰⁴ Habermas’s concern is therefore not to move beyond modernity, but rather to scour the vestiges of what remains of the world modernity has wrought to find resources that might save modernity from its own logic. Genetic engineering not only generates visceral pangs of disgust, it threatens the achievements of freedom and autonomy. What has been brought to the fore by the new genetics is nothing less than the possibility of undermining freedom in the name of freedom.¹⁰⁵

Habermas’s response is to develop a relational and communal account of human dignity. Human dignity, he writes, “is not a property like intelligence or blue eyes, that one might ‘possess’ by nature; it rather indicates the kind of ‘inviolability’ which comes to have a significance only in interpersonal relations of mutual respect, in the egalitarian dealings among persons.”¹⁰⁶ It is only through our being-in-community, our relating to others, that we develop subjectivity and selfhood. Habermas argues, “[t]he individual self will only emerge through the course of social externalization, and can only be *stabilized* within the network of undamaged relations of mutual recognition.”¹⁰⁷ In other words, it is only through participation in a community that one develops “into both an individual and a person endowed with reason.”¹⁰⁸ The problem with the new genetic technologies is that they threaten to “change . . . the ethical self-understanding of the species” and to bring forth “a self-understanding no longer consistent with the normative self-understanding of persons who live in the mode of self-determination and responsible action.”¹⁰⁹ Most significantly, genetic manipulation treats one person as the object of another and thus disrupts the freedom of the self to choose and develop a life project. Without such freedom, one is “capable neither of assuming a reflective attitude toward our socialization fate, nor of developing a revisionary self-under-

104. SANDEL, *supra* note 78, at 79–80.

105. HABERMAS, *supra* note 93, at 14.

106. *Id.* at 33.

107. *Id.* at 34.

108. *Id.* at 35.

109. *Id.* at 42.

standing."¹¹⁰ The balance between self and other is fundamentally altered in a way that changes the inherited moral basis of human community.¹¹¹ In this way, the freedom that is the basis of liberal politics is undermined.

Habermas's analysis is helpful for what it tells us about the renaissance of human dignity in bioethics. In his estimation, the appeal to human dignity is not about asserting an essentialist anthropology against the counterflow of a post-metaphysical age. It represents a way to preserve human autonomy from the scientism of neo-liberalism. It is an entering into the life world of modernity to preserve it. Modernity has reached the end of its ability to control itself, and in human dignity is found a concept that affirms the essential characteristics of humanness that are in need of protection.

The argument Habermas develops represents one of the most interesting strands of recent thinking about human dignity in that it advances a mode of secularized transcendence. However, the creative tension that makes Habermas's project compelling is equally the source of its most basic problem. How is it that Habermas can both embrace the desacralized world of modernity while clinging to the echoes of anthropological transcendence? Habermas defends a stable and, indeed, universal account of human nature—an anthropology that can resist the internal logic of modernity—without having access to the metaphysical or religious resources for so doing. In the end, it seems that Habermas must rely on the very cultural resources, perhaps ultimately religious in origin, that he approvingly notes have been wiped away by the acids of modernity. We are left to wonder whether Habermas is preserving the ideals of modernity or desperately searching through the tattered remains of the world it created.

III. THE FUTURE OF HUMAN DIGNITY

While human dignity has maintained a significant role in human rights law, it does so largely as a background assumption. By contrast, human dignity has not only become a central organizational category within bioethics, but also a point of deep contestation. Whereas human dignity enhanced the moral legitimacy of human rights claims, it has revealed and accentuated deep divisions within the moral life of late modern society when invoked in the bioethical context. Bioethical concerns have drawn human dignity from a place of consensus to one of

110. *Id.* at 59.

111. *Id.* at 54.

contestation. In fact, the language of dignity has become the architecture around which different moral traditions construct systems of meaning and identity.

The points of division within this debate are manifold, reflecting the fact that there is no dominant method by which shared universal values might find voice. The texts considered in this Essay, however, reveal two particularly fundamental divides that structure the debate. One such divide is between secular and religious approaches to human dignity. This tension has been increased by the emergence of religious voices arguing for the incommensurability of theological and secular accounts of human dignity. The anthropological starting points are simply too divergent to allow for meaningful engagement. As one such Christian critic writes,

The genomic quest for control over human mortality and natality is indicative of a loss of trust in the biological situatedness of mortal life. Part of this loss of trust issues from the modern liberal narrative of autonomy according to which each individual person is her own creator, responsible for her own fate and flourishing.¹¹²

For thinkers as Northcutt, a theological account of human nature locates the ends of the human person in relation to God, a fact that invites conflict with secular accounts of freedom and flourishing. Theology, in this respect, operates as a significant voice of dissent and opposition to developments in genetic technology. Not all religious thinkers, to be sure, define human dignity against genetic enhancement, just as there are secular thinkers, such as Sandel and Habermas, who do. All the same, the secular-religious divide poses continued challenges for the discussion of human dignity.

Another ordering divide concerns the relationship between human dignity and the liberal tradition. Many of the leading arguments in favor of genetic engineering adopt a liberal anthropology as the starting point. Not all liberals find themselves in this camp. For instance, even as Habermas endorses many of the normative structures of the modern liberal inheritance, he critiques the technological refashioning of human nature. Yet, on the whole, those who establish deep points of contact between human dignity and liberalism are unable to generate significant opposition to genetic enhancement. The reason for this centers on the primacy given to autonomy, freedom, choice, and scien-

112. Michael S. Northcott, *The Church and the Genomic Project to Secure the Human Future*, in GOD, ETHICS AND THE HUMAN GENOME, *supra* note 59, at 102, 108.

tific progress. As Leon Kass observes, “biotechnology today flourishes especially in liberal democracies,” a fact that reflects the cultural primacy given the aforementioned values.¹¹³ For critics of liberal dignitarianism, the problem is not with science as such, but with the ways in which the merger of liberalism and scientism advances a particular account of the human person. Although “[t]he notion that science is morally neutral is . . . widely held and advanced by scientists,” the project of modern science “was not conceived or born as a morally neutral quest after facts.”¹¹⁴ Modern science is rather a mode of knowing and engaging the world that necessarily rests on deeper claims about the proper order and ends of human flourishing. A diverse range of thinkers such as Meilaender, Sandel, and Habermas agree on the need to move beyond a liberal anthropology and give due regard to the sacral and mysterious qualities of the human person, qualities that might be sought equally in the language of *imago dei* or gift.

Given the deep and seemingly intractable divides shaping debate on human dignity, it is necessary to consider whether the concept ought simply be dispensed with as an ordering moral category. Regardless of whether human dignity is conceptually meaningful, can it serve a role in shaping the political life of liberal society? Is it merely oppositional or can it also serve as a constructive device for shaping developments within bioethics? Can the language of human dignity, with its essentialist anthropological overtones, speak meaningfully to a scientific culture or will it become ever more the preserve of religion?

If one thing has become clear from current bioethical debate, it is that there should be modest expectations for the role of human dignity. The structure of this debate creates doubt that human dignity can achieve a primacy of place in shaping modern moral order. The term itself, while given thick expression by particular thinkers, is beset with internal methodological tensions that inhibit the emergence of any deeply shared understandings. Human dignity, it would seem, is better employed as a vehicle for advancing a critical dialogical encounter, rather than as a locus for the reconciliation of competing anthropologies. In adopting this modest view of human dignity, the term might invite conversation, deliberation, and even a search for constructive points of shared ethical understanding that could aid in the moral ordering of pluralistic society.

113. KASS, *supra* note 77, at 40.

114. YUVAL LEVIN, IMAGINING THE FUTURE: SCIENCE AND AMERICAN DEMOCRACY 5, 7 (2008).

Yet, while it might be unreasonable to expect a deep rapprochement over the meaning of human dignity, the term need not be dismissed as “useless,” in Macklin’s phrase.¹¹⁵ There is value in talk of dignity, even if the foundation and content of the term remain in fundamental dispute. Dignity is important because it provokes the work of defining how we understand ourselves and the obligations of our common life. To dispense with dignity is to give up naming the meaningfulness of humanity. The ongoing debate about dignity is therefore an integral part of shaping public moral discourse, no more so than in the area of science and bioethics. The language of human dignity, whatever its limitations, is one of the few extant mechanisms for reflecting on the relationship between science and humanism as two interweaving and sometimes conflicting normative systems. Human dignity can push this conversation to depths that human rights did not.

115. Macklin, *supra* note 9, at 1420.

