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## Dignity in America: The Role of an Idea During the American Enlightenment

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# Dignity in America: The Role of an Idea During the American Enlightenment

## Abstract

Dignity ideas are experiencing a renaissance in modern American politics. Political leaders on the left and the right have invoked “human dignity” in efforts to justify their candidacies, their policies, and the political, economic, and sociocultural stories they wish to tell about the United States. There is, however, a lack of treatment of these profoundly influential dignity ideas in political science literature. This thesis aims to correct this by demonstrating the centrality of dignity during the American Founding era and the “American Enlightenment” period more broadly. Along with liberalism and civic republicanism, this thesis documents the rise of “dignitarianism” as a new, distinct American political tradition. The interplay of dignitarian thinking with the liberal and republican traditions, along with strong influences from Enlightenment rationalism and Judeo-Christian theologies, yielded correlated strands of dignity thought: namely, “individual dignity” and “national dignity.” Using rich qualitative analysis of primary documents, supplemented by secondary literature, this thesis will argue that these conceptions of dignity played a powerful role in influencing Founding Americans’ views on equality and individual rights – specifically, freedom of conscience, free speech, privacy values, and freedom from cruel and unusual punishment – and the relationship of the citizenry to the nation. National dignity in particular played the strongest role in this latter development, informing American federalism, foreign policy, expansionism, and the treatment of citizens and non-citizens at home. At its best, national dignity advanced individual dignity claims in shows of solidarity, and served as a constructive tool for the building of a new nation. All too often, however, national dignitarianism succumbed to the allures of imperialism and rankism, dehumanizing citizens and non-citizens alike in the name of “national dignity.” The lessons of dignitarianism in the Founding era offers insights into contemporary dignity demands fueled by raging income inequalities, senses of political helplessness, and toxic, narrow nationalisms.

## Keywords

dignity, dignitarianism, individual dignity, national dignity, liberalism, republicanism, american enlightenment, american founding, rankism, political science, social sciences, Political Science, Social Sciences, Rogers M Smith, Smith Rogers M

## Disciplines

American Politics | Political Science | Political Theory

**Dignity in America: The Role of an Idea During the American Enlightenment**

**By**

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*Advisor: Professor Rogers M. Smith*

**This Thesis is Submitted in Fulfillment Of**

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## **Abstract**

Dignity ideas are experiencing a renaissance in modern American politics. Political leaders on the left and the right have invoked “human dignity” in efforts to justify their candidacies, their policies, and the political, economic, and sociocultural stories they wish to tell about the United States. There is, however, a lack of treatment of these profoundly influential dignity ideas in political science literature. This thesis aims to correct this by demonstrating the centrality of dignity during the American Founding era and the “American Enlightenment” period more broadly. Along with liberalism and civic republicanism, this thesis documents the rise of “dignitarianism” as a new, distinct American political tradition. The interplay of dignitarian thinking with the liberal and republican traditions, along with strong influences from Enlightenment rationalism and Judeo-Christian theologies, yielded correlated strands of dignity thought: namely, “individual dignity” and “national dignity.” Using rich qualitative analysis of primary documents, supplemented by secondary literature, this thesis will argue that these conceptions of dignity played a powerful role in influencing Founding Americans’ views on equality and individual rights – specifically, freedom of conscience, free speech, privacy values, and freedom from cruel and unusual punishment – and the relationship of the citizenry to the nation. National dignity in particular played the strongest role in this latter development, informing American federalism, foreign policy, expansionism, and the treatment of citizens and non-citizens at home. At its best, national dignity advanced individual dignity claims in shows of solidarity, and served as a constructive tool for the building of a new nation. All too often, however, national dignitarianism succumbed to the allures of imperialism and rankism, dehumanizing citizens and non-citizens alike in the name of “national dignity.” The lessons of dignitarianism in the Founding era offers insights into contemporary dignity demands fueled by raging income inequalities, senses of political helplessness, and toxic, narrow nationalisms.

### **Key Words**

dignity, dignitarianism, individual dignity, national dignity, liberalism, republicanism, American Enlightenment, American Founding, rankism, Political Science, Social Sciences

### **Disciplines**

American Politics, Political Theory

## Introduction

# The Politics of Dignity

As the 2010s came to a close, commentators have labeled the decade as one of growing anxiety, unraveling institutions, dissonant politics, and the “decade of distrust.”<sup>1</sup> Fear has tyrannically dominated analysis of politics. Certainly, there is reason for alarm: right-wing populism has swept Europe and the United States; economic and political inequality are soaring; and the cause of human rights, the bedrock of the modern liberal world order, faces its greatest challenges since the Cold War as a rising number of nations embrace authoritarianism in the name of “the people.”<sup>2</sup> In the United States, as in Hungary, Poland and India, there are concerns of the rise of “illiberal democracy.” The Ukraine scandal and the impeachment trial of Donald Trump, in particular, have tested faith in the rule of law. All the while, right-wing populists and authoritarians have dehumanized religious minorities, refugees, and immigrants as “out” groups.<sup>3</sup>

American politics has always had illiberal traditions souring the hopes of “liberty, equality, and the pursuit of happiness.” As Rogers Smith, Ezra Klein, the editor of *Vox*, and

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<sup>1</sup> “How Will History Books Remember the 2010s?” *Politico Magazine*. December 27, 2019. <https://www.politico.com/news/magazine/2019/12/27/how-will-history-books-remember-the-2010s-089796>; Kakutani, Michiko. “The 2010s Were the End of Normal.” *The New York Times*. December 27, 2019. <https://www.nytimes.com/interactive/2019/12/27/opinion/sunday/2010s-america-trump.html>.

<sup>2</sup> Wolf, Martin. “The rise of the populist authoritarians.” *Financial Times*. January 22, 2019. <https://www.ft.com/content/4faf6c4e-1d84-11e9-b2f7-97e4dbd3580d>.

<sup>3</sup> Rubin, Jennifer. “A timely victory for the rule of law.” *The Washington Post*. December 11, 2019. <https://www.washingtonpost.com/opinions/2019/12/11/win-rule-law/>; Judis, John B. *The Populist Explosion*. (Columbia Global Reports: New York, 2016). pp. 69-71.

many others have pointed out, the United States has a history riddled with contradictions. White supremacy, Anglo-Saxonism, social and racial Darwinism, and male hegemony have justified laws and politics that exclude individuals based on rank, gender, race, sexual orientation, faith or class.<sup>4</sup> Now, as Governor Mario Cuomo put it in the 1984 Democratic National Convention, the country feels less like a “shining city on a hill” and more like a “tale of two cities,” divided and polluted.<sup>5</sup>

There is, however, cause for hope. The harm that stems from inequalities and a sense of powerlessness has propelled vulgar populisms, but it itself provides a window into better understanding American politics and the institutions that now seem to be teetering. That wounded feeling, as Francis Fukuyama argues in his book *Identity*, is dignity. Dignity, he argues, is tangible. It is part of that “inner self” which demands recognition and a sense of worth through political, economic, and cultural or normative institutions.<sup>6</sup> This demand for recognition has grown since the Enlightenment. In the American context, these “dignity demands” have slowly expanded to include both negative rights, such as freedom of speech or religious liberty, and positive rights, usually in the form of economic rights like access to housing, clothing, food and water, and remunerative work.

After the election of Donald Trump in the United States, talk of a “dignity deficit” or “dignity gaps” blossomed on the left and right. Arthur C. Brooks, president of the American Enterprise Institute (AEI), contends that Trump’s election was a reaction to dignity deficits in

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<sup>4</sup> Smith, Rogers M. “Beyond Tocqueville, Myrdal, and Hartz: The Multiple Traditions in America.” *American Political Science Review*. Vol. 87, No. 3. September 1993. p. 549.; Klein, Ezra. “American democracy has faced worse threats than Donald Trump.” *Vox*. May 10, 2018. <https://www.vox.com/2018/5/10/17147338/donald-trump-illiberal-undemocratic-elections-politics>.

<sup>5</sup> Cuomo, Mario. *More than Words*. (St. Martin’s Press: New York, 1994).

<sup>6</sup> Fukuyama, Francis. *Identity: The Demand for Dignity and the Politics of Resentment*. (Farrar, Straus, and Giroux: New York, 2014). p. 37.

much of the deindustrialized and impoverished Midwest and Appalachia.<sup>7</sup> In the journal *Democracy*, Gene Sperling argues that by allowing licentious market systems to stymie opportunity and human flourishing, the federal government has lost view of its very purpose: fulfilling “the pursuit of happiness.”<sup>8</sup> Sperling and Brooks are not alone in claiming dignity as a long-held American value. Americans from many political stripes have claimed the banner of dignity. President Ronald Reagan and Supreme Court Justice William J. Brennan, political opposites, both argued that the United States was founded on the idea of human dignity.<sup>9</sup> William Jennings Bryan’s firebrand populism was undergirded by a stalwart belief that social Darwinism and monopolies threatened to rob people “of the dignity conferred upon [them] by...creation.”<sup>10</sup> Lincoln warned that slavery would sunder the “dignity and rights” promised to all by the Constitution. In the same speech, he set forth the famous line that would characterize dignity ideas: “but let us have faith that Right, Eternal Right makes might, and as we understand our duty, so do it!”<sup>11</sup>

In the spirit of Lincoln’s call of duty, this thesis argues for the recognition of a less examined and theorized tradition in American politics and discourse. That tradition is dignitarianism, and this thesis is dedicated to understanding the development and role of dignity ideas in American politics and institutions. Special attention will be given to how dignitarian ideas emerged in colonial America and the early United States, encompassing a period from the

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<sup>7</sup> Brooks, Arthur C. “The Dignity Deficit.” *Foreign Affairs*. March/April 2017.

<https://www.foreignaffairs.com/articles/united-states/2017-02-13/dignity-deficit>.

<sup>8</sup> Sperling, Gene. “Economic Dignity.” *Democracy Journal*. No. 52, Spring 2019.

<https://democracyjournal.org/magazine/52/economic-dignity/>

<sup>9</sup> “First Inaugural Address of Ronald Reagan.” January 20, 1981. *Avalon Project*.

[https://avalon.law.yale.edu/20th\\_century/reagan1.asp](https://avalon.law.yale.edu/20th_century/reagan1.asp); Brennan, William J. “Speech given at the Text and Teaching Symposium, Georgetown University.” October 12, 1985. *PBS*.

[https://www.thirteen.org/wnet/supremecourt/democracy/sources\\_document7.html](https://www.thirteen.org/wnet/supremecourt/democracy/sources_document7.html).

<sup>10</sup> Bryan, William Jennings. *In His Image*. (Project Gutenberg EBook Press, 2004).

<https://www.gutenberg.org/cache/epub/12744/pg12744-images.html>.

<sup>11</sup> Lincoln, Abraham. *Collected Works of Abraham Lincoln*. Vol. 4.



1700s to the 1830s known in historiography as the “American Enlightenment.” Dignity talk flowered in this era, signifying efforts to place the term and its moral significance in the lexicon of American political thought. Dignitarianism, in the American context, both supports and diverges from the broad political traditions of liberalism and civic republicanism, and contains two strands of thought: individual and national, or collective, dignity. These currents emerged from different meanings of the term “dignity” and the efforts by founding Americans to instill a new national spirit. They established a foundation of dignity conceptions that became an enduring contributor to American political development up through today. If we are to better understand how dignity and its moral implications influenced the founding of the United States, and more so to characterize it as an “ism,” we have to first evaluate the term and its history.

### Frequency of “Dignity” in English Non-Fiction Works, 1700-2000

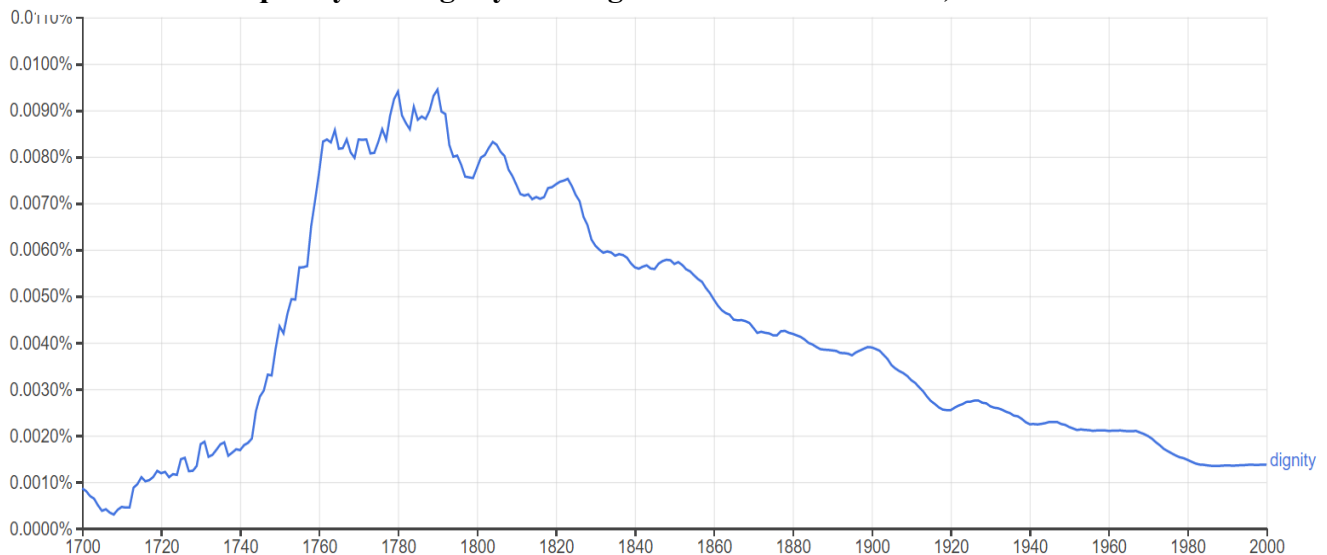


Figure 1: This graph shows the incidence of the word "dignity" in Google's Ngram database of English non-fiction sources from 1700 to 2000. Frequency (percentage of all words used) is located on the y-axis and year on the x-axis. Source: Google Ngram Viewer.

### What Is Dignity, Exactly?

Dignity ideas have always been part of the American political tradition. That the term “dignity” communicates different ideas and seems to mandate diverging policies, however, has

sparked endless ire amongst academics and commentators. The bioethicist Ruth Macklin argues that dignity is “a useless concept” which acts merely as a slogan for religious groups and conservatives. Steven Pinker, a Harvard psychologist, likewise claims dignity “is a squishy, subjective notion, hardly up to the heavyweight moral demands assigned to it.” He finds that those who frequently employ the term seek to undermine *Roe v. Wade* or stem cell research.<sup>12</sup> Macklin and Pinker’s hostility to “dignity” does not mean the concept is useless, subjective, or harmful. Their rejection of dignity ignores its immensely valuable contribution to the creation of modern, egalitarian societies. Like other political values, dignity has relied on interpretation for proper illumination. Take “liberty,” for example. Conservatives might deny positive liberties, like the right to a job, while left-leaning liberals or social democrats might agree such a right is indeed a human right. Dignity is similar. Some promote assisted suicide in the name of “death with dignity,” while others, especially Catholics, evangelical Protestants, and social conservatives, oppose it in the name of the dignity of human life. Dignity’s occasional ambiguity does not detract from its weight even if, admittedly, the word can mean different things.

Nor does it lessen dignity’s long historical presence, whether the term is explicitly used or not. Dignity ideas, for example, widely appeared in the Greco-Roman world, sometimes with the label “dignity” and other times without it.<sup>13</sup> When the Trojan queen Hecuba is taken slave by the Greeks in Euripides’ *Hecuba*, the chorus weeps for her: “Slavery’s an evil, and will always be, human beings brutalised by force.”<sup>14</sup> Moral respect isn’t granted to Hecuba the Queen, but to the dignity of Hecuba the human being. The Romans are responsible for the etymology of the word dignity, the Latin root *dignitas*, meaning “worth” or “worthy,” and often “honor” or even

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<sup>12</sup> Pinker, Steven. “The Stupidity of Dignity.” *The New Republic*. May 28, 2008.

<https://newrepublic.com/article/64674/the-stupidity-dignity>.

<sup>13</sup> Debes, Remy. *Dignity: A History*. (Oxford University Press: Oxford, 2017). pp. 19-23, 47-56.

<sup>14</sup> *Ibid* p. 40; Euripides. *Hecuba*. trans. Harrison. (Faber and Faber: London, 2005).

“rank.” Most notably, Cicero argued that duties to others and the self follow from the “dignity of the human race” above lesser animals. Since human beings exist at a higher status than the rest of other living creatures, thanks to our moral capacity, we have an inherent dignity or worth.<sup>15</sup>

Religion has also played a key role in the development of dignity ideas. Judeo-Christian theologies consider mankind to have been created *B'Tselem elohim*, in the “image of God,” or *imago Dei* in the Latin Vulgate Bible, granting humans a unique dignity by placing them above the rest of creation.<sup>16</sup> However, most of these accounts only analyze “Western” conceptions of dignity. The term and its ideas have been widely considered across cultures and geographies. Islam, for example, holds that human beings have *qīma*, an “inalienable worth,” bestowed by Allah, and are created with “the finest of constitutions.” Dignity language also makes an appearance in Confucian thought. Demeaning treatment is shameful, and individuals have responsibilities to prevent such treatment of others and themselves. This *duan*, literally translated as “sprouts,” can be cultivated by all people not just nobility.<sup>17</sup>

Trying to define dignity, let alone trace the full history of dignity, is a colossal task. This thesis, however, will attempt to offer a working definition informed by the works of contemporary scholars: Francis Fukuyama, Michael Rosen, Jeremy Waldron, and Martha Nussbaum. Let us first consider these contributions, starting by revisiting Fukuyama’s book *Identity*. He draws wisdom from Plato, the Enlightenment, and positive psychology in theorizing about dignity. Dignity is less a metaphysical essence and more a response to human *thymos*, a component of the soul – or human personality – that “craves recognition.” Fukuyama claims that this understanding of dignity became a key political project during the Enlightenment, largely

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<sup>15</sup> Debes, Remy. *Dignity: A History*. (Oxford University Press: Oxford, 2017). pp. 50-53.

<sup>16</sup> Rosen, Michael. *Dignity: Its History and Meaning*. (Harvard University Press: Cambridge, 2012). p. 10.

<sup>17</sup> Debes, Remy. *Dignity: A History*. (Oxford University Press: Oxford, 2017). pp. 67-70, 107-109.

thanks to the French Revolution and the works of Jean-Jacques Rousseau, Immanuel Kant, and Hegel.<sup>18</sup> While Fukuyama is right to identify the strength of dignitarian thought in the Enlightenment, and its proliferation as a political endeavor, his narrative on its development is flawed. He ignores the role that humanism and republicanism, especially in the early Renaissance, played in providing an example to future political leaders and thinkers. Fukuyama, however, is absolutely right in relegating Immanuel Kant to a lesser role in the development of dignity. Modern dignity scholars too often give Kant the recognition of seemingly creating the term dignity.<sup>19</sup> Instead, Fukuyama gives a rich, comprehensive understanding of how the ancients thought of dignity and its connection to virtue, emotion, and egalitarianism.

The Harvard philosopher Michael Rosen offers a broader view of the history of dignity in his work *Dignity: Its History and Meaning*. For Rosen, “dignity” has historically referred to either rank, character, or innate worth.<sup>20</sup> Dignity as rank originally most often meant one’s position in a divine or natural hierarchy, like the order of angels or in hereditary aristocracies. Dignity as character meant morally and aesthetically commendable personal qualities and could be communicated as “she upheld herself with dignity and grace.” Dignity as innate worth, especially in contemporary human rights and theological parlance, refers to the inviolable rights and sacredness of the human person, often identified with human capacities for moral agency and flourishing. These strands, however, do not stand alone. The reality of dignity language is that all of these conceptualizations have collided in different times to create new understandings of who we are and how to govern ourselves and flourish.

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<sup>18</sup> Fukuyama, Francis. *Identity: The Demand for Dignity and the Politics of Resentment*. (Farrar, Straus, and Giroux: New York, 2014). pp. 37-41.

<sup>19</sup> Debes, Remy. *Dignity: A History*. (Oxford University Press: Oxford, 2017). pp. 203-205.

<sup>20</sup> Rosen, Michael. *Dignity: Its History and Meaning*. (Harvard University Press: Cambridge, 2012).p. 40.

Waldron and Nussbaum each focus on one of the strands Rosen identifies. For Waldron, that emphasis is on rank. Dignity, he argues, was synonymous with rank or status, especially in the Middle Ages and early modern period. Waldron goes even further to deny dignity as a moral idea and more as a normative status, due to its social role, arguing against dignity as the “*telos* of human rights.” Its proliferation today, he asserts, is more a matter of the diffusion of “high rank” from aristocrats to the everyday person.<sup>21</sup> Nussbaum is adamantly opposed to this reading. In her most recent book, *The Cosmopolitan Tradition*, Nussbaum identifies dignity as innate human worth, rooted in the Cynic-Stoic tradition of Diogenes the Cynic, Cicero, and Seneca. Dignity is granted to those with basic moral capacity and reasoning, is emphatically non-hierarchical, and can never be sullied.<sup>22</sup> Though compelling in some ways, there are also serious issues with this version of dignity, Nussbaum argues. What of human beings with disabilities or children unable to make mature, moral judgements? What about non-human animals? And, certainly, does not denying a person basic rights violate dignity? Seneca is forceful in his rejection of slavery as a status: *Immo homo est*, “he is a man”; but, he fails to consider the institution of slavery itself.<sup>23</sup> Dignity, Seneca argues, makes a person free whether they are in bondage or not – a dangerous ignorance of human wellbeing.

The definition of “dignity” I use draws on but tempers all of the analyses offered by Fukuyama, Rosen, Waldron, and Nussbaum. It is also readily applicable in the light of the American Founding era. Here is a working definition of dignity in constructing the American tradition of dignitarianism: dignity is the innate worth of every individual, broadly derived from what Francis Fukuyama calls “Factor X” (nature, moral capacity, reasoning, emotion, a creator,

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<sup>21</sup> Waldron, Jeremy. *Dignity, Rank, and Rights*. The Tanner Lectures on Human Values. Delivered at the University of California, Berkeley. April 21-23, 2009. pp. 211-213.

<sup>22</sup> Nussbaum, Martha. *The Cosmopolitan Tradition*. (Harvard University Press: Cambridge, 2019). pp. 2-3.

<sup>23</sup> *Ibid.* pp. 37-38.

etc.), and is normatively expressed in politics and institutions in the form of expected characteristics (e.g. virtues) and rank, ranging from equal to privileged in egalitarian to authoritarian polities. Unequal ranks in societies are justified by discrimination based on class, gender, race, faith, characteristics, or some other ascriptive quality, and their accepted institutionalization is called rankism.<sup>24</sup> Just as important as dignity is “indignity,” which is a response to rankism following humiliation or domination. Often, it has been indignation that has inspired revolution.

Hopefully, this definition avoids the severest charges of relativism. It should be easily recognizable today, but, still reflects deep historical currents. Broadly, American dignitarianism draws influence from six nodes: the Cynic-Stoic tradition, Aristotelian virtue ethics, Christian theology, Renaissance humanists, Italian and English republicans, and Enlightenment rationalists. Founding Americans were deeply influenced by the dignity-slavery language of the Stoics. Many were, however, also convinced of original sin and the failings of humanity highlighted by Christian, especially Calvinist, theology. Human goodness and wellbeing is easily prone to breakage. This reconfiguration of dignitarianism was also supported by Aristotelian virtue ethics, as Nussbaum argues in defense of her Capabilities Approach thesis. The humanism of the Renaissance, republicans like John Milton, and the Enlightenment helped reorient the moral objective of government towards human flourishing, or *eudemonia*. This helped remove the blindfold that afflicted the Stoics when it came to material conditions.

Dignity is, thus, the reason for and the tool by which happiness, or flourishing, is achieved. Jimmy Carter expressed this bicameral reasoning in his 1977 Inaugural Address: “We have already found a high degree of personal liberty, and we are now struggling to enhance

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<sup>24</sup> For more on “rankism,” please see: Fuller, Robert W. *Somebodies and Nobodies: Overcoming the Abuse of Rank*. (New Society Publishers: Gabriola Island, 2004).

equality of opportunity. Our commitment to human rights must be absolute, our laws fair, our natural beauty preserved; the powerful must not persecute the weak, and human dignity must be enhanced.”<sup>25</sup> In light of the above arguments concerning America’s dignitarian heritage, it is not surprising that Carter’s dignitarian call to action looks so familiar to the Declaration of Independence’s affirmation of “life, liberty, and the pursuit of happiness.”

### **Constructing American Dignitarianism**

The dignitarian tradition, or dignitarianism, emerged from a reconsideration of human value, what dignity is and how it applies to peoples in and outside of the political community, during the Hellenistic Period and again later in the early Renaissance. Its political influence is best seen in considerations of human nature, and how that nature merits certain laws, systems of government, and basic treatment by others. Dignitarian thought historically precedes the paradigmatic traditions of liberalism as elaborated by John Locke and others, and civic republicanism, initially forwarded by Niccolò Machiavelli and then analyzed by J.G.A. Pocock. Drawing on these traditions, the United States’ construction of its own dignitarianism – albeit shadowed by the ascriptivist specters of racial Darwinism, white supremacy, and female subjugation – offered intellectual and political space to operationalize dignity language for both the rights of the individual and the “common good.” In short, dignitarianism works with liberalism and civic republicanism in allowing for an “individual dignity” and a “national dignity.” These elements of dignitarianism most closely align with the traditions oriented towards the entity of consideration: individual dignity and liberalism, and national dignity and civic republicanism.

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<sup>25</sup> “Inaugural Address of Jimmy Carter.” *The Avalon Project*. January 20, 1977. [https://avalon.law.yale.edu/20th\\_century/carter.asp](https://avalon.law.yale.edu/20th_century/carter.asp).

A dignitarian society cannot exist in a vacuum of extreme individuality or subsumption of all individuality by the state. It is equally concerned with the supremacy of the individual and the common good. This makes for serious departures with some liberal and republican assumptions. Dignitarianism often disputes the utility calculations found in classical economics and has qualms with some of the applications of the no-harm principle of John Stuart Mill. Take one extreme example: though it might not be considered harmful to others to mistreat a deceased body, since the person is dead, a dignitarian would consider it violative of individual dignity and damaging to society. Treating a person's remains with respect not only pays homage to the person's memory and work, but cultivates virtue and respect in the self and amongst members of a community. Dignitarianism also cautions against overly communitarian impulses or unnecessary intrusions by the state that might occur in civic republican thought, like coerced or pressured expressions of loyalty to politicians and the state (e.g. the pledge of allegiance in classrooms). In essence, what exactly the "public interest" is must be more carefully considered.

How, then, can we more aptly define dignitarianism? There is scant literature that grants "dignity" the status of being a political philosophic tradition let alone an ideology or doctrine. Then again, perhaps there is not a need to classify dignitarianism as an ideology. In his recent publication, *A Thousand Small Sanities*, Adam Gopnik characterized liberalism as both tradition and "temperament," a "way of managing the world more than a fixed set of beliefs."<sup>26</sup> John B. Judis likewise argued that populism is not an ideology, "but a political logic – a way of thinking about politics" across the left-right political spectrum.<sup>27</sup> Dignitarianism must be thought of in similar ways. It is fundamentally an assumption about human nature, that we are all equal in rank and value with the potential to flourish, if given the opportunity to do so. It is, in essence, a

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<sup>26</sup> Gopnik, Adam. *A Thousand Small Sanities*. (Basic Books: New York, 2018). p. 12.

<sup>27</sup> Judis, John B. *The Populist Explosion*. (Columbia Global Reports: New York, 2016). pp. 6-7.



language of equality. Dignitarianism inherently mandates a “big-tent” logic. It doesn’t necessarily matter from *where* our dignity is derived, but that we all have it.

This is useful because it places immense value not just on individual contributions, but on how to construct a larger, pluralistic society that respects and advances human dignity, making it a good tool for nation and coalition-building. Meiji Japan often invoked the “national dignity” in its attempts to “modernize” its government, economy, and even aspects of its culture (e.g. adopting baseball); Mexico’s leftist president, Andres Manuel Lopez Obrador, has rallied against President Trump’s tariff policies in “defense of national dignity.” In a much more coercive manner, “national dignity” was invoked by Taiwanese lawmakers in legislation that banned Taiwan’s retired officials from engaging in pro-Chinese behavior like saluting the flag or reciting the national anthem.<sup>28</sup> When invoking “national dignity,” there are often risks of extremism. Lebanon’s Samah Idriss, a leader of the Campaign to Boycott Supporters of Israel in Lebanon, lobbied for the ban of the 2018 film *The Post*, portraying it as violative of Lebanon’s “national dignity.” Steven Spielberg, who directed *The Post*, violated Lebanese artistic content laws by donating to relief efforts in Israel. Lebanon overturned the ban after public uproar.

National dignitarianism, however, can be constructive. Rogers Smith’s theory of political peoplehood offers insight into how such language can establish institutions that fulfill the individual’s demand for recognized worth. For Smith, the construction of political peoples – members of a group, community, or polity – is best achieved by persuasive stories based on political power, economic, and ethical claims. More broadly, such stories are rooted in trust and worth: trust in fellow citizens and leaders to “respect and...advance their own interests, values, and identities”, and worth as the members’ belief that the community can “succeed in advancing

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<sup>28</sup> Huang, Hsin-po and Hsiao Sherry. “‘National dignity’ rules passed.” *Taipei Times*. July 4, 2019. <http://www.taipeitimes.com/News/front/archives/2019/07/04/2003718085>

some of one's important values or interests."<sup>29</sup> What differentiates American dignitarian claims to a "national dignity," versus the example from Lebanon, is an emphasis on both government functionality and respect of individual citizens. In *The Federalist Papers*, Alexander Hamilton argued that a strong, central government would be "the safest course for your liberty, your dignity, and your happiness." A government that fails to tax, raise armies to protect its citizens, accrue credit for public works, or effectuate a foreign policy, compromises the dignity and freedoms of its citizens.<sup>30</sup>

Individually, American dignitarianism holds that creativity and conscience are sacrosanct: the state does not have authority to restrict human ingenuity or autonomy unless it harms others or society. This tug-of-war between state and individual was elemental in debates during the Founding, and remains so in dignitarian debates. Take, for example, modern bans on hate speech. In the United States, speech may only be censored if it readily incites imminent violence. In much of Europe and Canada, hate speech is banned for its potential to incite harm and its damage to human dignity. During the American Enlightenment, American dignitarianism too contended with this battle between these libertarian and regulatory demands.

Chapter 1 will explore how individual dignitarianism evolved in the colonial United States and how this tradition contributed to the development of religious tolerance and liberty, freedom of speech, privacy values, and opposition to the death penalty and "cruel and unusual punishment." Chapter 2 of this thesis will analyze American "national dignity." The Founders and Framers were ever concerned with the risk of tyranny arising from the lack of proper government. National dignitarianism played a strong role in the formation of a strong federal

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<sup>29</sup> Smith, Rogers M. *Stories of Peoplehood: The Politics and Morals of Political Membership*. (Cambridge University Press: Cambridge, 2003). pp. 56-60

<sup>30</sup> Hamilton, Alexander; Jay, John; and, Madison, James. *The Federalist Papers*. (New York: Signet Classic, 2003). No. 1. pp. 6, 30-34.

government, a new diplomacy, and new ideas of citizenship. Yet, due to the rankisms and racisms of the age, “national dignity” all too often enabled violations of individual dignity for citizens and non-citizens alike by curtailing free speech, justifying aggressive expansionism, and enabling pernicious institutions like slavery. The conflict between national dignity and individual dignity was elemental in the Founding era, and, with the rise of modern populisms and right-wing authoritarianism, remains so today.

## Chapter One

# Liberty, Equality, and Dignity

America's dignitarian tradition emerged in a world where "absolute individuals had replaced absolute kings and absolute churches."<sup>31</sup> New ideas from humanist, Enlightenment rationalist, and Protestant schools of thought were tempered by old experiences of state oppression and continuous warfare. The Spanish Inquisition, the Wars of Religion and religious persecution, the Thirty Years War, and the English Civil War scarred generations of future colonists and created the backdrop for the emergence of liberal political thought during the Enlightenment.<sup>32</sup> While not uniquely confined to the Enlightenment, dignity talk markedly increased in the colonial United States and Europe between 1700 and 1800 due to such historical experiences, as well as the transatlantic dissemination of philosophical and religious texts.

In the colonial United States, the dignitarian tradition's individualistic strand embraced an expansive stance towards the rights of conscience, particularly when dealing with religious diversity, but was also tempered by "ordered liberty": an orientation towards the common good and clear and equitable restraints on licentiousness, informed by deep respect for the human person.<sup>33</sup> Individuals could think what they want, but had no license to impose such a will or conduct themselves in ways that would harm others or society. Such thinking preceded John

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<sup>31</sup> Niebuhr, Richard H. *The Kingdom of God in America*. (Middletown: Wesleyan University Press, 1988). p. 100.

<sup>32</sup> Hamilton, Marci. *God vs. The Gavel*. (New York : Cambridge University Press, 2005). pp. 252-259.

<sup>33</sup> *Ibid.* pp. 260-262.

Stuart Mill's no-harm rule. Dignitarian progenitors, particularly Roger Williams, a Rhode Island minister, and William Penn, the founder of the Pennsylvania colony, drew upon the teachings of the popular Stoic philosophers as well as the language of Protestantism in constructing this norm. Like the Stoics they argued that every human being had dignity, but like Protestants they worried about the crippled state of human souls. Rather than minimize human worth and status, this instilled urgency to protect and cultivate human dignity. The emergence of a distinctive American dignitarianism began at this time.

Whereas later British philosophers, such as John Locke, were more ready to accept some degree of rankism, a result of discriminations abounding in British society, American thinkers like Roger Williams were more hesitant. There was, though, little divergence in theory. In fact, many scholars have pointed to Williams as inspiration for Locke's thinking on religious tolerance.<sup>34</sup> What rights had once been accorded only to the nobility – property, speech and expression, choice of faith, and even life itself – were held to be properly diffused more broadly in America and parts of Europe, such as Britain and later France during the 1789 revolution. In the United States, individual dignitarian thinking played an outsized role in three domains: liberty of conscience, speech, and privacy. American experiences with religious oppression and diversity, parliamentary privilege and censorship, and the forceful quartering of troops all shaped these developments.

Though the new United States created the space for these rights to be enjoyed, they were obviously not shared equally. Rankism persisted in the form of white supremacy, patriarchy, and classism. Dignity was not diffused to all people, just all citizens: white, male property owners, or, at best, taxpayers. Yet, if noble rank could be diffused to the citizenry as recognition of

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<sup>34</sup> Nussbaum, Martha. *Liberty of Conscience: In Defense of America's Tradition of Religious Equality*. (New York: Basic Books, 2008). pp. 36, 73.

human dignity, how were leading Americans to deal with those considered outside of the political community? In dealing with “out” groups, the founding generation generally failed to meet dignitarian standards. Slavery persisted in the name of expediency and wealth creation. Patriotic rhetoric conferred upon women the status of “Republican motherhood,” offering them a role in the country’s new political project.<sup>35</sup> Still, women were treated as a separate and unequal category of persons. The founders were much more successful in a narrower class of people, namely criminals. Much like Enlightenment era philosophers, a great number of founding Americans despised cruelty as an affront to the dignity of the human person. Invocations of our shared “humanity” were a call to recognize our shared dignity. Founding dignitarians readily argued against capital punishment, and advocated banning torture and other “cruel and unusual punishments.”<sup>36</sup>

### **Characterizing the American Enlightenment**

These new political developments grew out of the Enlightenment, but more broadly out of a unique sub-period known as the “American Enlightenment,” ranging from around the 1740s to the 1840s. What made the so-called “American Enlightenment” unique amongst the other European Enlightenments was the “essential unity” between the American rationalist and religious camps despite their doctrinal differences.<sup>37</sup> Looking at the most influential Americans of this age alone reveals the blurred lines in the rationalist and Protestant camps. Many

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<sup>35</sup> For more on dignity and “republican motherhood,” please see: Kerber, Linda K. “The Republican Mother: Women and the Enlightenment – An American Perspective.” *American Quarterly*. Vol. 28, No. 2. (Summer 1976). pp. 187-205.; and, Zagari, Rosemarie. “Morals, Manners, and the Republican Mother.” *American Quarterly*. Vol. 44, No. 2. (June 1992). pp. 192-215.

<sup>36</sup> See: Bessler, John D. *The Birth of American Law: An Italian Philosopher and the American Revolution*. (Durham: Carolina Academic Press, 2014).; and, Adams, John. “Letter from John Adams to Abigail Adams.” April 27, 1777. *Massachusetts Historical Society*. <https://www.masshist.org/digitaladams/archive/doc?id=L17770427ja>;

<sup>37</sup> May, Henry F. *The Enlightenment in America*. (New York: Oxford University Press, 1976). p. xiii.

Americans like Thomas Jefferson and Thomas Paine detested the clergy, yet often invoked the idea of a Creator god and other supposed Judeo-Christian values. The Reverend Jonathan Edwards – the famous itinerant preacher of the First Great Awakening of the 1740s – and his fellow evangelical Protestants believed revelation often trumped rationalism. Yet, Edwards often lauded human creativity and reason as gifts of creation, drawing inspiration from both Locke’s “Essay Concerning Human Understanding” and the Bible. More complicated are those like James Madison, who was a devout Calvinist but was also firmly committed to reason and self-governance, in the tradition of the Scottish Enlightenment and republican thought more broadly.<sup>38</sup>

The American Enlightenment was fundamentally about human nature. The historian D.H. Meyer best summarized this interpretation of the American Enlightenment through the example of Reverend Charles Backus, a late 18<sup>th</sup> century New England minister. Backus saw both faith and reason as equally key, and often complementary, allies in the development of the “American Way.” He believed that for the United States to flourish in “the enlightened age,” Americans must cultivate republican virtue through the reconciliation of faith and reason in order to “advance the interest and dignity of a free people.”<sup>39</sup> For all the conflict between faith and reason, Enlightenment rationalism and faith were often comrades in arms in the mission to tear down ancient aristocratic status and privileges in colonial America.

A number of historians and thinkers have corroborated this synthesis. In his seminal essay *Protestant-Catholic-Jew*, the American writer and Jewish theologian Will Herberg identified the undeniable core of the “American Way of Life” as the affirmation of the “supreme

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<sup>38</sup> *Ibid.* pp. xii-xv.

<sup>39</sup> Meyer, D. H. “The Uniqueness of the American Enlightenment.” *American Quarterly*. Vol. 28, No. 2. (Summer 1976). pp. 165-166.

value and dignity of the individual.”<sup>40</sup> This creed, Herberg argues, was formed by the “paradox-pervasive secularism and rising religiosity” of the United States. Indeed, individual dignity was a constitutive part of the “spiritual values” of American democracy. Further, in line with a more liberal aspect to the American dignitarian tradition, this creed constitutes an ethic of “self-reliance, merit, and character,” emphasizes “deeds, not creeds” and places “amazingly high valuation...on [Americans’] own virtue.”<sup>41</sup>

Religion is a powerful medium for talking about human nature. The language of Protestantism was influential in reshaping what the founding Americans thought of humanity. No longer was the honor of being “human” confined to the exceptional few by the time of the Revolution. Views of human nature fundamentally shifted from aristocratic to democratic assumptions, affirming equal humanity.<sup>42</sup> Religion, however, was not the only shaper of these modern understandings of being human. As the theologian H. Reinhold Niebuhr observed: “In America as in England the Christian enlightenment stood beside the rational enlightenment in the battle for democracy.” It should be added that Niebuhr was not convinced of an equal partnership: he believed that for every “ten soldiers” Christianity supplied to the cause, Enlightenment rationalism “furnished [only] one.”<sup>43</sup>

This is debatable. In identifying the dignitarians of the American Enlightenment, one can find equal passion amongst secularists and evangelists. Enlightenment philosophers utilized a parallel moral language with a “lively melodrama” and an aggressive “partisan militancy.”<sup>44</sup> Thomas Paine, for example, bluntly wrote in *American Crisis* that his passion came from “a

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<sup>40</sup> Herberg, William. *Protestant-Catholic-Jew*. (New York: Doubleday & Company, Inc., 1955). p. 38, 92.

<sup>41</sup> *Ibid.* p. 92.

<sup>42</sup> Diamond, Martin. “The American Idea of Equality: The View from the Founding.” *The Review of Politics*. Vol. 38, No. 3. (July 1976). pp. 320-321.

<sup>43</sup> Niebuhr, Richard H. *The Kingdom of God in America*. (Middletown: Wesleyan University Press, 1988). p. 124.

<sup>44</sup> Meyer, D. H. “The Uniqueness of the American Enlightenment.” *American Quarterly*. Vol. 28, No. 2. (Summer 1976). p. 169.



fixed, immovable hatred...to cruel men and cruel measures.”<sup>45</sup> Nor would it be fair to caricature Protestant ministers and revivalists as Bible-thumping anti-rationalists. Edwards shared Backus’ goal of reconciling “piety” and “reason,” and sought to “convince the mind rather than to stir the emotions” even if his sermons seemed to achieve the opposite.<sup>46</sup> Both types of dignitarians viewed liberties, from freedom of religion to freedom from torture, to be essential to “liberation and human dignity.”<sup>47</sup>

### **Dignity and the Natural Rights Tradition**

In his *Lectures on Law*, James Wilson, a founding father and later Justice of the Supreme Court, invoked a close relationship between the newly formed United States and the “ancient Saxons.” Wilson, a firm dignitarian, believed that, like in early “Anglo-Saxon state,” the United States recognized all to “be of the same rank and condition.” Those with a greater character, talent, or background, were given “no legal preeminence or power.”<sup>48</sup> Wilson goes to great lengths to discount quite a lot of inequality. In so doing, Wilson accurately identifies the goal of dignitarianism, if not the reality of American conditions, and more broadly, he sketches an intellectual link between British sources and colonial America.

The first influential body of imported work on American understandings of individual dignity came from the British Isles during the late 17<sup>th</sup> and much of the 18<sup>th</sup> centuries. This period is referred to as the “Moderate Enlightenment” not because of a timid embrace of Enlightenment values, but due to attempts to synthesize or balance religious and rational

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<sup>45</sup> Paine, Thomas. *The Writings of Thomas Paine, Vol. I. (1774-1779)*. (Indianapolis: Liberty Fund, 2007). <https://oll.libertyfund.org/titles/paine-the-writings-of-thomas-paine-vol-i-1774-1779>.

<sup>46</sup> Niebuhr, Richard H. *The Kingdom of God in America*. (Middletown: Wesleyan University Press, 1988). p. 106.

<sup>47</sup> Meyer, D. H. “The Uniqueness of the American Enlightenment.” *American Quarterly*. Vol. 28, No. 2. (Summer 1976). p. 170.

<sup>48</sup> Wilson, James. *Collected Works of James Wilson, vol. 2*. (Indianapolis: Liberty Fund, 2007). <https://oll.libertyfund.org/titles/wilson-collected-works-of-james-wilson-vol-2>.

viewpoints forwarded by figures ranging from Isaac Newton to the Archbishop of Canterbury John Tillotson.<sup>49</sup> Herein we see the confluence of Stoic and Renaissance conceptions of dignity with the thought of the Protestant Reformation. This chapter of the Enlightenment embraced ideas of human dignity, but Protestant thinkers were quick to emphasize that humans were fallible and lived in a flawed world. The solution, however, wasn't tyranny. Excessive constrictions on human way of life could prove existentially burdensome and spur delinquency instead of moral rectitude. In this period, then, dignity must be closely associated with the blossoming natural rights tradition. Many scholars have contested this relationship or implicitly denied their connection. Pauline C. Westerman, for example, asserts that natural rights cannot logically rest on human dignity because the latter implies some ill-defined duty to God which could harm others.<sup>50</sup> A closer analysis of prominent Moderate Enlightenment thinkers – such as John Locke and Samuel Clarke – shows that they conceived of a human dignity that acts as a spring for natural rights, especially for an ordered liberty.

The American colonies had an insatiable demand for the literary and philosophical books of Enlightenment Britain. John Locke, Isaac Newton, Samuel Clarke, and Alexander Pope were beloved additions to American libraries and homes.<sup>51</sup> Locke, especially, was influential in American political thought. The Founders often invoked his name and works when discussing the political matters of the country. What makes Locke a dignity thinker is his “workmanship model,” which utilizes the *imago Dei* language of theologians from Thomas Aquinas to Giovanni Pico della Mirandola, and provides the linkage between dignity and natural rights. In his *Essay*

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<sup>49</sup> May, Henry F. *The Enlightenment in America*. (New York: Oxford University Press, 1976). pp. 3-9.

<sup>50</sup> Westerman, Pauline C. “Natural Rights versus Human Dignity: Two Conflicting Traditions.” Chapter. In *The Cambridge Handbook of Human Dignity: Interdisciplinary Perspectives*, edited by Marcus Düwell, Jens Braarvig, Roger Brownsword, and Dietmar Mieth, 108–16. (Cambridge: Cambridge University Press, 2014.).

<sup>51</sup> May, Henry F. *The Enlightenment in America*. (New York: Oxford University Press, 1976). pp. 25, 37.

*Concerning Human Nature*, Locke is generally hostile to human minds having “innate ideas,” but he grants “that if there were any idea to be found imprinted on the minds of men, we have reason to expect it should be the notion of his maker, as a mark God set on his own workmanship.”<sup>52</sup> That is, the “workmanship of understanding” allows human beings to reason: to make abstract general ideas, discern and form patterns, discover truths, and act with virtue.<sup>53</sup> In his *Two Treatises on Government*, Locke expands on this model, offering that just as God imbued human beings with reason, so too did he install “a strong desire of self-preservation,” even as he created the “necessaries of life” to aid preservation, such as animals, plants, and minerals, for human use and property.<sup>54</sup>

If human beings are the workmanship of God, imbued with a drive for self-preservation and the ability to use the resources of the Earth, then they are free within moral confines – the natural law – to use those gifts. The state of nature may be pre-political, but it is definitely not pre-moral. If, once created, the state infringes upon such natural liberties, the result is catastrophe for the person. The workmanship model is not a ticket for licentiousness, however. Locke warns that though humans are born into liberty, it is not an “uncontrolable [sic] liberty.” We cannot “harm another in his life, health, liberty, or possession: for men being all the workmanship of one...Maker,” all have rights to life that must be honored.<sup>55</sup> Dignity, then, is a divine gift that enables human beings’ capacity to reason and follow the natural law, resulting in the natural rights to life, liberty, and property, and the moral duties to respect such rights. Locke’s dignity focus is primarily on aspects of non-domination. In his *Education* discourses, Locke advises to

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<sup>52</sup> Locke, John. *The Works of John Locke in Nine Volumes*. (London: Rivington, 1824 12<sup>th</sup> ed.). Vol. 1. <https://oll.libertyfund.org/titles/locke-the-works-vol-1-an-essay-concerning-human-understanding-part-1>.

<sup>53</sup> *Ibid.* Vol. 2. <https://oll.libertyfund.org/titles/locke-the-works-of-john-locke-in-nine-volumes>.

<sup>54</sup> *Ibid.* Vol. 4. <https://oll.libertyfund.org/titles/locke-the-works-of-john-locke-vol-4-economic-writings-and-two-treatises-of-government>.

<sup>55</sup> *Ibid.*

condition the body and mind so as to “be disposed to consent to nothing, but what may be suitable to the dignity and excellency of a rational creature.”<sup>56</sup>

A number of moderate Protestant ministers like the widely beloved Dr. Samuel Clarke were invaluable in the mission of proliferating secular, egalitarian ideas of dignity. The American philosopher Charles Gray Shaw commented in his 1911 work *Value and the Dignity of Human Life* that Clarke’s views on dignity both preceded and mirrored Kant’s work almost a century later. Clarke argued that dignity is a part of the rational human soul, an “autonomous ideal” justifying doing rights for right’s sake as a form of *eudaimonia*. Dignity demands virtue, and to follow it leads to flourishing.<sup>57</sup> Clarke’s idea of dignity is thus very similar to Locke’s Workmanship Model and only falls back on any sort of rank-based ideas of dignity when referring to divine figures like Christ. This is to be expected when considering the multifacility of dignity talk. Most important was the use of phrases like “dignity of persons,” not kings or nobles.<sup>58</sup> Like Locke, Clarke believed that dignity was a gift from God and bestowed human beings with unique rationality that allowed them to observe nature and discover, and thus follow, the natural law.<sup>59</sup>

Clarke consistently uses dignity to mean inherent value. He even applies it to human constructs, like “practical religion,” which esteems the “dignity” of human nature.<sup>60</sup> Clarke ardently believed in the dignity of every person, so much so that his famous publication *A Discourse on the Being and Attributes of God* – widely read in Britain and the American colonies – devotes large swaths of texts to attacking deists who he argues “have no sense at all of the

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<sup>56</sup> *Ibid.* Vol. 8. <https://oll.libertyfund.org/titles/locke-the-works-vol-8-some-thoughts-concerning-education-posthumous-works-familiar-letters>.

<sup>57</sup> Shaw, Charles Gray. *Value and the Dignity of Human Life*. (Boston: The Gorham Press, 1911). p. 216.

<sup>58</sup> Clarke, Samuel, 1675-1729, and Pre-1801 Imprint Collection (Library of Congress). *The Works of Samuel Clarke*. (London: Printed for J. and P. Knapton, 1738). Vol. 1. p. 493.

<sup>59</sup> *Ibid.* Vol 1. p. 218.

<sup>60</sup> *Ibid.* Vol. 3. p. 675.

dignity of human nature, nor of the superiority and excellency of their reason.”<sup>61</sup> This is not a fair characterization, but like Locke, Clarke places a premium on the value of liberty derived from human dignity. To abuse the “glorious privilege of liberty by which [humans] are exalted in dignity,” is no less than a crime against nature. Even clearer, Clarke holds that people and governments have a duty to preserve the “liberty and free-choice, whereby they are exalted in dignity.”<sup>62</sup>

### **The First Great Awakening and Calvinizing Dignity**

The First Great Awakening emerged from the “refreshing” revivals of New Jersey in the 1730s, and persisted into the 1750s. It was not merely a “reprisal” of 17<sup>th</sup> century Protestantism, but engaged the American population being shaped by the Enlightenment, creating the spiritual undercurrents Herberg identified as constitutive values of American democracy.<sup>63</sup> This might be surprising considering that the Great Awakenings are popularly caricatured for their raucous revivals, and of course, the rowdy preacher with his polemic of fire and brimstone. While much of this is true on the surface, these characterizations do a grave disservice to the intellectual tradition at the heart of these Awakenings. Three prominent revivalists in particular – the “New Light” Congregationalist Jonathan Edwards, and the Methodists George Whitefield and John Wesley – contributed to, and helped reinvent, the dignity language of American Protestantism.<sup>64</sup>

To understand these developments, it helps to have a reference point. John Flavel, a Puritan minister of the 17<sup>th</sup> century, was a favorite of Jonathan Edwards and George Whitefield,

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<sup>61</sup> Clarke, Samuel. *A Discourse Concerning the Being and Attributes of God*. 1704-1705. (Glasgow: Printed for Richard Griffin and Co., 1823). p. 75.

<sup>62</sup> *Ibid.* pp. 179, 222.

<sup>63</sup> Herberg, William. *Protestant-Catholic-Jew*. (New York: Doubleday & Company, Inc., 1955).

<sup>64</sup> For more on early American revivalism, see: Heimart, Alan. *Religion and the American Mind: From the Great Awakening to the Revolution*. (Cambridge: Harvard University Press, 1966).; and, Fitzgerald, Frances. *The Evangelicals: The Struggle to Shape America*. (New York: Simon & Schuster, 2017).

the two giants of the Awakening.<sup>65</sup> Flavel's collected works, most notably his *Pneumatologia: A Treatise on the Soul of Man*, would circulate throughout Great Britain and the American colonies in the 18<sup>th</sup> and 19<sup>th</sup> century and featured remarkable discussions of individual human dignity. Flavel sketches out a theological argument for *imago Dei*, humanity being born in the "image of God." To Flavel dignity came from human beings' immortal, God-given soul. Human beings dignity then holds "glories in two excellencies": liberty and dominion, or autonomy.<sup>66</sup> Liberty against compulsion, as respect to the self and others, and enabling virtuous conduct; and, dominion or autonomy, over body and emotion, in order to act virtuously. Further, the content of each human soul renders us all equal: "The soul of the poorest beggar that cries at the door for a crust is...of equal dignity and value of the most glorious monarch that sits upon the throne."<sup>67</sup>

Jonathan Edwards followed in Flavel's footsteps, popularizing dignity at the pulpit. The intellectual heart of the First Awakening, Edwards injected into the mainstream of American politics a conception of dignity that emerged from a regenerative experience in the revivals, invoking love for God and humanity alike.<sup>68</sup> This was not merely a vision of dignity that mirrored the ancient Greeks or Romans. Edwards preached that human passions and human dependency, on each other and God, were not limiting. Instead, they offered a window into understanding humanity's role as a creation that "partakes of the divine."<sup>69</sup> Further, these features of humanity tempered naïvely optimistic ideas of dignity with the reality of humanity's capacity for evil. Human beings were born into dignity and depravity. The Fall had tainted

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<sup>65</sup> Cosby, Brian H.. *John Flavel : Puritan Life and Thought in Stuart England*. (Lanham, MD: Lexington Books, 2013.) p. 11.

<sup>66</sup> Flavel, John. *Pneumatologia: A Treatise on the Soul of Man*. (Grand Rapids: Christian Classics Ethereal Library). <https://www.ccel.org/ccel/f/flavel/pneum/cache/pneum.pdf>. p. 35.

<sup>67</sup> *Ibid.* pg. 41.

<sup>68</sup> Heimart, Alan. *Religion and the American Mind: From the Great Awakening to the Revolution*. (Cambridge: Harvard University Press, 1966). pp. 27-30.

<sup>69</sup> Salladin, James. "Essence and fullness: Evaluating the creator-creature distinction in Jonathan Edwards." *Scottish Journal of Theology*. Vol. 70, Issue 4. (November 2017). pp. 427-444.

human nature, albeit not enough to justify violating the moral law or each other's humanity. Edwards viewed the work of his fellow revivalists as the work of salvation, culminating in the millenarian kingdom of God on Earth. Though he acknowledged human depravity, he dismissed pessimism from Calvinism through dignity language: "God's great design in his works, is doubtless his reasonable creations."<sup>70</sup> Dignity, then, is inward "excellency" to Edwards, attainable by all through lives of faith and charity.<sup>71</sup> Human beings' inner dignity reflects the glory of God through reason and emotion, especially love.

In his 1755 treatise *The Nature of True Virtue*, Edwards expands this understanding of dignitarian conduct: "the dignity of any being consists in those two things...respect to being," and "a truly virtuous temper."<sup>72</sup> The first, respect to being, is simply defined – if not so simply carried out – as respect for fellow human life, as well as for God. Mutual humanity requires just treatment. And, though Edwards does not extend this to political debates over rights, it is reasonable to see how Americans' internalization of this argue led to rights claims during the Founding. Certainly, human excellence varies wildly. There is true evil in the world. What justifies upholding dignity, though, is the universal potential for salvation as a central feature of humanity's innate dignity. It is fascinating, and oddly contradictory, that Edwards should construct ideas of dignity in this way. It is certainly not like traditional Calvinism. John Calvin and St. Augustine certainly never taught believers in Christ to "glory in Men" as Edwards did.<sup>73</sup>

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<sup>70</sup> Heimart, Alan. *Religion and the American Mind: From the Great Awakening to the Revolution*. (Cambridge: Harvard University Press, 1966). p. 64.

<sup>71</sup> Edwards, Jonathan and Piper, John, ed.. *God's Passion for His Glory*. (Wheaton, IL: Crossway Books, 1998). p. 231.

<sup>72</sup> Edwards, Jonathan. *The Nature of True Virtue*. 1765. (Ann Arbor: University of Michigan Press, 1960). p. 38.

<sup>73</sup> Heimart, Alan. *Religion and the American Mind: From the Great Awakening to the Revolution*. (Cambridge: Harvard University Press, 1966). p. 163.

For Edwards, however, the idea of “universal love” proved too powerful. This universal love was strongest in the “highest and primary beauty” of creation, humankind.<sup>74</sup>

George Whitefield, an immensely popular British, transatlantic revivalist of the First Great Awakening, largely corroborated Edwards account of dignity. Whitefield was widely admired, even having a deep friendship with Benjamin Franklin, and attracted thousands to his revivals across the colonies. Whitefield preached about the “divine image” that was the “original dignity of man.”<sup>75</sup> Humanity’s fall from grace marked a fall from “primeval dignity,” leaving the “divine image [of humans] so defaced” as to be nearly ruined.<sup>76</sup> There is, like with Edwards, nonetheless a silver lining. In a letter to a friend, Whitefield marveled, “To what dignity has CHRIST [sic] exalted human nature. And how did he do it? Why, by humbling himself. Let us go and do likewise.”<sup>77</sup> To realize “the *Dignity and Worth* of [our] immortal Souls,” humans must act with like virtue.<sup>78</sup>

John Wesley, another British revivalist in the Awakening, frequently dissented from the hardline Calvinistic doctrines of Edwards and Whitefield. Wesley, however, agreed with Edwards and Whitefield on humanity’s dual dignity and complicity in original sin. Wesley did not travel to America as frequently as Whitefield, but his few trips made lasting impressions. His one 1735 journey to the colonies proved especially influential for his rousing of the “lower classes” in the highly stratified Georgia society, laying the groundwork for the First Great

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<sup>74</sup> *Ibid.* p. 107.

<sup>75</sup> Whitefield, George. *Eighteen sermons preached by the late Rev. George Whitefield*. (London: Printed for and sold by J. Gurney, 1771). p. 329.

<sup>76</sup> Whitefield, George and Gatiss, Lee, ed.. *The Sermons of George Whitefield*. 2 vols. (Wheaton, IL: Crossway, 2012). n.p.

<sup>77</sup> Whitefield, George. *The Works of the Reverend George Whitefield*. (London: Printed for Edward and Charles Dilly, 1771). p. 11.

<sup>78</sup> *Ibid.* p. 92.



Awakening.<sup>79</sup> More prolific were his printed sermons and treatises, which greatly contributed to the literature of the American Methodist Church during the Revolution and the Second Great Awakening later in the 1790s. The dignity of human nature was one of Wesley's primary concerns. He was afraid that secular rationalists had abused the term "dignity," bemoaning "How many laboured panegyrics do we now read and hear on the dignity of human nature!" Do not confuse this, however, for hatred for the term. Wesley asserted that "In the image of God man was made. Hence, we are enabled to give a clear, satisfactory account of...the dignity of man."<sup>80</sup> Sin of course complicates the matter. In short, being human implies a "baseness," but humanity still contains a "nobleness": that divine "treasure in earthen vessels" that is dignity.<sup>81</sup> With dignity comes liberty, "a power of choosing what was good, and refusing what was not so."<sup>82</sup> Liberty is a "distinct property of the soul," and it demands "self-determination" and "freedom of choice."<sup>83</sup> Certainly, permissive freedoms can lead to danger and corrode the public good. More dangerous, however, is a lack of liberty which inevitably leads to slavery, domination, and destitution.

The selected works above do not cover all the wide uses of dignity talk – some instances of dignity still refer to rank, though mostly in the case of divine beings – but, they do make up its most serious considerations. The First Great Awakening offered a refreshing take on ideas of human dignity, and aided in forging a broad consensus that all people were born with dignity, along with depravity. Whitefield, Wesley, and Edwards viewed dignity as innate and coupled with the human depravity that fomented, and now results from, original sin.

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<sup>79</sup> Heimart, Alan. *Religion and the American Mind: From the Great Awakening to the Revolution*. (Cambridge: Harvard University Press, 1966). p. 53.

<sup>80</sup> Wesley, John. *The Works of the Reverend John Wesley*. Vol. 2. (New York: Lane & Scott, 1850). p. 407.

<sup>81</sup> *Ibid.* p. 478.

<sup>82</sup> *Ibid.* p. 69.

<sup>83</sup> Wesley, John. *The Works of The Rev. John Wesley, A.M.*. Vol. 7. (London: John Mason, 1840). p. 218.

After the Awakening's end, the continent was thrust into a more fractured religious landscape than before 1740. The immediate theological successors to Jonathan Edwards, dubbed proponents of the "New Divinity," dominated Boston and grew in popularity until the Second Great Awakening. These New Divinity preachers adapted the faith to become a vehicle for rationalism. This was largely due to the influence of select moderate Enlightenment works, like Locke, and the borderline pantheistic metaphysics of Edwards, which itself was partly influenced by Locke and others' views on nature as the workmanship of God. The result was a potent tool for dignity language, utilized by the gentlest and fiercest of New Divinity ministers. Samuel Hopkins, a temperate Connecticut minister, was one of the fiercest critics of the Newport slave trade.<sup>84</sup> Nathaniel Emmons, who believed that the saved in Heaven should relish in the suffering of the damned, professed the "dignity of man" in a sermon inscribed to Benjamin Franklin, the American "patron of science."<sup>85</sup>

New Divinity was by no means the popular theology of choice. While they had won the "intellectual victory," they were opposed by Arminian, or liberal Protestant, sects and the Old Calvinists who pledged a more ready allegiance to the moderate Enlightenment than to the New Divinity or Edwards. Although little source work identifies dignity language with the liberal Protestant sects of New England and the mid-Atlantic, Old Calvinists certainly carried on the tradition, especially in American colleges and seminaries.<sup>86</sup> Even Princeton president John Witherspoon, who was scathingly critical of humans "apt to boast of the dignity of their nature," admitted that people do "have a right to *insist* upon such things as belong to the *dignity of human*

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<sup>84</sup> May, Henry F. *The Enlightenment in America*. (New York: Oxford University Press, 1976). pp. 59-60.

<sup>85</sup> Emmons, Nathaniel. *The Dignity of Man, a Discourse*. Franklin, Massachusetts, March 1, 1787. (Providence RI: Printed by Bennet Wheeler, 1787). <http://name.umdl.umich.edu/N15906.0001.001>.

<sup>86</sup> May, Henry F. *The Enlightenment in America*. (New York: Oxford University Press, 1976). pp. 60-65.

*nature.*<sup>87</sup> This includes “common rights” from respecting the bodies of the dead to advancing a government committed to liberty. Witherspoon also placed humanity’s “[superiority] in dignity to the other animals” as uniquely able to advance a “public good” thanks to its “exalted and rational nature.”<sup>88</sup> Ezra Stiles, another Old Calvinist, took a more jubilant approach to human nature. At the Revolutionary War’s end, he declared that the United States would become an empire of natural religion, “pure and sublime,” with happiness the right end of the constructed government, a testament to the “dignity of man” born “in the image of God.”<sup>89</sup>

### **The American Dignity Revolution**

The American Revolution was a resounding call to honor individual dignity. Samuel Adams, John Adams’ firebrand cousin, aptly characterized Americans’ indignities at the hands of Great Britain. No longer considered equal citizens, Americans had to reassert themselves as “co-equal in dignity and freedom.”<sup>90</sup> These claims to liberty and equality were justified with assumptions of the “dignity of human nature.” Magazines and newspapers played a powerful role in disseminating these dignity claims, especially *The Royal American Magazine* in Boston and *The Pennsylvania Magazine* in Philadelphia. The *Royal American*, for example, published a letter on an idealized “American Patriot” who embodies the “dignity of man” through his “ardent efforts” to secure the “happiness of mankind” and rejection of aristocratic titles.<sup>91</sup> John

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<sup>87</sup> Witherspoon, John. *The Works of the Rev. John Witherspoon, D.D.*. Vol. 4. (Philadelphia: Printed by William W. Woodward, 1802). p. 148.; and, Witherspoon, John. *The Works of John Witherspoon, D.D.*. Vol. 7. (Edinburgh: Printed for Ogle and Aikman, 1805). p. 148.

<sup>88</sup> Witherspoon, John, Collins, V. Lansing, ed.. *Lectures on moral philosophy*. (Princeton, N.J.: Princeton University Press, 1912).

<sup>89</sup> Stiles, Ezra. *The United States elevated to glory and honor*. Hartford, Connecticut, May 8<sup>th</sup>, 1783. <http://name.umdl.umich.edu/N14363.0001.001>.

<sup>90</sup> Adams, Samuel. *The Writings of Samuel Adams*. Vol. 1. (New York: G.P. Putnam’s Sons, 1904). p. 288.

<sup>91</sup> “The Character of the American Patriot.” *The Royal American Magazine*. Boston, February 1774; 1, 2.; American Periodicals. P. 44.

Witherspoon took the pseudonym “The Druid” when he examined the “dignity of human nature” in issues for the *Pennsylvania Magazine*.<sup>92</sup> Students likewise participated in public discourse on these dignity claims. One student speaker at Princeton, Witherspoon’s domain, argued that liberty, natural and civil, “[rests] upon the dignity of human nature” as its “foundation.”<sup>93</sup>

The wide embrace of this phraseology – “the dignity of human nature” – marks the most direct politicization of dignity language in colonial America. The rights once reserved for the monarch or the noble became the domain of the individual. If liberty and equality were building blocks for the new American political system, then dignity was the underlying cement that helped construct a plethora of fundamental rights: liberty of conscience, freedom of speech, right to privacy, and freedom from cruel and unusual punishment. The atmosphere was electric with egalitarian dreams. At the eve of the Revolution, as John Adams wrote to Richard Henry Lee, Americans saw a chance for a new, virtuous government through which “human nature...[could assert] its real dignity, pulling down tyrannies at a single exertion.”<sup>94</sup>

### **Liberty of Conscience**

One of the most attended-to rights in the American dignitarian tradition was that of the liberty of conscience, which include freedom of religion (to believe in what one thinks) and freedom of observance (to freely worship in gatherings and congregations). The 1648 Treaty of Westphalia had established the principle of *cuius regio eius religio*, “whoever’s religion it is, his [the ruler] shall the religion be,” in European polities. Tyrants in German principalities, in

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<sup>92</sup> “The Druid, No. I.” *The Pennsylvania Magazine*. Philadelphia, May 1776; 2, American Periodicals. p. 205.

<sup>93</sup> “Dialogue on Civil Liberty.” *The Pennsylvania Magazine*. Philadelphia, January 1776; 2, American Periodicals. p. 157.

<sup>94</sup> Adams, John. “To Richard Henry Lee.” November 15, 1775. <https://founders.archives.gov/documents/Adams/06-03-02-0163>.

France, and even in Britain, exerted strict and often violent control over religious activities. The same went for the early colonial United States. Religious refugees in Puritan New England often inflicted on its inhabitants the same injustices they suffered in England.<sup>95</sup> Dignity language, for its part, helped in overturning notions of sovereign authority by devolving rank-based authority to the citizenry. With individual citizens as sovereigns, liberties of conscience once afforded to the sovereign domain were granted to them. Roger Williams and William Penn provided the earliest American dignitarian rationales for this argument.

Roger Williams, a dissident Puritan minister and Rhode Island colonist who founded the First Baptist Church in America, was the earliest proponent of this conception. Writing in the 1630s and early 1640s, Williams understood the fragility of the human psyche in its yearning for recognition and growth. If tyrants imposed a state religion or ideology, the violation on individual dignity would be intolerable, an oppression Williams called “Soule rape.”<sup>96</sup> He held that all people ought to enjoy the “libertie of conscience,” from “Papists” to “the most paganish, Jewish, Turkish, or antichristian.” Such “Conscience is found in all mankinde,” and merits equal respect and consideration. This conscience, definitionally the dignity of persons, ought not be abridged either by direct persecution or by state impartiality.<sup>97</sup>

Like Williams, William Penn believed in an equal liberty of conscience for all. His reasoning, however, was more concerned with rank and status than Williams. Penn claims that all are due the “Honour of our Creation,” and that status includes “those excellent Gifts of *Understanding, Reason, Judgement, and Faith,*” generating an “*indispensable Duty,*” to the dictates of our consciences and thus to the divine. Should government invade this duty with fixed

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<sup>95</sup> Hamilton, Marci. *God vs. The Gavel*. (New York : Cambridge University Press, 2005). pp. 244-256.

<sup>96</sup> Nussbaum, Martha. *Liberty of Conscience*. (New York: Basic Books, 2008). p. 53.

<sup>97</sup> *Ibid.* p. 51-52.

doctrine or principles, these mandates would violate divine will and, more in line with dignity language, “the priviledge [sic] of Nature,” and “the Principles of common Reason.” Conscience is the fruit of creation and is “Divine Property,” so human beings cannot own other human beings, or their faiths and futures.<sup>98</sup>

Penn certainly prophesied Locke’s theory of workmanship. Locke, like Penn, argued that “[since] God is the true proprietor” human beings “cannot belong to one another.”<sup>99</sup> One’s opinions and beliefs are sacred in one’s personal quest for a life of happiness, virtue and salvation. When others demand exact conversion to their specific beliefs, such oppression drives the individual “to expire in torments.” The only appropriate method of evangelization is “faith only, and inward sincerity...that procure acceptance with God.” What follows is a policy of toleration toward various churches, where the business of the assemblies are the “salvation of their souls,” and of both lawful public worship. “The magistrate” has no rightful power to enforce the use of any specific religious rites nor compel church attendance. No amount of rank, of “dignity and excellency,” can be granted to an authority to curb such natural liberties.<sup>100</sup>

Founding Americans readily affirmed these dignitarian arguments, but many diverged from the temperaments and policies of Williams, Penn, and Locke. In his *Dissertation on the Canon and Feudal Law*, John Adams ecstatically called for the pulpits to “resound with the doctrines and sentiments of religious liberty...Let us hear the dignity of [man’s] nature, and the noble rank he holds among the works of God!” Yet, Adams also praised the 1780 Massachusetts Constitution’s provision for “the most mild and equitable establishment of religion,” which

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<sup>98</sup> Penn, William. *The Political Writings of William Penn*. (Indianapolis: Liberty Fund, 2002). <https://oll.libertyfund.org/titles/893>.

<sup>99</sup> Locke, John. *The Works of John Locke in Nine Volumes*. (London: Rivington, 1824 12<sup>th</sup> ed.). Vol. 4. <https://oll.libertyfund.org/titles/locke-the-works-of-john-locke-vol-4-economic-writings-and-two-treatises-of-government>.

<sup>100</sup> *Ibid.* Vol. 5. <https://oll.libertyfund.org/titles/locke-the-works-vol-5-four-letters-concerning-toleration>.

showed preference for Christian norms and behavior. Evidently, Adams detested clerical tyranny. He believed Massachusetts' Constitution avoided the "monkery [sic] of priests" (a put down of Roman Catholicism) and applied those principles in his *Dissertation* for all religions. Still, Adams' view of a "Publick religion" was eventually overruled by those in favor of disestablishment.<sup>101</sup>

One of the most vocal proponents of which was Thomas Jefferson. In almost every regard, except for race and gender, Jefferson abhorred rankism. In his *Observations* for an article in Diderot's *Encyclopédie*, he expressed "a due horror for the evils which flow from these distinctions in Europe only, where the dignity of man is lost in arbitrary distinctions, where the human species is classed into several stages of degradation, where the many are crushed under the weight of the few."<sup>102</sup> He applied like reasoning for religious liberty: governments must apply equal and impartial treatment to all religious sects. In his 1776 *Notes on Religion*, Jefferson elaborates on this thinking, offering that "Nothing but free argument, raillery & even ridicule will preserve the purity of religion." Toleration's end is humanity's end, in that "the care of every man's soul belongs to himself" and even in civil society, no "man has right to abandon care of his salvation to another." Where religion was to threaten the public good, however, government could reasonably step in and regulate conduct.<sup>103</sup>

In 1779, Jefferson set out to formulate a bill that erected a wall between church and state. Later, his 1787 *Notes on the State of Virginia* acknowledged his efforts emulated Pennsylvania

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<sup>101</sup> Adams, John. *The Works of John Adams, Second President of the United States: with a Life of the Author, Notes and Illustrations, by his Grandson Charles Francis Adams*. (Boston: Little, Brown, and Co., 1856). Vol. 3. <https://oll.libertyfund.org/titles/adams-the-works-of-john-adams-vol-3-autobiography-diary-notes-of-a-debate-in-the-senate-essays>.

<sup>102</sup> Jefferson, Thomas. "Jefferson's Observations on DéMeunier's Manuscript." June 22, 1786. *National Archives*. <https://founders.archives.gov/documents/Jefferson/01-10-02-0001-0005>

<sup>103</sup> Jefferson, Thomas. "Notes on Locke and Shaftesbury." October 11-December 9, 1776. *National Archives* <https://founders.archives.gov/documents/Jefferson/01-01-02-0222-0007>.

and New York in their separation of church and state <sup>104</sup> The outset of the bill revealed Jefferson's commitment to the idea of Penn's "Divine Property" and Locke's workmanship models. Jefferson contends "that Almighty God hath created the mind free, and manifested his supreme will that free it shall remain by making it altogether insusceptible of restraint." Our will is not our own, and so, "attempts to influence it by temporal punishments...[is a] departure from the plan of the holy author of our religion... *lord of both body and mind* [added for emphasis]." <sup>105</sup> To otherwise allow the state to indicate preference for a faith is utterly violative of human dignity.

This bill was written with the help of George Mason, another leading proponent of religious liberties and dignitarian. Mason, like Jefferson, ardently believed in some quality that made humanity dignified. In one 1773 essay, he criticized the "slow poison" of slavery, which "taught [us] to regard a part of our own species in the most abject and contemptible degree below us." Once we countenance such an institution, "we lose that idea of dignity of man which the hand of nature has implanted in us." <sup>106</sup> Though Mason condemned slavery, he never moved to destroy it. His dignity thinking, like Jefferson, shone in practice with rights of conscience. Mason penned Virginia's 1776 Declaration of Rights which held that "religion...and the manner of discharging it, can be directed only be reason and conviction," and that only one's "dictates of conscience" should influence its exercise. <sup>107</sup>

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<sup>104</sup> Jefferson, Thomas. *The Works of Thomas Jefferson*. (New York and London: G.P. Putnam's Sons, 1904-5). Vol. 4. <https://oll.libertyfund.org/titles/jefferson-the-works-vol-4-notes-on-virginia-ii-correspondence-1782-1786>.

<sup>105</sup> Jefferson, Thomas and Mason, George. "A Bill for Establishing Religious Freedom." June 18, 1779. *National Archives*. <https://founders.archives.gov/documents/Jefferson/01-02-02-0132-0004-0082>

<sup>106</sup> Hyland, William G. *George Mason: The Founding Father Who Gave Us the Bill of Rights*. (Washington, D.C.: Regnery History, 2019). p. 242.

<sup>107</sup> "The Virginia Declaration of Rights." 1776. *National Archives*. <https://www.archives.gov/founding-docs/virginia-declaration-of-rights>.



In that spirit, Mason supported legislation in conformity to the Virginia Bill of Rights. He helped pen acts suspending government salaries of the clergy, finally abolishing the practice by 1779. In that same year, he revised Jefferson's draft of an "Act Establishing Religious Freedom," adding further emphasis to the "tyranny" of forced religious observance.<sup>108</sup> With Mason's aid, the legislation was promulgated in 1785. Mason's efforts on the Virginia Bill of Rights and related religious liberty legislation sparked colonies-wide adoptions of bills containing almost identical language. Pennsylvania's Declaration of Rights, made weeks after Virginia's, for example, declared that "all men have a natural, and unalienable right, to worship Almighty God according to the dictates of their own conscience."<sup>109</sup> Every state, well before the adoption of the U.S. Bill of Rights, had adopted rights of conscience in solidarity.<sup>110</sup> Mason's efforts cannot be understated. Though he is no longer well known nationally, one eulogy by Theodorick Bland reminds us of Mason's commitment to dignity and its revolutionary promise: "Mason's man seems to stand erect in all the majesty of his nature, to assert the inalienable rights and equality with which he has been endowed by his Creator."<sup>111</sup>

## Freedom of Speech

Here, we must look to rankism and unique privileges in order to trace the dignitarian arguments for free speech. Before the Revolutionary War, colonial charters mentioned freedom of speech only in the context of the rights of legislators. Individual free speech was largely

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<sup>108</sup> "Act for Establishing Religious Freedom, January 16, 1786." *Library of Virginia*. <https://edu.lva.virginia.gov/dbva/items/show/180>.

<sup>109</sup> Picciani, Elizabeth. "A Transcription, History, and Analysis of the Pennsylvania Declaration of Rights and Constitution of 1776." *Journal of the Penn Manuscript Collective*. Vol. 1, Issue 1. (Fall/Winter 2017). [https://repository.upenn.edu/cgi/viewcontent.cgi?article=1008&context=manuscript\\_collective\\_journal](https://repository.upenn.edu/cgi/viewcontent.cgi?article=1008&context=manuscript_collective_journal).

<sup>110</sup> "State and Continental Origins of the Bill of Rights." *Teaching American History*. <https://teachingamericanhistory.org/resources/bor/origins-chart/>.

<sup>111</sup> Rowland, Kate Mason. *The Life of George Mason*. (New York and London: G.P. Putnam's Sons, 1892). p. 247.

ignored by the early state constitutions and declarations. The 1776 Virginia Declaration of Rights was the first document in colonial America to offer protections for speech, but even then, only for the press. The only state constitution with a clear protection of freedom of speech, before the Articles of Confederation, was Pennsylvania's. In Article XII, the 1776 Pennsylvania Constitution declares "that the people have a right to freedom of speech, and of writing, and publishing their sentiments." Only Pennsylvanian law seemed to justify broader speech protections based upon the value of individual natural rights.<sup>112</sup>

Elected officials on the floor of their respective legislative buildings, however, could argue relatively freely in order to properly represent their constituents. Parliamentary privilege, though heavily restricted, was won by the British parliament from Elizabeth I and her Stuart successors. It was only with the 1689 Bill of Rights, and its Article 9 protections of "freedom of speech, and debates or proceedings in parliament," that some semblance of individual speech protections were codified. Still, the privilege only existed for a lucky few who represented a vaster ocean of citizens.<sup>113</sup> And, the colonial United States largely followed this tradition of limited speech. The Articles of Confederation, and almost all other state constitutions, only promised "Freedom of speech and debate in Congress."<sup>114</sup>

Few early sources promoted a more liberal speech approach to founding Americans. *Cato's Letters* of 1721-1723, widely read in the colonies, offered the strongest dignitarian reasoning for universal free speech. Written anonymously by Thomas Gordon and John Trenchard, the letters show clear Lockean influence. Letter No. 15, by Gordon, argues that there

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<sup>112</sup> "Constitution of Pennsylvania – September 28, 1776." *The Avalon Project*. [https://avalon.law.yale.edu/18th\\_century/pa08.asp](https://avalon.law.yale.edu/18th_century/pa08.asp); "State and Continental Origins of the Bill of Rights." *Teaching American History*. <https://teachingamericanhistory.org/resources/bor/origins-chart/>.

<sup>113</sup> Chafetz, Josh. *Democracy's Privileged Few*. (New Haven: Yale University Press, 2007). pp. 70-75.

<sup>114</sup> "Transcript of Articles of Confederation (1777)." *Our Documents*. <https://www.ourdocuments.gov/doc.php?flash=false&doc=3&page=transcript>.

can be no such thing as “publick liberty, without freedom of speech.” Speech is the “right of every man” just as much as liberty of conscience. Perhaps influencing the prose of George Mason, Gordon advanced that “freedom of speech is the great bulwark of liberty.” Suppressing this right suppresses human nature and dignity: it “[usurps] the place of equality, which is the soul of liberty... and [degenerates minds] into all the vileness and methods of servitude.”<sup>115</sup> The dignitarian language of liberation and slavery is at full kilt in Gordon’s exhortations. To give into tyrants is to “terrify the human soul, degrades its dignity....and to make mankind...the tame slaves of raging tyrants.”<sup>116</sup>

Free speech as a limited privilege was incompatible with the Revolutionary experience and denied citizens equal dignity, at least on paper. The political environment of the Constitutional Convention and Bill of Rights debates was awash with free speech and publications on what the next American government should look like. Still, the drafters of the Constitution debated whether the enumeration of rights, let alone freedom of speech, should be included. Even some of the states who supported a Bill of Rights omitted freedom of speech, though not that of the press, in their offered convention amendments, such as New Hampshire, Massachusetts, and New York.<sup>117</sup> Yet, just as representation was about “co-equal dignity,” as Samuel Adams said, so too was the methods by which representation was made possible. At the Constitutional Convention, James Wilson, a future Supreme Court Justice, invoked the sovereignty of the people “*at this moment, [while we] speak and deliberate under their*

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<sup>115</sup> Trenchard, John and Gordon, Thomas. *Cato’s Letters, or Essays on Liberty, Civil and Religious, and Other Important Subjects*. (Indianapolis: Liberty Fund, 1995). Vol. 1. <https://oll.libertyfund.org/titles/trenchard-catos-letters-vol-1-november-5-1720-to-june-17-1721-lf-ed>.

<sup>116</sup> *Ibid.* Vol. 2. <https://oll.libertyfund.org/titles/trenchard-catos-letters-vol-2-june-24-1721-to-march-3-1722-lf-ed>.

<sup>117</sup> “Ratification of the Constitution by the State of Massachusetts; February 6, 1788.” *The Avalon Project*. [https://avalon.law.yale.edu/18th\\_century/ratma.asp](https://avalon.law.yale.edu/18th_century/ratma.asp); “Ratification of the Constitution by the State of New Hampshire; June 21, 1788.” *The Avalon Project*. [https://avalon.law.yale.edu/18th\\_century/ratnh.asp](https://avalon.law.yale.edu/18th_century/ratnh.asp); “Ratification of the Constitution by the State of New York; July 26, 1788.” *The Avalon Project*. [https://avalon.law.yale.edu/18th\\_century/ratny.asp](https://avalon.law.yale.edu/18th_century/ratny.asp).

*immediate and benign influence.*” Later in the debates over the Bill of Rights, individuals from Federalist and Anti-Federalist factions largely agreed on the substance of free speech and press, offering a number of amendments that protected “the freedom of speech, and of the press, and the right of the people to peaceably assemble and consult for their common good.”<sup>118</sup>

As Akhil Reed Amar has argued, “the First Amendment is indeed simply a textual recognition of the structural truth of American popular sovereignty” that was informed by a “rich tradition...of guaranteeing absolute freedom of speech and debate within the sovereign legislature.”<sup>119</sup> Prevailing ideas aided this transition from assumed privilege to protected right. Still, freedom of speech faced troubles after the ratification of the Bill of Rights. The most perilous challenges came from President Adams’ 1798 Sedition Act which threatened punishment against those “write, print, *utter* [emphasis added] or publish, or shall cause or procure [the same], or shall knowingly and willingly assist or aid [in the same]...with intent to defame the said government...into contempt or disrepute.”<sup>120</sup> The scope of the law is breathtaking. What’s worse is that it prohibited criticism of incumbents but allowed it against challengers. The Sedition Act, in effect, had reestablished exclusive parliamentary debate privileges.

James Madison, George Hay, and Thomas Jefferson rose against the law with a righteous, dignitarian fury. Madison was quick to pen a resolution from the Virginia General Assembly condemning the act, and warning that, by ignoring popular sovereignty, the United States would

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<sup>118</sup> Vining, Richard et al. “Subject of Amendments to the Constitution.” *U.S. House of Representatives*. July 28, 1789. <https://www.loc.gov/exhibits/creating-the-united-states/interactives/bill-of-rights/speech/enlarge5.html>.

<sup>119</sup> Amar, Akhil Reed. *The Bill of Rights: Creation and Reconstruction*. (New Haven and London: Yale University Press, 1998). p. 224.

<sup>120</sup> “Transcript of Alien and Sedition Acts (1798).” *Our Documents*. <https://www.ourdocuments.gov/doc.php?flash=false&doc=16&page=transcript>.

soon fall into an “absolute, or, at best, a mixed monarchy.”<sup>121</sup> He later made an address to the General Assembly where he made the dignity implications even clearer. By restricting free speech, the “free range of the human mind is injuriously restrained.” A “double sacrilege” is committed since “the sacred obligations of religion flow from the due exercise of opinion.” Madison also made rankism connections. The act, in effect, destroys public accountability “thus retrograding towards the exploded doctrine ‘that the administrators...are the masters.’”<sup>122</sup>

George Hay, a U.S. District Judge for the Eastern District of Virginia, and relatively unknown jurist, played an outsized role with his *Essay on the Liberty of the Press*. In the United States, Hays argues, *de facto* freedom of speech and the press had already been established. State and national governments made no laws to “control” the press, nor any distinction made “between the freedom and licentiousness of the press,” as opposed to Britain. Why did British government do this, while the United States had not? “Where privilege and monopoly form the basis of government [in Britain],” Hay advances, “in the United States, it is disgraceful.” Only aristocratic ministers seek to “act and punish...without subjecting himself to the odium of having transgressed the law.” This distinction between aristocratic privilege and democratic rights is seen again in the extension of parliamentary privilege to the citizenry, Hay points out. If freedom of speech is a natural freedom – or, natural right – then, in the United States, that privilege which enables members of the U.S. House or Senate to debate freely must be granted to all.<sup>123</sup>

Thomas Jefferson, likewise, takes an anti-rankism approach in his criticism. In a letter to Edmund Randolph, Jefferson goes so far as to lump the Sedition Act with other Federalist

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<sup>121</sup> “Virginia Resolution – Alien and Sedition Acts.” *The Avalon Project*. [https://avalon.law.yale.edu/18th\\_century/virres.asp](https://avalon.law.yale.edu/18th_century/virres.asp).

<sup>122</sup> Madison, James. *The Writings of James Madison*, ed. Gaillard Hunt. (New York: G.P. Putnam’s Sons, 1900). Vol. 6. <https://oll.libertyfund.org/titles/madison-the-writings-vol-6-1790-1802>

<sup>123</sup> Hay, George. “An Essay on the Liberty of the Press.” *Aurora Office*. 1799. <https://quod.lib.umich.edu/e/evans/N26756.0001.001?rgn=main;view=fulltext>.

objectives in violating popular sovereignty. Popular sovereignty is a force that “makes the law obligatory; it is their will which creates or annihilates the organ which is to declare & announce it.” Laws can indeed be made “by a single person, as an Emperor of Russia...or by a few persons, as the Aristocracy of Venice,” but in the United States the “old national will” has continued in the form of common law protections for states.<sup>124</sup> Jefferson was so fraught over the matter he even claimed that, should Americans allow this bill to exist, they would soon declare “that the President shall continue in office during life...[with] succession to his heirs.” Certainly, he contests, the reestablishment of the aristocracy is an aim of the “Oliverians,” the Federalists.<sup>125</sup>

These collective efforts soured public opinion on the Sedition Act, and helped propel Jefferson and the Democratic-Republicans to victory in the election of 1800. President Jefferson’s First Inaugural Address wasted no time in attributing his victory to that of a popular revolt against the Sedition Act. “During the contest of opinion,” Jefferson began, “[we have] sometimes worn an aspect which might impose on strangers unused to think freely and to speak and to write what they think.” In calling for unity, he reminded that “we have yet gained little if we countenance a political intolerance as despotic, as wicked, and capable of as bitter and bloody persecutions.” And, should the nation “wander” from such liberties as “freedom of the press,” let it use the ballot box “to regain the road which alone leads to peace, liberty, and safety.”<sup>126</sup>

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<sup>124</sup> Jefferson, Thomas. “From Thomas Jefferson to Edmund Randolph, 18 August 1799.” *National Archives*. <https://founders.archives.gov/documents/Jefferson/01-31-02-0142>.

<sup>125</sup> Jefferson, Thomas. “From Thomas Jefferson to Stevens Thomas Mason, 11 October 1798.” *National Archives*. <https://founders.archives.gov/documents/Jefferson/01-30-02-0375>.

<sup>126</sup> “Thomas Jefferson First Inaugural Address.” *The Avalon Project*. [https://avalon.law.yale.edu/19th\\_century/jefinaul.asp](https://avalon.law.yale.edu/19th_century/jefinaul.asp).

## Privacy and the “Sanctity of Home”

Where direct invocations of “dignity” were absent, Americans often complained of the “indignities” thrust upon them by the British crown. In the realm of privacy, unreasonable search and seizure perpetrated by general writs of assistance, and the quartering of soldiers were all hated practices. So much so that these dehumanizing experiences informed what could reasonably be called privacy values. Though the founding documents do not refer to an explicit privacy right, certainly the Bill of Rights provides provisions against arbitrary interference. The 3<sup>rd</sup> Amendment prohibits the quartering of soldiers without consent or unless during a time of war, the 4<sup>th</sup> Amendment affirms the “right of the people to be secure in their *persons* [emphasis added], houses, papers, and effects against unreasonable searches and seizures,” and the 5<sup>th</sup> Amendment provides against self-incrimination. Privacy is intimately linked to dignity, and in like manner to issues of conscience or speech. It is concerned with human flourishing and self-determination – even “personhood” itself. Further, privacy is an issue of worth, respect and rank, as Albert M. Bendich argues: if we are to be free, we “must not be treated as servants...not suppliants, and not beggars; but indeed rulers and choosers.”<sup>127</sup>

These privacy claims were linked to dignitarian arguments by the efforts of Advocate-General James Otis to denounce general writs. In effect, the writs allowed universal search and seizure upon suspicion of the violation of colonial laws. And, colonial Americans had to suffer the indignities of frequent “promiscuous searches.” As the historian William Cuddihy points out, most of the colonial search warrants allowed for “a general privy Search.” In the 1749 *Conductor* case, for example, the crime of a stolen sheep apparently merited the “[diligent] search [of] every suspected House and Place within your Parish, which you and the...[owner of the sheep] shall

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<sup>127</sup> Bendich, Albert M. “Privacy, Poverty, and the Constitution.” *Berkeley Law Journal*.  
<https://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=2925&context=californialawreview>.

think convenient to search.”<sup>128</sup> What made these unreasonable searches so malicious was the search itself, not just their ridiculous scope. Founding Americans were afraid that invasions of privacy were akin to violations of conscience, and therefore dignity. During the debate over the Fourth Amendment, for example, Patrick Henry feared such searches could enable the state to peer into our “most discreet recesses”; others, our “private papers” or “private concerns.”<sup>129</sup>

By the 1760s, such sentiments began to prevail. Starting in 1755, Governor Shirley of Massachusetts authorized writs of assistance to curtail smuggling. One customs officer, Charles Paxton, received a writ that allowed home searches without citing illegal acts as justification. In response, the “Society for Promoting Trade and Commerce Within the Province” brought a case against the writs before the Superior Court in the winter of 1761.<sup>130</sup> As the Society’s Counselor, James Otis took the opportunity of public court to give one of the most stirring pre-Revolutionary orations for equal rights and dignity. General writs, Otis argued, were “the worst instrument of arbitrary power.” They empowered even the lowliest of officers to be a “tyrant,” forcing the average person “to be the servants of servants, the most despicable of God’s creation.” Quite a demotion from the “dignity of human nature” Otis imagined humanity holding. It was by this dignity, an authorship by “his Maker, in the constitution of his nature and the inspiration of his understanding and his conscience” that Otis asserted a right to privacy as a natural right.<sup>131</sup> The home is, indeed, given exalted status: “A man’s house is his castle; and whilst he is quiet, he is as well guarded as a prince in his castle.”<sup>132</sup> When the sacrosanctity of the domicile was violated, Americans were uproarious.

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<sup>128</sup> Cuddihy, William J. *The Fourth Amendment: Origins and Original Meaning 602 - 1791*. (New York: Oxford University Press, 2009.) Oxford Scholarship Online, 2009. doi: 10.1093/acprof:oso/9780195367195.001.0001.

<sup>129</sup> *Ibid.*

<sup>130</sup> *Ibid.*

<sup>131</sup> Otis, James. *The Collected Political Writings of James Otis, Edited and with an Introduction by Richard Samuelson*. (Indianapolis: Liberty Fund, 2015). <https://oll.libertyfund.org/titles/collected-political-writings>.

<sup>132</sup> *Ibid.*



The forced quartering of soldiers was another such grave “indignity.” Akin to unreasonable searches and seizures, quartering violated the sanctity of the home, and therefore, individuals. Indeed, most American colonists described the conduct of British troops as “licentious and outrageous.”<sup>133</sup> In the midst of the French and Indian War, British soldiers forcibly seized colonial homes, despite the Mutiny Act preventing such nonconsensual action. Parliament’s 1765 Quartering Act did little to improve matters. While it exempted the seizure of private homes, it still required Americans to provide housing for soldiers even during times of peace. Such furnishing included barracks, inns, public homes, barns, or any structure that could house soldiers. Colonists, along with suffering the indemnities of taxes paying for billeting, had to provide food, drink, and other necessities. Worse yet, was the suppressive feeling of entertaining large standing armies. Colonists lived at the bayonet point, fearing that any independent political or legal action might result in violence. Samuel Adams worried the occupying soldiers, “may sooner or later begin to look upon themselves as the LORDS and not the SERVANTS of the people: instead of enforcing the law...they may *refuse to obey* it themselves.” It is little surprise then that when George Washington’s army liberated Boston, the contemporary historian David Ramsay wrote he had released its inhabitants from the “various indignities” they suffered from “garrison life.”<sup>134</sup>

### **The Death Penalty and “Cruel and Unusual Punishment”**

The previous three dignity developments concerned themselves with attributes or possessions of the person. Another dignitarian movement, and perhaps the most shocking to

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<sup>133</sup> Fields, William S. and Hardy, David T. “The Third Amendment and the Issue of the Maintenance of Standing Armies: A Legal History.” *The American Journal of Legal History*. Vol. 35, No. 4. (Oct. 1991). pp. 393-431.

<sup>134</sup> Ramsay, David. *The History of the American Revolution*. (Indianapolis: Liberty Fund, 1990). Vol. 1. <https://oll.libertyfund.org/titles/ramsay-the-history-of-the-american-revolution-vol-1>.

modern readers, was the founders' recalcitrance to torture and capital punishment. This is an example of how dignity ideas influenced treatment of the human body itself, rather than metaphysical appendages like conscience. At the time of the Revolution, British law followed what was called the "Bloody Code." This code prescribed the death penalty for most felony crimes, and drew enormous, "often unruly" crowds to public squares to watch the executions. Often after the executions, too, further punishment was inflicted on the "criminal corpse." In 1752, Britain's Parliament passed the Murder Act which inflicted hanging in chains or dissection on the body.<sup>135</sup> Also common, both in Britain and the colonies, were burning prisoners alive or displaying severed hands, heads and slaves' quarters (i.e. legs) in town squares. So gruesome and frequent were these punishments that at times Britain would transport excess prisoners to the colonial United States to be executed.<sup>136</sup>

The gross indignities of these inhumane punishments prompted movement in the United States towards a focus on a system of rehabilitation. This movement was assisted by the writings of the Italian philosopher and criminologist Cesare Beccaria. Beccaria's *On Crime and Punishments* was widely read in the American colonies – John Adams even gave copies of the book as gifts to his sons.<sup>137</sup> Beccaria was a student of Francis Bacon, who lauded the "dignity of man" in being able to liberate oneself with knowledge, reflection, and education. In that spirit, Beccaria envisioned a criminal justice system that embodied humanity trying to free itself from poor habit and evil deeds. Punishment, to Beccaria, ought not to "torment and afflict a sentient being, nor to undo a crime already committed."<sup>138</sup> Nor should punishments be a mere instrument

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<sup>135</sup> King, Peter and Ward, Richard. "Rethinking the Bloody Code in Eighteenth-Century Britain: Capital Punishment at the Centre and on the Periphery." *Past & Present*, Volume 228, Issue 1. August 2015.

<sup>136</sup> King, Peter. *Punishing the Criminal Corpse, 1700-1840*. (Palgrave Macmillan: London, 2017). pp. 26, 136.

<sup>137</sup> Bessler, John. *The Birth of American Law: An Italian Philosopher and the American Revolution*. (Carolina Academic Press: Durham, 2014).

<sup>138</sup> Bessler, John D. "Revisiting Beccaria's Vision: The Enlightenment, America's Death Penalty, and the Abolition Movement." *Northwestern Journal of Law & Social Policy*. Vol. 4, Issue 2. (2009). p. 223.

of the state to enforce obedience to unjust laws.<sup>139</sup> In this vein, Beccaria forcefully argued against torture and the death penalty. He believed that should he “demonstrate that the death penalty is neither useful nor necessary,” he would win “the cause of humanity.”<sup>140</sup> Progress made with capital punishment and the approval of the Eighth Amendment’s prohibition of “cruel and unusual punishment” were reflections of Beccaria’s dignitarian principles.

The founders, like Beccaria, shared his contempt for torture. Before the Bill of Rights was ratified, most state constitutions – barring New Jersey, Georgia, and North Carolina – already contained provisions against “cruel” and, or, “unusual punishments” often with torture in mind. Even during the Revolutionary War, Americans had pursued what John Adams called a “policy of humanity.”<sup>141</sup> George Washington notably refused to torture prisoners of war during the Revolution and, in a letter to Major-General Schuyler, exhorted him to “recommend to the officers and soldiers in the strongest terms to treat all the inhabitants, Canadians, English, and savages, with tenderness and respect.”<sup>142</sup> Anti-Federalists, however, were not convinced that the federal government would act with such restraint in the future. They were still well aware of the horrifying practices of the “Inquisitions,” and so to avoid the practices of “France, Spain, and Germany,” moved to include the prohibition of cruel and unusual punishments.<sup>143</sup> And, during the debates, it was clear that such a prohibition included torture. When responding to a Federalist opponent on torture, George Mason argued that explicit protections against torture were necessary: “Another clause of the bill of rights provided that no cruel and unusual punishments

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<sup>139</sup> Beccaria, Cesare. *An Essay on Crime and Punishments*. (Indianapolis: Liberty Fund, 2010). [http://files.libertyfund.org/files/2193/Beccaria\\_1476\\_EBk\\_v6.0.pdf](http://files.libertyfund.org/files/2193/Beccaria_1476_EBk_v6.0.pdf). p.

<sup>140</sup> *Ibid.* p. 197.

<sup>141</sup> Fischer, David Hackett. *Washington’s Crossing*. (Oxford University Press, 2006). p. 376.

<sup>142</sup> Washington, George. *The Writings of George Washington*. (New York and London: G.P. Putnam’s Sons, 1889). Vol. 4. <https://oll.libertyfund.org/titles/washington-the-writings-of-george-washington-vol-iv-1776>.

<sup>143</sup> Madison, James. *The Debates in the Several State Conventions*. (Washington, D.C.: Published by Taylor & Maury, 1854). p. 447.

shall be inflicted; therefore, torture was included in the prohibition.”<sup>144</sup> To violate such a prohibition, was to infringe on individual dignity.

Though most founders opposed torture, they were ambivalent on the death penalty. Most importantly, however, many of those who did support the death penalty did so with discomfort and preferred moderation, as in the case of George Washington, Charles Pickney, and Alexander Hamilton. Washington, for example, often pardoned soldiers and capital offenders. He even used his seventh State of the Union address to express his disdain for executions, an excess of which could harm “national justice, dignity, and safety [of the public].”<sup>145</sup> Opponents of the death penalty were fewer in number but extraordinarily effective in their cause. Though even enemies of execution believed it could be permitted in extreme cases, they certainly entertained its total abolition, as in the case of James Madison. Others who supported reform include those like Dr. Benjamin Rush, James Wilson, Thomas Jefferson, and John Jay.<sup>146</sup>

Of all the death penalty’s opponents, Dr. Benjamin Rush of Philadelphia was the most vocal. In his “Considerations of the Injustice and Impolicy of Punishing Murder by Death,” an article circulated in Philadelphia’s *American Museum* magazine, Dr. Rush despaired of the persisting death penalty in the United States. He implored Americans to see the “importance and destiny of every human soul,” and once seen, Americans would “acquire new ideas of the dignity of human nature, and of the infinite value of every act of benevolence that has for its object, the bodies, the souls, and the lives of our fellow-creatures.”<sup>147</sup> And, as a native Pennsylvanian, Dr.

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<sup>144</sup> Edited by Cogan, Neil H. et al. *The Complete Bill of Rights: The Drafts, Debates, Sources, and Origins*. (New York: Oxford University Press, 2015). p. 928.

<sup>145</sup> Washington, George. “December 8, 1795: Seventh Annual Message to Congress.” *University of Virginia Miller Center*. <https://millercenter.org/the-presidency/presidential-speeches/december-8-1795-seventh-annual-message-congress>.

<sup>146</sup> Bessler, John. “The Italian Enlightenment and the American Revolution: Cesare Beccaria’s Forgotten Influence on American Law.” *Journal of Public Law and Policy*. Vol. 37, Issue 1. (2016). pp. 23, 31.

<sup>147</sup> Rush, Benjamin. “Considerations on the Injustice and Impolicy of Punishing Murder by Death.” *The American Museum*. <https://quod.lib.umich.edu/cgi/t/text/text-idx?c=evans;idno=N19031.0001.001>.

Rush effectively lobbied the Pennsylvanian legislature with such reasoning. His appeals largely contributed to the passage of a 1794 reform bill that restricted the death penalty to first-degree murder. He also worked beyond the state's borders, organizing death penalty abolition efforts in New York and Louisiana, helping curtail the practice in both.<sup>148</sup>

A number of American Supreme Court Justices generally opposed the death penalty, at least its frequent application. James Wilson, a future Associate Justice of the Supreme Court, asserted in his third *Lectures on Law* that “life, and whatever is necessary for the safety of life, are the natural rights of man.” It is the duty, and often an anxious one, of “legal systems [to] spare and preserve human life.” The legal systems of Sparta, Athens, China, Rome, and Indian kingdoms, to Wilson, flagrantly treat humans as “mere *things[s]*,” like “cattle.” He even went so far as to claim that American common law, “with consistency, beautiful and undeviating, [protects] human life, from its commencement to its close.”<sup>149</sup> Though he was wrong regarding the common law's application of this value to capital punishment, he demonstrated commitment to its opposition throughout his judicial career. In one grand jury charge, Wilson claimed “that capital punishments are, in no case necessary,” later describing such “sanguinary laws” as a dangerous “political mistemper.”<sup>150</sup> John Jay, America's first Chief Justice of the Supreme Court, shared Wilson's distaste for executions, especially brutal ones like “racks, embowelling, drawing, quartering, burning, and the like.”<sup>151</sup> To Jay, these were “inhuman” practices. Though he would support executions for the most serious of offenses, particularly murder, his efforts at

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<sup>148</sup> Bessler, John D. “Revisiting Beccaria's Vision: The Enlightenment, America's Death Penalty, and the Abolition Movement.” *Northwestern Journal of Law & Social Policy*. Volume 4, Issue 2. 2009. pp. 209-213, 232-233.

<sup>149</sup> Wilson, James. *Collected Works of James Wilson*. (Indianapolis: Liberty Fund, 2007). Vol. 2. <https://oll.libertyfund.org/titles/wilson-collected-works-of-james-wilson-vol-2>.

<sup>150</sup> *Ibid.* Vol. 1. <https://oll.libertyfund.org/titles/wilson-collected-works-of-james-wilson-vol-1>.

<sup>151</sup> Jay, John. *The Correspondence and Public Papers of John Jay*. (New York: G.P. Putnam's Sons, 1890-93). Vol. 3. <https://oll.libertyfund.org/titles/jay-the-correspondence-and-public-papers-of-john-jay-vol-3-1782-1793>.

reform included helping construct New York's first penitentiary to alleviate the suffering of those waiting for death in confinement pens.<sup>152</sup>

Thomas Jefferson was also generally hostile to the death penalty. In a letter to Dr. Rush, he believed that executions only lessened “the horror of taking away human life,” and actually “[multiplied] murders.”<sup>153</sup> He practiced his belief of an unalienable right to life with multiple penal reform attempts in Virginia. Drafts of his reforms excluded the death penalty for all crimes except murder and in the military, even declaring that states “have no power to pass any law inflicting death for any crime, [except for the above cases].” In the same bill he opposed “torture in any case whatsoever.”<sup>154</sup> Though the same bills included grotesque punishments for crimes like rape or sodomy – e.g. castration, boring of holes through nose cartilage – they were considered progress as the death penalty had been removed from such crimes. As in the case of Pennsylvania and Dr. Rush, Virginia failed to pass reform until 1821.<sup>155</sup>

### **Co-Equal in Dignity and Rights?**

Individual dignitarianism emerged as a profound force for revolutionary social change in colonial America. While British philosophers and Protestant theologians provided an intellectual foundation for politicizing dignity talk, Americans from Edwards to Jefferson re-invented dignitarian demands for the American political project. Dignitarian thought recognized a dual human depravity and material and political needs, departing from the Stoics view of an inward dignity. And, to many observers, Edwards' millenarian prophecy of the United States seemed to

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<sup>152</sup> Bessler, John. “The Italian Enlightenment and the American Revolution: Cesare Beccaria’s Forgotten Influence on American Law.” *Journal of Public Law and Policy*. Vol. 37, Issue 1. (2016). pp. 152-55.

<sup>153</sup> Bessler, John D. *Cruel & Unusual: The American Death Penalty and the Founders’ Eight Amendment*. p. 74.

<sup>154</sup> *Ibid.* p. 141.

<sup>155</sup> *Ibid.* p. 149.

come true. Samuel Adams' exhortation for "co-equal dignity and freedom" embodied efforts to secure religious liberties and separation of church and state, to go further in promising free speech, to ensure personal privacy and protect the "sanctity of the home," and to overturn the Bloody Codes, prohibit "cruel and unusual punishment," and whittle away at, or hopefully abolish, the death penalty. These changes were nothing short of a revolution. Indeed, individual dignitarianism would help form the seedbed for future generations of human rights claims, from the labor movement to women's rights and to civil rights.

These "natural" rights were nestled in universal claims to the "dignity of human nature," based on the grant of nature, reason and conscience, divine origin, or, simply, on shared humanity. Yet, for all the universal implications of this dignity, founding Americans belied this new egalitarianism with grim assumptions about white supremacy, the inferiority of women, and an obsession with property ownership. They denied the protection of rights to those considered outside of the core political group. Thomas Jefferson, seemingly the most prolific dignitarian, owned slaves despite his stated hatred of the institution, and insisted women should have no share in active political life. James Wilson believed union outweighed the moral cost of slavery, and supported the three-fifths compromise at the Constitutional Convention. Even Dr. Benjamin Rush supported segregating women from institutions of male education. Pernicious behavior sometimes merited a fall from dignity. John Adams preached human dignity with revolutionary zeal, but in opposition to those who spoke out against the government, supported the Alien & Sedition Acts in the name of "national dignity." This "national dignity," a collection of all our individual dignities into one group, one political community, one United States, may rest on the same premises as that of individual human dignity, but it prescribes different political medicines. National dignitarianism and its influence is the subject of the next chapter.

## Chapter Two

# Our Source of National Purpose

National dignitarianism is an affirmation of the individual in communion with her fellow citizens. Logically, respect for individual and collective dignity demands opposition to the tyranny of the many, the few, and the one; sensitivity to and tolerance of pluralism; and, constant effort to fulfill the promise of human life. Variation should be expected, and welcomed, in the polity's quest to satisfy these most rigorous of requirements. Indeed, a national dignitarian would align pluralism and tolerance with the national interest.

Often, though tragically not always, national dignity ideas followed the teachings of the Moderate Enlightenment and reconciled the seemingly disparate elements of liberalism and republicanism, nationalism and democracy, and the state and individual to impressive degrees. Just as individuals are expected to respect each other's rights, in the context of a national dignity, the citizen and state both share duties. National dignity can only be enhanced through the state's respect of the individual and their rights. Citizens, meanwhile, have entered into a compact of shared political equality, together committed to the community's survival. Empathy, virtue, and comradery are imperative for a flourishing republican polity and morally required in order to meet the dignity demands of fellow citizenship.

The politics of President John F. Kennedy best embody the modern expression of national dignitarian thought. Government as service to the citizen was at the core of Kennedy's



address accepting the Liberal Party's nomination for president in 1960. It was a landmark document for dignitarian thinking: "I believe in human dignity as the source of national purpose." Government's responsibility is commitment to citizens' welfare – "their health, their housing, their school, their jobs, their civil rights, and their civil liberties" – through "social invention, with political skill, and executive vigor." Assuredly, Kennedy believed in no "super state," but knew government provision of genuine public goods that aid dignity is a "precious obligation" to its citizens. The commitment to dignity is not predicated on a "fixed platform," but is "an attitude of mind and heart."<sup>156</sup> Kennedy's speech highlighted government's responsibility to its citizens. His inaugural address, however, is perhaps best known for pointing to the reciprocal nature of national dignitarianism. By tasking Americans, "ask not what your country can do for you – ask, what you can do for your country," Kennedy points to the duties citizens have to each other and the nation.<sup>157</sup>

Founding national dignitarians anticipated the wishes and appeals of Kennedy. "Vigor" and "zeal for firmness and efficiency" in a government, Hamilton argued, is the "safest course for your liberty, your dignity, and your happiness."<sup>158</sup> The North Star of government must be the common good. There are also shared duties to laws as a mode of respecting equal dignity. "If one free man, an original sovereign, may [be bound to follow the law]," James Wilson questions, "why not an aggregate of free men, a collection of original sovereigns, do all this likewise? If the dignity of each singly is undiminished; the dignity of all jointly must be unimpaired."<sup>159</sup> Properly cultivated, national dignity builds upon itself as a tool for national identity and spirit. John

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<sup>156</sup> Kennedy, John F. "Address of John F. Kennedy Upon Accepting the Liberal Party Nomination for President." *John F. Kennedy Presidential Library and Museum*. New York City, New York. September 14, 1960.

<sup>157</sup> "Transcript of President John F. Kennedy's Inaugural Address (1961)," *Our Documents*. <https://www.ourdocuments.gov/doc.php?flash=false&doc=91&page=transcript>.

<sup>158</sup> Hamilton, Alexander et al. *The Federalist*. (New York: The Modern Library). pp. 5-6.

<sup>159</sup> *Chisholm v. Georgia*, 2 U.S. 419 (1793).

Adams makes this clear: “We may call this national vanity or national pride, but it is the main principle of the national sense of its dignity, and a passion in human nature, without which nations cannot preserve the character of man.”<sup>160</sup> Government must inculcate trust through action, by upholding the dignity of its citizens at home and abroad. Americans must feel able to hold their heads up high in the company of other Americans and other nations. Founding national dignitarians sought to cultivate national dignity through respectability amongst nations, and through virtuous government to protect rights and promote the common good. At its best, national dignitarianism was a constructive tool to forge a new nation built from solidarity, fellow citizenship, and institutions that valued and recognized human worth.

Oftentimes, however, that impulse to secure “national dignity” proved more destructive than constructive. For those outside of the accepted political group, national dignity often subsumed claims to individual human dignity. The quest for respect abroad frequently drove founding Americans to morally dubious acts, from Adams’ Alien and Sedition Acts to unequal treatment of diplomatic partners to aggressive expansionism into Native American territory. Indeed, most founders thought of Native American land as simply *terra nullius*, unoccupied, uncivilized and untilled, therefore ripe for the taking.<sup>161</sup> This “doctrine of discovery” and the aggression that followed denied sovereignty and dignity to millions of Native American men, women, and children across the continent. At home, rankism lured founders into false invocations of dignity to suppress the vote, curtail freedoms of speech and the press, and justify the oppression of women and people of color. This chapter will explore these contradictory contours that founding Americans navigated in their mission of national purpose.

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<sup>160</sup> Adams, John. “From John Adams to the President of Congress, 5 September 1783.” *National Archives*. <https://founders.archives.gov/documents/Adams/06-15-02-0116>.

<sup>161</sup> Frymer, Paul. *Building an American Empire: The Era of Territorial and Political Expansion*. (Princeton and Oxford: Princeton University Press, 2017). pp. 105, 111-113.

## National Dignity and Republicanism

National dignity's first and greatest influence is republicanism. Republican theory was, itself, heavily informed by Aristotelian politics and Renaissance humanism. At republicanism's heart is the notion of *vivere civile*, "to live as citizens," whereby the polity exists as a "perfect partnership of all citizens and all values."<sup>162</sup> Pica della Mirandola's 1486 *Oration on the Dignity of Man* offers further insight into the nature of this partnership. Humanity's dignity is not based on reason, or some unmerited "rank" in the world of creation. Our dignity is expressed socially. It comes from our share "in the particular endowment of every other creature," molded in the image of God and in communion with each other.<sup>163</sup> As J.G.A. Pocock rightly points out, this reasoning shares commonalities with the idea of *agape*, the "love of God for man and of man for God," and Aristotle's *philia*, "brotherly love."<sup>164</sup> Extreme individualism – where we see human beings as isolated or singular units – prohibits thinking of political and community relationships. Indeed, it defeats the reason for being human.

This is where dignitarianism meets republicanism. It is also a radical departure from liberal views of a political community. Instead of a necessary collection of self-interested denizens, begrudgingly compromising for corporal safety, republicanism endorses a value-oriented citizenship. Following Aristotle, citizenship becomes a vocation, a "universality of participation" and action wherein the needs of the individual and of the greater good can be fulfilled.<sup>165</sup> Aristotle makes it clear, however, that there are citizens who can participate and those who are *qua* citizens, living in the polity but not part of the political process. But

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<sup>162</sup> Pocock, J.G.A. *The Machiavellian Moment*. (Princeton and Oxford: Princeton University Press, 1975). p. 75.

<sup>163</sup> Mirandola, Pica della. *Oration on the Dignity of Man*. <http://bactra.org/Mirandola/>.

<sup>164</sup> Pocock, J.G.A. *The Machiavellian Moment*. (Princeton and Oxford: Princeton University Press, 1975). p. 99.

<sup>165</sup> *Ibid.* pp. 99-100.

republicans, in the dignitarian lens, cannot be *de jure* homogenous by race, class, gender, religion or interest. Although ideas of the citizen as property-owner polluted this framework, founding dignitarians, especially James Madison and Alexander Hamilton, promoted an expansive republic devoted to individual and a national dignity as the surest mode of protecting liberty and the common good.

### **The Rebirth of Classical Republicanism**

The story of national dignity in America begins with the rebirth of the republican tradition in Renaissance Florence. The city itself has a rich mythology. As J.G.A. Pocock writes, Renaissance humanists branded Florence as the cradle for ancient republicanism, claiming the city to be once home to “Etruscan city republics” and later the foundation of the Roman republic.<sup>166</sup> If the city should be credited as the locus for Renaissance republican thought, it should also be recognized as the site where humanists revived the Stoic formulation of dignity and transformed it with the aid of *imago Dei* language to campaign for self-governance and human flourishing. The republicanism of Italian city states, to be clear, was not some cosmopolitan force to promote open borders or freedom everywhere. Instead, it helped open the door to more liberal, communitarian ideas that would shape future English republicans and the American founding generation.

The scholar and poet Francesco Petrarca (anglicized as Petrarch), Coluccio Salutati, the long-time secretary of state of Republican Florence, and his pupil Leonardi Bruni, were the leaders in the reconstruction of Cynic-Stoic dignity. They innovated dignity language to be concerned with human material needs and progress versus arbitrary rank. In his later work *De*

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<sup>166</sup> *Ibid.* p. 60.

*remediis*, “On Remedies,” for example, Petrarch is forcefully anti-rank: “A father may love and make rich, but he cannot make noble...the invisible rays of glory shine not out nor are transmitted by the power of mortal direction.”<sup>167</sup> Like the Stoics and theologians of antiquity, Petrarch supported a human dignity based on *imago Dei* theology.<sup>168</sup> That condition, however, isn’t enough for a flourishing life or community. That endeavor is the work not only of individuals but of nations. Salutati agreed. Dignity is an “excellence of [moral] goodness,” he argues, “which from the beginning has been common to us [all]” – in other words, dignity is “common sense.”<sup>169</sup> Tyranny violates dignity; indeed it violates common sense. Since humanity is bound by divine law, natural law, and our own civic bonds, governments must endeavor not just to show “favor to those who ask it...[but to] those who do not ask.” That is, it is the state’s duty to take care of all of its citizens, especially its weakest. And, the best government for that purpose is a republic governed by the rule of law. Should a tyrant take power, it is the citizenry’s duty to oppose him or her.<sup>170</sup>

Leonardo Bruni carried on Salutati’s work as Chancellor of Florence and chief advocate of civic republicanism in 1410. In his panegyric speech “Praise for the City of Florence,” he claimed Florentines are well invested by their Roman heritage. Florence, Bruni recounts, was born in the “struggle of tyranny” against the Caesars, Neroes, and Tiberiuses who destroyed the “liberty, honour, and dignity of the Roman people.” In shows of Italian and republican solidarity, not cosmopolitanism, Bruni argued Florence has historically “taken up the cause of other cities,

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<sup>167</sup> Mrs. Dobson. *Petrarch’s View of Human Life*. (London: Printed for John Stockdalb, 1741).

[https://archive.org/stream/petrarchsviewhu00petrgoog/petrarchsviewhu00petrgoog\\_djvu.txt](https://archive.org/stream/petrarchsviewhu00petrgoog/petrarchsviewhu00petrgoog_djvu.txt).

<sup>168</sup> Trinkaus, Charles. *In Our Image and Likeness: Humanity and Divinity in Italian Humanist Thought*. (Notre Dame: University of Notre Dame Press, 2017). pp. 179-180.

<sup>169</sup> Horowitz, Maryanne Cline. *Seeds of Virtue and Knowledge*. (Princeton: Princeton University Press, 1998). p. 122.

<sup>170</sup> Emerton, Ephraim. *Humanism and Tyranny: Studies in the Italian Trecento*. (Cambridge: Harvard University Press, 1925).

and shielded them from attack;...[fighting] for the liberty of all Italy.” Bruni also prided Florence on its domestic political system. A system of checks and balances maintained Florentine freedom, he argued, keeping the magistracies, officials, and judiciary in check. Most importantly, the Florentine constitution promoted a “sense of equity” and maintained “equal rank.” Even the poorest of citizens could say, “I also am a Florentine citizen.”<sup>171</sup>

### **The Radical Whigs, Republics, and Utopias**

The tumultuous English Civil Wars of the mid-17<sup>th</sup> century and the oppressive dictatorship of Oliver Cromwell gave birth to a new generation of republicans in England. The greatest proponents of republicanism and dignitarianism were John Milton, the 17<sup>th</sup> century poet and political pamphleteer, the contemporary political theorist James Harrington, and Algernon Sidney, a British Member of Parliament during the Long Parliament. Milton, Harrington, and Sidney’s republicanism were strongly influenced by the Florentine republicans, and are largely complementary with each other: they charted a broader polity filled with varying interests, opposed to hierarchy, and united by patriotic affection. This vision of a republic was a national *paideia*, whereby citizens would come together to become “virtuous, noble and high spirited” through seeking truth and the common good.<sup>172</sup> Theirs was, in Aristotelian terms, a government of the “many” not the “few,” committed to public welfare and individual flourishing.

Milton’s work reveals a stark commitment to individual liberty and autonomy as well as reverence for human dignity. His writings on the relationship of the individual and communities to the state provide us with a “reflection of seventeenth-century republicanism” which Supreme

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<sup>171</sup> Bruni, Leonardo. “Laudatio Florentinae Urbis or Panegyric to the City of Florence.” *University of York*. <https://www.york.ac.uk/teaching/history/pjpg/bruni.pdf>.

<sup>172</sup> Beer, Samuel. *To Make a Nation: The Rediscovery of American Federalism*. (Cambridge: Harvard University Press, 1998). p. 83.

Court Justice Holmes called “the theory of our Constitution.”<sup>173</sup> His 1649 pamphlet on the “Tenure of Kings and Magistrates” in particular offers an illumining gaze into his merging of dignity and republicanism. Republican citizens truly “love freedom heartily,” and must strive to govern themselves according to reason and virtue. To submit to a “double tyranny” of custom and blind affections to some monarch makes them “slaves within doors.” People are born naturally free, “being the image and resemblance of God himself, and were, by privilege above all the creatures born to command.”<sup>174</sup> Even with the Fall, this means that government, by the demands of human nature, must be participatory. As Samuel Beer rightly argues, Milton makes this leap by fashioning liberty of conscience as a “social necessity.”<sup>175</sup> Individuals and society are interdependent, striving to discover truth.

The result is a “national republic” committed to the public good and open deliberation.<sup>176</sup> The polity embraces pluralism by way of social diversity, though Milton never writes on the issue of race and citizenship. His love of England and the English people is certain. To Milton, an English nation has a “quick, ingenious, and piercing spirit” that can reach “the highest that human capacity can soar to.”<sup>177</sup> It is not, at least on paper, a nation based on race or class. Samuel Beer again puts it best: the republic’s “differences drew it together in the collateral intercourse and interdependence of self-government.”<sup>178</sup> Sadly, the hopes of Milton were quickly dashed by the rise of Oliver Cromwell. The new Commonwealth government was decisively

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<sup>173</sup> *Ibid.* p. 67.

<sup>174</sup> Milton, John. *The Prose Works of John Milton*. (Philadelphia: John W. Moore, 1847). Vol. 1. <https://oll.libertyfund.org/titles/milton-the-prose-works-of-john-milton-vol-1>.

<sup>175</sup> Beer, Samuel. *To Make a Nation: The Rediscovery of American Federalism*. (Cambridge: Harvard University Press, 1998). pp. 74-75.

<sup>176</sup> *Ibid.* p. 82.

<sup>177</sup> Milton, John. *The Prose Works of John Milton*. (Philadelphia: John W. Moore, 1847). Vol. 1. <https://oll.libertyfund.org/titles/milton-the-prose-works-of-john-milton-vol-1>.

<sup>178</sup> Beer, Samuel. *To Make a Nation: The Rediscovery of American Federalism*. (Cambridge: Harvard University Press, 1998). p. 83.

illiberal and largely anti-republican thanks to Cromwell's virtual dictatorship. Still, the radical Whigs persisted in their advocacy.

James Harrington next picked up the republican torch. Harrington's life was marred by tragedy and upheaval. He was rumored to have witnessed King Charles II's execution; struggled to publish his works under the yoke of Cromwell's regime; and, was falsely imprisoned in 1661 after the Restoration. Before his imprisonment, however, Harrington published *The Commonwealth of Oceana* in 1656. Like More's *Utopia*, Harrington's *Oceana* is another in a line of works envisioning a utopian republic. Harrington doesn't use the term "dignity" like Milton, but dignity ideas are present. Government, to Harrington, is "no other than the soul of a nation or city," based on the souls of its occupants, or rather their individual dignity. The resulting system is a commonwealth of liberty that is "an empire of laws, and not of men," a phrase which lent itself to John Adams' *Thoughts on Government*: "[T]he true idea of a republic is 'an empire of laws, and not of men.'"<sup>179</sup>

And so, Harrington and Adam's vision of the rule of law is totally grounded in the dignity of the human person. Just as critical for respecting the dignity of our personhood is the ability of a sovereign, free people to rule themselves and hold governors accountable. In contemplating authority, and whence it derives, Harrington rejects dignity as rank: "And says Solomon, There is an evil which I have seen under the sun, which procedes [sic] from the ruler...Folly is set in great dignity [as rank] and the rich." Human beings, he poetically argues, have "wander'd the earth to find out the balance of power," on which we may base legitimate

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<sup>179</sup> Harrington, James. *The Oceana and Other Works of James Harrington, with an Account of His Life* by John Toland. (London: Becket and Cadell, 1771). <https://oll.libertyfund.org/titles/harrington-the-oceana-and-other-works>; Adams, John. *The Works of John Adams, Second President of the United States: with a Life of the Author, Notes and Illustrations, by his Grandson Charles Francis Adams*. (Boston: Little, Brown and Co., 1856). <https://oll.libertyfund.org/titles/adams-the-works-of-john-adams-vol-4>.



governments. How amazing that it had always been a power found in ourselves, “nearer Heaven, or to the image of God, which is the soul of man.”<sup>180</sup>

Algernon Sidney’s republicanism was decidedly more radical than that of Harrington or Milton, especially for his reasoning on the basis of human dignity. Sidney refused to believe that “God hath created man in such a state of misery and slavery” his detractors believed they had been. Sidney employed theology to argue that since God created humanity in in natural liberty, people have like right over their creation: “Governments...are created by man. They who give a being to them, cannot but have a right of regulating, limiting and directing them as best pleaseth themselves.” Human flourishing is absolutely essential in Sidney’s vision of republicanism, and innate in the “publick good.”<sup>181</sup> Sidney makes it clear that achieving the public good should not betray the natural equality with which human beings are born. He opposes placing the rights of the virtuous above the common citizen, even if it is self-evident that the most virtuous should be elected to positions of power. It is issue of the process of inclusive deliberation as definitional to the public good that makes Sidney a republican dignitarian. Milton believed universal free speech and freedom of conscience could draw societies closer to universal truths; Harrington seeks the rule of law and accountability by recognizing the preciousness of individual dignity; while Sidney identifies the common good “first with justice,” where the “laws...make no distinction of persons.” The “equality of the citizen,” for Sidney, is the prime virtue of republican government.<sup>182</sup>

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<sup>180</sup> Harrington, James. *The Oceana and Other Works of James Harrington, with an Account of His Life by John Toland*. (London: Becket and Cadell, 1771). <https://oll.libertyfund.org/titles/harrington-the-oceana-and-other-works>.

<sup>181</sup> Algernon, Sidney. *Discourses Concerning Government*. (Indianapolis: Liberty Fund, 1996). <https://oll.libertyfund.org/titles/sidney-discourses-concerning-government>.

<sup>182</sup> *Ibid.*

## The Commonwealthmen Theory of Republics

The dignitarian republicanism of Sidney, Harrington, and Milton and other radical Whigs were carried on by the “Commonwealth Men” in early 18<sup>th</sup> century Britain. The Commonwealth Men were propelled to the fore of British political debate thanks to the republican ideals affirmed by the Glorious Revolution in 1688. While their efforts at reform failed to gain traction in Britain, they proved hugely influential in the colonial United States. Commonwealth theories of republicanism departed from older radical Whigs by emphasizing the Roman Republic as the best expression of self-governance. Walter Moyle, an early associate of Trenchard and prolific classicist, was especially notable for this contribution. His *Essay upon the Roman Government* perceived marked parallels between English and Roman political developments. He argues that true constitutions contained a “proper distribution into several branches,” operating as a whole, but with “each branch [as] a check upon the other.”<sup>183</sup> From Salutati and Bruni, to Milton, and on to Moyle, we see more concrete visions of dignitarian republicanism emerge; but, still, like his predecessors, Moyle bases his convictions on a similar theological metaphysics. He identifies that *imago Dei* ideas were present in all of “civilized” history: “the best Philosophers form an Idea o’ him by his *Wondrous Works*,” that of women and men.<sup>184</sup> Further, Moyle obsessed over human flourishing. The ideal mode of life is the “Image of Humane Life,” best achieved in a free state that cultivated “courage, liberty, and equality.”<sup>185</sup> These realities, he argues, were molded into the law of Republican Rome, supported by liberty of conscience, naturalization of foreigners, and a clergy who abstained from tithes and banal demonstrations of power.<sup>186</sup>

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<sup>183</sup> Moyle, Walter. *Democracy Vindicated, An Essay on the Constitution & Government of the Roman State*. (Norwich: Printed and Sold by J. March, 1796). [https://www.constitution.org/moyle/con\\_rom.htm](https://www.constitution.org/moyle/con_rom.htm).

<sup>184</sup> Moyle, Walter. “Miscellaneous Letters and Essays, on Several Subjects.” 1694. <https://quod.lib.umich.edu/e/eebo/A42746.0001.001/1:4?rgn=div1:view=fulltext>.

<sup>185</sup> *Ibid.*; Robbins, Caroline. *The Eighteenth-Century Commonwealthman*. (Indianapolis: Liberty Fund, 2004). p. 107.

<sup>186</sup> *Ibid.* p. 106.

John Trenchard and Thomas Gordon shared Moyle's disdain for absolutism, but went even further with their opposition to all forms of monarchy, even diluted versions in mixed systems. Quoting Sidney in *Cato's Letters*, "Liberty cannot be preserved if the manners of the people are corrupted; nor absolute monarchy introduced." Then, going further in their criticism of monarchy, they argued that all men "naturally follows that which is good," this is common sense, and any form of monarchy corrupts these natures with vices and injustices.<sup>187</sup> A natural accomplice to this corruption of human nature is a complicit clergy. When tyranny enjoins itself to the clergy, it "degrades" the "dignity [of the human soul]" by promoting "superstition... delusive phantoms, and ridiculous dreams." Arguing for toleration, Gordon and Trenchard invoke a spirit of solidarity in the name of the common good. Gordon best articulated this as a "publick spirit," that embodies not just the "love of one's country," but a "passion to promote universal good, with personal pain, loss and peril: It is one man's care for many, and the concern of every man for all." This is opposed to the trappings of "wealth and empire." The public spirit not only demands that we, as citizens, act in service to one another, but that we fervently oppose a society of "one complexion, of one size, and of one age...of the same mind."<sup>188</sup>

Gordon and Trenchard's call to pluralism and union must be weighed against considerations of *who* could join their union. They praise free Protestant countries, but are quick to despise Catholics and despair of the tyrannies in Asia and Africa. This contrast is made in the starkest language: "We are men, and they are slaves."<sup>189</sup> Undoubtedly, they were warning tyranny was dehumanizing to both the ruler and the ruled, but this kind of talk was likely

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<sup>187</sup> Gordon, Thomas, and Trenchard, John. *Cato's Letters, or Essays on Liberty, Civil and Religious, and Other Important Subjects*. (Indianapolis: Liberty Fund, 1995). Vol. 1. <https://oll.libertyfund.org/titles/trenchard-catos-letters-4-vols-in-2-1f-ed>.

<sup>188</sup> *Ibid.* Vol. 2. <https://oll.libertyfund.org/titles/trenchard-catos-letters-vol-2-june-24-1721-to-march-3-1722-1f-ed>.

<sup>189</sup> *Ibid.*

deleterious to their hopes of spreading republicanism. If “they” are slaves, they being applied to all Asians and Africans, and the loss of liberty a difficult to recover thanks to the staying power of absolutism, then it isn’t difficult to conclude that they also believed white Protestant Anglo-Saxons were best suited to the cause of liberty. We should not apply this mode of thinking to all commonwealthmen, however. Others, particularly Richard Molesworth and John Toland, were much more evidently open to naturalization.<sup>190</sup> As Molesworth wrote, a “Genuine Whig is for promoting a general Naturalization upon the firm Belief, that whoever comes to be incorporated into us, feels his Share of all our Advantages and Disadvantages,” that all could take part in the public spirit.<sup>191</sup> Toland, an Irish nationalist, was an enthusiastic student of John Milton – authoring one of the first biographies of Milton – and drew inspiration from Jewish theology, ancient Druids, pantheism, Christianity and the classics. Along with being a staunch republican, he argued that the Irish should have self-governance and that Jews ought to be naturalized and share in equal rights. And, exposed as he was to Catholicism in his youth, he largely restrained from vilifying other Catholics (though he certainly joined in bashing Popery).<sup>192</sup>

Those Florentine republicans, radical Whigs and Commonwealthmen who advocated for liberty and equality for all found themselves committed to an expansive republicanism grounded in the reality of the dignity of the human person. This dignity demands recognition and respect – and, allows for reason, virtuous passions, and solidarity. Though biases, racisms, and other antagonisms obfuscated the path towards true liberty and equality, their work prompted the discovery and cultivation of the public spirit through the exaltation of the basic goodness of the

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<sup>190</sup> Robbins, Caroline. *The Eighteenth-Century Commonwealthman*. (Indianapolis: Liberty Fund, 2004). pp. 113-114.

<sup>191</sup> Molesworth, Robert. “The Principles of a Real Whig (1705).” (Indianapolis: Liberty Fund, 2011). <https://oll.libertyfund.org/pages/realwhig>.

<sup>192</sup> Robbins, Caroline. *The Eighteenth-Century Commonwealthman*. (Indianapolis: Liberty Fund, 2004). pp. 51,114, 125-128.

human mind and spirit. This recognition of a common-sense moralism lent itself to the political language, laws, rights, and institutions at the heart of the American founding and efforts at forming a more perfect Union. Americans now had the chance to, in the words of historian David Ramsay, “assert the dignity of human nature, and the capacity of mankind for self-government.”<sup>193</sup>

### **The Spirit of American National Dignity**

The role of the Union – of a national federal republic – was both emotional and rational, drawing Americans together in a profound sense of spirit. As the historian Paul C. Nagel argued in *One Nation Indivisible*, the Union as “Spirit” reconciled the contrary elements of the Enlightenment and Romanticism, emblematic of developments in the Moderate Enlightenment. This spirit was most strongly influenced by the calls to citizenship from founders like James Wilson and George Washington. For Wilson, the Union would embody collective dignity, the “very life and soul,” by being a “Union of hearts and affections.” Federalists and Anti-Federalists, particularly of the Jeffersonian persuasion, alike shared this conviction.<sup>194</sup>

The American Revolution and Founding was an endeavor to establish a new course. The quest for national dignity fostered a new sense of nationality and patriotism. National dignitarians like James Wilson, James Madison, and others, were tasked with constructing a republic designed to function in a world still occupied by tyrants and monarchs. The revolutionary break from reactionary thinking was no easy feat. Progress towards Union was perilous and laden with uncertainty. And, the Founders obviously failed at a great many things:

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<sup>193</sup> Ramsay, David. *The History of the American Revolution*. 1789. (Indianapolis: Liberty Fund 1990). Vol. 2. <https://oll.libertyfund.org/titles/547>.

<sup>194</sup> Nagel, Paul C. *One Nation Indivisible*. (New York: Oxford University Press, 1964). pp. 69-75.

John Adams regressed in trying to assign the President regal titles and in passing the Alien and Sedition Acts; Benjamin Franklin's "self-help" mantra confused charity and social aid with dependence; competition for land as an "expansive republic" translated into colonialism more often than pluralism; and the cruelties of slavery blighted hopes for equality.

These shortcomings highlight a second source of national dignitarian thought, aside from republicanism. That is the corrupting allure of empire, a staggeringly dehumanizing form of politics that is antithetical to individual dignity and bolstered by rankisms and racisms of all kind. The United States was founded in a period where monarchs and aristocrats and other fanatical authoritarians still dominated most peoples. It must be emphasized that this was a period of transition. In moving to a national dignity that prioritized the human worth of its citizens, founding Americans often grafted rank-based dignity claims to its politics, laws, and institutions. With little credibility or capital, Americans had to earn recognition and respect from European powers despite those nations' aversion to republican values. While trying to maintain their status as a different kind of nation, founding Americans still often emulated the imperial attitudes of Europeans. National dignity, thus, was also weaponized as an expression of dignity as rank, clashing with the individual dignity claims that provided the foundation for rights talk in the United States. The results were usually self-defeating, if not catastrophic.

The most conspicuous instance of this was John Adams' campaign for lofty presidential titles. As Washington's Vice President, Adams formed a "Titles Committee" that proposed presidential titles such as "Excellency," "Elective Highness," and even "His Highness!"<sup>195</sup> Most Americans scoffed at the endeavor. Jefferson remarked it was the "most superlatively ridiculous

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<sup>195</sup> Hutson, James H. "John Adams' Title Campaign." *The New England Quarterly*. Vol. 41, No. 1. (March 1968). pp. 32-33.

thing I ever heard of.”<sup>196</sup> Adams’ campaign failed, buckled by accusations of monarchical ambition. Still, for all their failures, racisms, classism, misogyny, and more, most founders still recognized the “dignity of human nature.” The United States’ aims to cultivate its citizens at home and secure respect abroad were complex in methods and goals, often confusing the “common good” with empire and titles – temptations the old republicans warned against. Dignity considerations seeped into almost every institutional decision, from the American system of federalism to political economy, and from civil rights at home to diplomacy abroad.

### **First Principles: Virtue and the Common Good**

Before we can discuss institutional adaptations of national dignity ideas, we must, like with the old republicans, consider how the American founders viewed virtue and the common good – or, terms like the “common interest,” “public interest,” and “national interest.” That the founders were preoccupied with virtue is an understatement. Their embrace of virtue ethics are often overlooked, especially in classical liberal readings of founding texts. For example, many scholars tend to focus on James Madison’s view of a depraved humanity or ambition as the driving force in politics. Alone, none of those views quite work, especially in wider consideration of Madison’s life and writings. While Madison comes to conflicting conclusions on virtue and ambition in the *Federalist* Nos. 51, 55, and 57, Madison firmly claims that the Constitution depends on virtue “[to a] higher degree than any other form of government.” There is an immense trust placed on the citizen to be virtuous, and to select virtuous leaders.

What exactly, however, makes a citizen virtuous? If there was serious dissension between the founders, it was on the emphasis of the best virtue or virtues. One of the earliest formulations

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<sup>196</sup> *Ibid.* p. 30.

is located in Benjamin Franklin's 1726 personal *Autobiography*, where Franklin created an extensive table of thirteen virtues including: temperance, silence, order, resolution, frugality, industry, sincerity, justice, moderation, cleanliness, tranquility, chastity, and humility. And, Franklin makes it clear that in his formulation "there was...no mark of any of the distinguishing tenets of any particular sect." Through habituation of these virtues, all can achieve the life so necessary for the public good of the nation. Indeed, Franklin envisioned a "United Party for Virtue" consisting of "good men of all nations" rather than a homogenous body of "common people."<sup>197</sup> James Madison's "Virginia Declaration of Rights" enshrines "justice, moderation, temperance [and] frugality" as prime virtues.<sup>198</sup> What Madison continues to emphasize in his writings, however, is that these virtues are far more prevalent amongst the American general public that commonly understood. His theory is of "popular virtue": that due to human dignity and common sense, the masses can usually select their representatives well.<sup>199</sup> Indeed, this is the whole point of representative government. Without virtuous public servants, the republic is threatened by corruption. In the *Federalist No. 57*, Madison makes this clear when he states that the "aim of every political constitution is, or ought to be, first to obtain for rulers men who possess most wisdom to discern, and most virtue to pursue, the common good of society."<sup>200</sup>

Even with virtuous rulers, what does this "common good" look like? Life, liberty, equality, and human happiness are certainly paradigmatic goals. Madison offers some further

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<sup>197</sup> Franklin, Benjamin. *The Works of Benjamin Franklin, including the Private as well as the Official and Scientific Correspondence, together with the Unmutilated and Correct Version of the Autobiography*. (New York: G.P. Putnam's Sons, 1904). The Federal Edition. Vol. 1. <https://oll.libertyfund.org/titles/franklin-the-works-of-benjamin-franklin-vol-i-autobiography-letters-and-misc-writings-1725-1734>.

<sup>198</sup> "The Virginia Declaration of Rights." *National Archives*. <https://www.archives.gov/founding-docs/virginia-declaration-of-rights>.

<sup>199</sup> Bauer, John R. "Merit and popular virtue in the political thought of James Madison, 1783-1788." *The Social Science Journal*. Vol. 28, Issue 1. (1991). pp. 15-19.

<sup>200</sup> Hamilton, Alexander; Jay, John; and, Madison, James. *The Federalist Papers*. (New York: Signet Classic, 2003). No. 57. p. 348.



insights in the *Federalist*. The “common interest” is fulfilled by providing for a defense against “foreign danger,” both by being able to raise an army and construct “forts, magazines, arsenals, dock yards” and other buildings, keeping the peace between the states, safeguarding commerce and trade, and promoting “the progress of science and useful arts” via copyright laws.<sup>201</sup> Though this is not an exhaustive list, Madison’s emphasis is that the republican government is not “a narrow district” but must be employed towards a “more enlarged plan of policy.”<sup>202</sup> Achieving the common good must also entail protecting “the rights of other citizens...[or] of the community” against faction.<sup>203</sup> Madison’s prescription for combatting faction is an expansive republic. Pluralism in views and backgrounds necessitates Madison’s “compound republic” by engendering “a coalition of a majority...on [principles] of justice and the general good.”<sup>204</sup>

The process for attaining this “general good” is not all that different from that of Harrington or Sidney. Madison emphasizes both a democratic process and cultivating virtue in public officials to achieve it. “Who are to be the electors of the federal representatives?” Madison writes, “Not the rich, more than the poor; not the learned, more than the ignorant...the electors are the great body of the people of the United States.” Nowhere in the U.S. House of Representatives is it meant that the “few” be elevated “to the ruins of the many.” The structure of the House, most importantly, curtails oppression by forming a “communion of interests” with the people.<sup>205</sup> Madison’s intention behind the Senate speaks to concerns of individual virtue more than communal wisdom. A senator, Madison argues, must have a “greater extent of information and stability of character.”<sup>206</sup> Government often has a deficiency in fidelity to the happiness of

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<sup>201</sup> *Ibid.* No. 14 and No.43. pp. 94, 268-269.

<sup>202</sup> *Ibid.* No. 46. p. 293.

<sup>203</sup> *Ibid.* No. 10. p. 75.

<sup>204</sup> *Ibid.* No. 51. pp. 320-322.

<sup>205</sup> *Ibid.* No. 57. pp. 348-350.

<sup>206</sup> *Ibid.* No. 62. p. 374.

the people and, or, the knowledge to govern. In order to fulfill the common interest, the Senate supplies both where one might be lacking. Further, while Madison had argued in *Federalist* No. 63 that the role of the Senate is to check “the people against their own temporary errors and delusions, at the Constitutional Convention he opposed state legislative selection of senators.<sup>207</sup> He shifted towards more democratic processes later in life.<sup>208</sup>

Nor was James Wilson’s conception of the common good much different from his ally, James Madison. The object remains human happiness, but the purpose of that happiness is greater than enjoyment or mutual self-interest. Quoting Cicero in his *Lectures on Law*: “There is nothing more certain, than the excellent maxim of Plato – that we are not intended solely for ourselves; but that our friends and our country claim a portion of our birth.” We contribute to the dignity of each other, and thus, the community and nation. Exaltations of the “excellency of man is chiefly discerned in [these] great improvements,” lends to progress and “love and friendship,” each its own reward. This is Wilson’s vision of national dignity. He agrees with Madison that the new constitution is best suited for that aim. In all its functions, it engenders “private affection [to be] consistent with the greatest interest of the system,” and where social affection, our common bonds of love, friendship, and patriotism, work for the benefit of ourselves.<sup>209</sup>

Dignity is also the basis for Hamilton’s common good in his *The Farmer Refuted*. “The sacred rights of mankind,” Hamilton writes, “are written, as with a sun beam, in the whole *volume* of human nature, by the hand of divinity itself.” This is a moving account of dignity. Those societies that seek the common good model themselves off of this dignity. When the “first

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<sup>207</sup> *Ibid.* No. 63. p. 382.;

<sup>208</sup> Bauer, John R. “Merit and popular virtue in the political thought of James Madison, 1783-1788.” *The Social Science Journal*. Vol. 28, Issue 1. (1991). pp. 25-26.

<sup>209</sup> Wilson, James. *Collected Works of James Wilson*. (Indianapolis: Liberty Fund, 2007). Vol. 1. <https://oll.libertyfund.org/titles/wilson-collected-works-of-james-wilson-vol-1>.

principles” of a nation are violated, the “rights of a whole people” are violated, and vice versa. Hamilton refutes the precepts of “Mr. Hobbs,” that there is no virtue only restraint by strong government. Endowed with “rational faculties,” with dignity, we come to together voluntarily to cultivate that preciousness and protect ourselves.<sup>210</sup>

### **A New Nation and the Work of Federalism**

Deliberations over the common good often were over how to achieve that good. National dignitarians like Wilson had lofty visions for the nation. True communion, the achievement of mutual love, progress, and national greatness, could be achieved through the democratic process and national sentiment. This does not exclude the role of states, it welcomes them. The steps towards federalism were not solely due to the fact that the American colonies were already individual sovereignties, or had sought the “federal option” in the 1760s as a method to repair relations with Great Britain as Samuel Beer points out.<sup>211</sup> The federal choice was long in the making, having roots in the republicanism of the radical Whigs in the 18<sup>th</sup> century, and centered on the issue of dignity for individuals and the community.

States are not just ex-colonies, or compacts of chagrin forged thanks to human failings. A state, Wilson argues in his *Lectures on Law*, is “a complete body of free persons, united together for their common benefit...It is an artificial person.”<sup>212</sup> It has feelings, hopes and aspirations; interests and duties; and, it has rights. It should be emphasized that Wilson was a centralizer. He often took issue with the obsession over states. In *Chisholm v. Georgia*, for example, he remarks

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<sup>210</sup> Hamilton, Alexander. “The Farmer Refuted, &C. (1775).” *National Archives*. <https://founders.archives.gov/documents/Hamilton/01-01-02-0057>.

<sup>211</sup> Beer, Samuel. *To Make a Nation: The Rediscovery of American Federalism*. (Cambridge: Harvard University Press, 1998). pp. 177-180.

<sup>212</sup> Wilson, James. *Collected Works of James Wilson*. . (Indianapolis: Liberty Fund, 2007). Vol. 1. <https://oll.libertyfund.org/titles/2072>.

that a toast to the “United States” rather than the “People of the United states” is not “politically correct.” Still, this is belied by claims that states are “the noblest work of Man” – a linguistic style akin to *imago Dei* or Locke’s workmanship model. For Wilson, the United States represents a scale of “personages,” of concentric levels of dignities. There are individual persons, states, and then the national union. Again, though, there are limits to state authority. In those overlapping personages, he notes that a state is an artificial intermediary between the individual and the nation; indeed, while the Articles of Confederacy dealt only with states, he argues that the new national constitution is a compact with individual citizens, transcending the “controversies between states.” Firmly stated, “Whoever considers...the general texture of the Constitution will be satisfied that the people of the United states intended to form themselves into a nation for national purposes.”<sup>213</sup>

In application, Wilson is arguing that state governments must not conflict with the individual rights of citizens nor the national purpose and guarantees of the Constitution. States certainly have meaning; they are an expression of self-governance and autonomy. But, this new compact generated a new set of dignity demands between the individual and the nation, forming a new national dignity. Wilson’s 1787 “State House Yard Speech” in favor of the new Constitution highlights these positive dignity demands. Most of these targeted defects in the Articles of Confederation. For example, Wilson claimed that the “dignity and safety of [a man’s] country” depends on a “military force” under the control of a central authority. The power of direct taxation, too, was necessary to support both “national safety...[and] the dignity of the union.” In losing “national dignity,” the United States would be unable to form treaties or enforce their adherence. In remarks to the Pennsylvania legislature on the issue of ratification of

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<sup>213</sup> Chisholm v. Georgia, 2 U.S. 419 (1793).

the new constitution, Wilson is clear: “By adopting this system, we become a *nation*; at present, we are not one.”

This was especially the concern of Alexander Hamilton. For Hamilton, dissension amongst the states – the “revolt...of North Carolina...disturbances in Pennsylvania, and the actual insurrections and rebellions in Massachusetts” – were a critical threat to the “national dignity” thanks to the federal government’s ineptitude, particularly its inability to tax or secure lines of credit. The very existence of a national republic, Hamilton argues, would work against those feelings of enmity, “[adding] the inducements of philosophy to those of patriotism” and deterring all “considerations not connected with the public good.”<sup>214</sup> Though Hamilton in the same essay invokes the teachings of Montesquieu in identifying the “remedy” for quarreling states, his and Madison’s prescriptions are not totally in line with Montesquieu’s teachings. Montesquieu’s conservatism limits his ideal republic to one with contracted territory and homogeneity, otherwise, he argues, it “cannot long subsist.” In large republics, men would be driven more by ambition than virtue or “moderation,” leading to quests for glory rather than adhering to the common good. Anti-Federalists were quick to adopt this reasoning. “That a national government will add to [our] dignity....can admit of no doubt; that it is requisite in order to keep us at peace among ourselves, is doubtful.” Erosions to governorships and state legislatures, “good and wholesome institutions,” would sully demands of “self-government” resulting in a national government by “force only.”<sup>215</sup>

For Federalists, the dangers of a shambling confederacy without a strong, centralizing nationalism far outweighed the potential downsides. In the *Federalist* No. 7, Hamilton warns his

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<sup>214</sup> Hamilton, Alexander; Jay, John; and, Madison, James. *The Federalist Papers*. (New York: Signet Classic, 2003). No. 1. p. 27.

<sup>215</sup> *The Essential Antifederalist*. Edited by W.B. Allen and Gordon Lloyd. (New York: Rowman & Littlefield Publishers, 2003). Maryland Farmer No. 3. p. 124.

contemporaries that the sources of internal strife are many, and, under the current government, the salves few. Hostilities could arise from territorial disputes; different states could employ different forms of government, harming individual liberties; and, worse yet, the “dismemberment of the Confederacy” could invite destruction from Europe. Madison agreed: “How much has the national dignity...suffered from this cause?” A startling lack of uniformity between states not only wasted resources and efforts towards security, but also invited the “perverseness of particular States.” In essence, confederacy invited faction. Thus, what was required was a large, national republic in order to preserve individual and collective dignity. States remained a useful tool for self-governance, even a moral one. Wilson saw that, even though he admitted obsession with states’ rights could invoke faction, the “spirit of locality” derided by Madison and Hamilton could be a constructive force for good.

### **A New Diplomacy and the Pursuit for Respect**

American foreign policy in the new republic aimed squarely at the concerns raised by those concerned with the national dignity. National dignity demanded that the country command respect abroad in order to safeguard liberty. These considerations seeped into most major events in early American foreign policy, especially in the aftermath of the Revolutionary War and in souring relations with Britain and France in the 1790s. Oftentimes, the dignity of the nation was invoked as a proxy for proper civilization or for national grandeur; slights against American respectability incurred deep antipathy; and, national dignity concerns were usually linked to the survival of the United States itself. George Washington, aware of the precarious state of the union, wrote to Henry Lee that “In our endeavors to establish a new government, the contest...seems to not have been so much for glory as existence.” Indeed, Washington feared the

United States could lose its “federal dignity” and become the “wretched fragments of empire.”<sup>216</sup> This fear was universally shared. In contemplating a potential British acquisition of Florida, New Orleans, or other Spanish territories, for example, Alexander Hamilton—a fierce supporter of closer ties with Great Britain—resolved that “proper attention to national dignity” would demand America “make war.”<sup>217</sup> The demands of national dignity frequently cut across factionalism and political ideology.

American diplomacy during the Revolutionary War provides excellent examples of the primacy of national dignitarian thought. American ministers and diplomats made pains to demand equal reciprocity and equity in partnerships. The Model Treaty, drafted by committee in the Continental Congress, and largely by John Adams, was a template for these demands. It first took life in the Treaty of Amity and Commerce between France. The preamble to the Treaty emphasizes an “equitable” system of rules for both powers to follow, and a most “perfect Equality and Reciprocity” in order to avoid “debate, embarrassment and discontent.” The language is excruciatingly delicate. While a “universal Peace” is declared between the nations, neither free trade nor military interventions are explicitly agreed to.<sup>218</sup> Still, it is notable that France was insistent on formal declarations of equality and reciprocity as well. Gravier de Vergennes, Louis XVI’s foreign minister, requested such assurances from Franklin and the Congress.<sup>219</sup> So delicate, however, were these negotiations that the Continental Congress, at Benjamin Franklin’s request, stripped John Adams of diplomatic authority after multiple

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<sup>216</sup> George Washington, *The Writings of George Washington*. (New York and London: G. P. Putnam’s Sons, 1890). Vol. XI. <https://oll.libertyfund.org/titles/washington-the-writings-of-george-washington-vol-xi-1785-1790/simple>.

<sup>217</sup> Hamilton, Alexander. *The Works of Alexander Hamilton*. (New York: G.P. Putnam’s Sons, 1904). Vol. 4. <https://oll.libertyfund.org/titles/hamilton-the-works-of-alexander-hamilton-federal-edition-vol-4>.

<sup>218</sup> “Treaty of Amity and Commerce Between The United States and France; February 6, 1778.” *The Avalon Project*. [https://avalon.law.yale.edu/18th\\_century/fr1788-1.asp](https://avalon.law.yale.edu/18th_century/fr1788-1.asp).

<sup>219</sup> De Vergennes, Gravier; and Franklin, Benjamin. “Exchange of Notes Referring to Articles 2 and 3 of the Treaty of Amity and Commerce with France of February 6, 1778.” *The Avalon Project, Yale University*. [https://avalon.law.yale.edu/18th\\_century/fr-1784.asp](https://avalon.law.yale.edu/18th_century/fr-1784.asp).

arguments with de Vergennes so Adams could not be “injurious to [the] national dignity.”<sup>220</sup>

These episodes underscore the necessity of France’s acknowledgement of the United States as a legitimate nation, and speaks to international respectability as valuable currency amongst nations.

Still, while stated equality and reciprocity remained integral components of the Model Treaties in the Revolutionary and Early Republican periods, these statements only had limited staying power. In comments for the American peace commissioners in Paris, the Continental Congress made it clear that while it was in the interest of the nation for the commissioners (i.e. Franklin, Adams, John Jay, and Henry Laurens) to consult France throughout the peace conference, such a pledge was still humiliating despite our former treaties. “Mr. Madison grants that the instructions given are a sacrifice of national dignity,” the report reads, “But it was a sacrifice of dignity to policy.” There was profuse debate over whether this attachment to France damaged the national image. If Americans attempted to negotiate peace without the French, “[would] it repair our loss of dignity in the eyes of the nations of Europe?” Would Americans seem unable to control their own affairs, and “veer about on a change of circumstances” making an American promise worthless?<sup>221</sup>

There remained degrees of enmity towards the French government despite their assistance during the war, and their invaluable recognition of American legitimacy. Still, American diplomacy maintained its national dignitarian character. The Treaty of Amity and Commerce with Prussia contained identical language to the prior treaty with France.<sup>222</sup> The

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<sup>220</sup> “The Revolutionary Diplomatic Correspondence of the United States: Congressional action on engagements with France.” *Library of Congress*. Vol. 5. [https://memory.loc.gov/cgi-bin/query/D?hlaw:7:/temp/~ammem\\_3nkG:](https://memory.loc.gov/cgi-bin/query/D?hlaw:7:/temp/~ammem_3nkG:).

<sup>221</sup> Continental Congress of the United States. “Comments on Instructions to Peace Commissioners, August 8, 1782.” *National Archives*. <https://founders.archives.gov/documents/Madison/01-05-02-0012>.

<sup>222</sup> “A Treaty of Amity and Commerce between His Majesty the King of Prussia, and the United States of America; May 17, 1786.” *The Avalon Project*. [https://avalon.law.yale.edu/18th\\_century/prus1785.asp](https://avalon.law.yale.edu/18th_century/prus1785.asp).



major deviations from this formula were the Barbary Treaties and the Treaty with Morocco in 1786. Instead of using terms like “equality,” oddly, the first article stipulates reciprocal “civility, honor, and respect.” Odder still, is the total lack of communiques of equity or reciprocity in the Tripoli Treaty of Peace and Friendship or its Tunis counterpart in 1797. Why Americans should pursue a different course with North African states over European states is confounding.

Perhaps, unfortunately, while founding diplomats were keen to get whatever treaty assurances they could, they were not willing to state that Morocco or the Barbary States were at all equal.

Whether the United States, prior to 1787, could actually maintain their diplomatic promises was still a gaping question. Hamilton and Madison’s essays in the *Federalist* argued that only a national republic could assuage national dignitarian concerns. “How can [the United States] possess...respectability abroad?,” Hamilton questions, “How can its administration be anything else than a succession of expedients...?”<sup>223</sup> Though diplomacy in the confederate period went relatively unscathed, Hamilton’s fear that internal strife could communicate a schizophrenic foreign policy was not unreasonable. Madison echoes Hamilton’s concern of intertwining domestic and foreign politics: “Those who represent the dignity of their country in the eyes of other nations, was will be particularly sensible to...dishonorable stagnation in public affairs.”<sup>224</sup>

Ironically, the most controversial treaty came after the adoption of the new constitution. If any particular treaty ever raised the ire of nationalist Americans, or caused as much disunion in the Founding Era, it was Jay’s Treaty. Signed in 1794, Jay’s Treaty was designed to quell tensions with Great Britain, especially in the northwestern territory. John Jay and Alexander

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<sup>223</sup> Hamilton, Alexander; Jay, John; and, Madison, James. *The Federalist Papers*. (New York: Signet Classic, 2003). No. 30. pp. 187,

<sup>224</sup> *Ibid.* No. 58. p. 357.

Hamilton, both avowed national dignitarians, were the key architects behind the treaty that most thought gave away too much for too little. A number of issues in particular angered Madisonians and Jeffersonians, the soon to be Democratic-Republicans. First, the treaty was perceived as an alignment with Great Britain and a repudiation of revolutionary France. One prominent Democratic-Republican, Alexander J. Dallas, later James Madison's Treasury Secretary, penned that the treaty was an "Instrument of Party," and ought not to have been adopted "for the sake of our national dignity."<sup>225</sup> The Pennsylvania Democratic Society, fond of newly republican France, argued that "our interest as well as our national dignity" required the United States to stand by its friendship with France, else it would risk being drawn into a "painful career of humiliation."<sup>226</sup> And, in a letter from James Monroe to James Madison, Monroe complained that "Upon this application [John Jay] was greatly wounded upon the score of national dignity."<sup>227</sup>

Different interpretations of how to honor the national dignity drove competing visions of America's role in the world: alignment with Britain with a mind towards commerce, or, alliance with revolutionary France to proclaim the virtue of republicanism abroad. The events of the 1790s soured both options. Jay's Treaty angered Democratic-Republicans, especially as British impressment of American merchants continued, while revolutionary bloodshed in France and XYZ Affair stoked the ire of Federalists and a good number of Democrats. President John Adams invoked the wrath of Anglophiles like Alexander Hamilton for pursuing Washington's policy of neutrality after the XYZ affair. In a scathing letter, Hamilton voiced doubts over Adams' "intellectual endowments" and accused him of having an "unfortunate character."

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<sup>225</sup> Dallas, Alexander James. "Features of Mr. Jay's treaty. To which is annexed a view of the commerce of the United States, as it stands at present, and as it is fixed by Mr. Jay's treaty." <https://quod.lib.umich.edu/cgi/t/text/text-idx?c=evans;cc=evans;view=text;idno=N21681.0001.001;rgn=div2;node=N21681.0001.001:4.4>.

<sup>226</sup> Hollitz, John. *Contending Voices, Volume I: To 1877*. (New York: Cengage Learning, 2016). p. 104.

<sup>227</sup> Monroe, James. "To James Madison From James Monroe; June 13, 1795." *National Archives*. <https://founders.archives.gov/documents/Madison/01-16-02-0017>.

Adams, Hamilton resolved, was foolish for allowing the national dignity to endure “mortifying humiliations” without reparations.<sup>228</sup>

Regardless, Washington, Adams, and Jefferson vowed to keep America unentangled from the politics of European alliances. Washington feared “our dignity may be lost,” should the House and Senate refuse to approve his “general rules” towards France and Britain.<sup>229</sup> His policies did little to allay the situation. By 1795, Washington believed a conflict was almost inevitable. Writing to Patrick Henry, he reasserted his intentions were aligned with the “dignity” of the country by trying to “comply strictly with *all* our engagements, foreign and domestic,” but conceded a “crisis is approaching.”<sup>230</sup> Before leaving office, Washington warned Americans away from an alliance even with impending war. His last address aptly speaks to national dignitarian concerns: “That every citizen would take pride in the name of an American...the dignity of which will be absorbed...if we enlist ourselves...under the banner of any other nation whatsoever.” Unfortunately, these same sentiments would be invoked by President Madison and fellow Democratic-Republicans in declaring war on Great Britain in June of 1812. That national dignity could be employed to both justify war and pursue strict neutrality speaks to the precarious power of nationalism, both as a tool to construct a polity and generate unity and as a weapon for domestic politics and unthinking brutality.

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<sup>228</sup> Hamilton, Alexander. “Letter from Alexander Hamilton, Concerning the Public Conduct and Character of John Adams, [October 24, 1800].” *National Archives*. <https://founders.archives.gov/documents/Hamilton/01-25-02-0110-0002>.

<sup>229</sup> Washington, George. *The Writings of George Washington*. (New York and London: G.P. Putnam’s Sons, 1890). Vol. 12. <https://oll.libertyfund.org/titles/washington-the-writings-of-george-washington-vol-xii-1790-1794>.

<sup>230</sup> Washington, George. “From George Washington to Patrick Henry, 9 October 1795.” *National Archives*. <https://founders.archives.gov/documents/Washington/05-19-02-0024>.

## A New Economy and Manifest Destiny

Efforts to secure respect from other nations abroad also lent itself to the endeavor of national expansion at home. No better expression of this mission exists than John L. O’Sullivan’s 1839 article, “The Great Nation of Futurity.” Channeling the spirit of the Declaration, O’Sullivan envisioned a nation based on “human equality” that cultivated natural rights in “national life.” For O’Sullivan, expansion into the west promised the “moral dignity” of humanity and the creation of a “nation of human progress.”<sup>231</sup> As a Democrat, however, O’Sullivan was a supporter of slavery. His words fall on deaf ears today, but for young nationalists in the Age of Jackson his words lent moral fervor to calls for “manifest destiny.” In many ways, O’Sullivan’s call for expansion was just an echo of the perversion of national dignity claims already expounded by founding Americans. Though national dignitarianism endorses an expansive republic rooted in diverse creeds and origins, liberal visions of citizenship tied with property only encouraged expansion across the continent. The concept of land as integral to citizenship was as widely accepted as deeply rooted in republicanism. This interpretation came about primarily as a rejection of feudalism. Whigs like Harrington argued against nobility’s ownership of most land, and vociferously for property rights. If landlords or nobles held a monopoly on property, then the polity was of a “Gothic balance,” or feudalistic. If “the whole people be landlords,” the result is a “commonwealth” republic.<sup>232</sup>

Most founding Americans heartily agreed. Joseph Blasi and Richard Freeman’s 2014 book *The Citizen’s Share* makes it abundantly clear that, contrary to common arguments, the

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<sup>231</sup> O’Sullivan, John L. “John L. O’Sullivan on *Manifest Destiny*, 1839.” <https://www.mtholyoke.edu/acad/intrel/osulliva.htm>.

<sup>232</sup> James Harrington, *The Oceana and Other Works of James Harrington, with an Account of His Life by John Toland*. (London: Becket and Cadell, 1771). <https://oll.libertyfund.org/titles/harrington-the-oceana-and-other-works>.

founders were acutely aware of inequality.<sup>233</sup> Thomas Paine, whose *Common Sense* stirred the nation towards revolution, claimed classism – the “distinctions of rich and poor” – and inequality was a consequence of oppression and avarice in monarchies.<sup>234</sup> In a letter to Madison, Jefferson lamented that “the property of this country is absolutely concentrated in a very few hands,” and though conceding total equality of property was “impracticable,” the results of “enormous inequality” is the “misery” of humanity. The “small landholders,” he argued, are precious to the republic. Founders of the Federalist persuasion also agreed. Madison hoped the United States would become a country with the “universal hope of acquiring property.” In a letter on immigration, George Washington looked westward for solutions. The “great plenty of unoccupied [sic] lands” beyond Ohio would be a boon to the settlers who would promote the “wellfare of...[the] community.” Echoing national dignitarian concerns, Washington registered disdain for “European Publications” who characterized North American as ugly or harsh. Once surveys are carried out and the lands settled, Washington surmised, surely Europeans will “[respect] the private Life of the Americans; as well as the progress...in their Country.”<sup>235</sup>

Unwilling to use the new government to redistribute property, founding Americans looked west towards lands occupied by the Native Americans. At first, federal officials and laws aimed to treat Native Americans with the same rules and respect afforded to other nations. And, as the United States sought its own respect abroad, reciprocity at home aligned with goals to be a new kind of nation. In 1788, the last Confederation Congress reasserted the Treaty of Hopewell to chastise settlers from illegally occupying Cherokee land. Henry Knox, later Washington’s

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<sup>233</sup> Blasi, Joseph; Freeman, Richard; and, Kruse, Douglas L. *The Citizen’s Share*. (New Haven and London: Yale University Press, 2013). pp. 1-9, 16-17.

<sup>234</sup> Paine, Thomas. *The Writings of Thomas Paine*. (New York: G.P. Putnam’s Sons, 1894). Vol. 1. <https://oll.libertyfund.org/pages/1776-paine-common-sense-pamphlet>.

<sup>235</sup> Washington, George. “From George Washington to Richard Henderson, June 19, 1788.” *National Archives*. <https://founders.archives.gov/documents/Washington/04-06-02-0304>.

Secretary of War, lauded this effort as an “indispensable obligation” of the United States to uphold Native Americans’ “national dignity.”<sup>236</sup> Further, he claimed that acquiring the Indian lands by means other than purchase was a “violation of the fundamental laws of nature, and of the distributive justice which is the glory of a nation.”<sup>237</sup> Other arguments were more obviously self-interested. Winthrop Sargent, a prominent Federalist and Mississippi Territory governor, argued that “the [American] national dignity [was] interested in most amply affording” Native Americans due respect.<sup>238</sup>

Like with the War of 1812, however, the national dignity was often invoked as a *casus belli* in times of strife. When Creek and Cherokee tribes attacked encroaching American settlers, the national dignity was invoked by Knox in pressing for a violent response. “The national dignity and justice,” he wrote to Washington, “require the arms of the Union should be called forth in order to chastise the Creek nation of Indians.” Furthermore, the reputation of the United States demanded that missionaries and the “administration of Indian affairs” be undertaken by the federal government in order to convince Native Americans to submit to the “will of the United States.”<sup>239</sup> After brief conflict in 1789-1790, the Treaty of New York was signed at the urging of Benjamin Hawkins, Washington’s General Superintendent for Indian Affairs. Hawkins appealed to McGillivray, the Creek leader, to consider peace but warned him that excessive demands would be rejected as affronts to “national Dignity and Justice.”<sup>240</sup> While the treaty

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<sup>236</sup> Knox, Henry. “To George Washington from Henry Knox, July 7, 1789.” *National Archives*. <https://founders.archives.gov/documents/Washington/05-03-02-0068#GEWN-05-03-02-0068-fn-0003>.

<sup>237</sup> Banner, Stuart. *How the Indians Lost Their Land: Law and Power on the Frontier*. (Cambridge: Harvard University Press, 2005). p. 132.

<sup>238</sup> Harding, Bethany. “‘Breaking Up, and Moving Westward’: The Search for Identity in Post-Colonial America, 1787-1828.” *Marquette University*. Dissertations. Paper 502. (2009). [https://publications.marquette.edu/cgi/viewcontent.cgi?article=1476&context=dissertations\\_mu](https://publications.marquette.edu/cgi/viewcontent.cgi?article=1476&context=dissertations_mu).

<sup>239</sup> Knox, Henry. “To George Washington from Henry Knox, 7 July 1789.” *National Archives*. <https://founders.archives.gov/documents/Washington/05-03-02-0067>.

<sup>240</sup> Knox, Henry. “To George Washington from Henry Knox, 15 February 1790.” *National Archives*. <https://founders.archives.gov/documents/Washington/05-05-02-0085>.

recognized the Creeks as a “nation,” it certainly did not establish “equality” or “reciprocity,” evident in prohibiting the Creeks from punishing non-Indian crimes within their borders.<sup>241</sup>

Soon after the Treaty of New York, acknowledgement of the Native Americans as legitimate national actors rapidly evaporated. By the mid-19<sup>th</sup> century, the United States wholly ostracized the Native Americans as not just a nation, but as inhuman. They denied their basic human dignity, seen in the Indian Commissioner Francis Walker’s reprehensible remark in 1872: “There is no question of national dignity...involved in the treatment of savages by a civilized power.”<sup>242</sup> Dreams of empire triumphed over the dignitarian ideals of the Moderate Enlightenment. Sales contracts and foreign treaties with European powers provided legal workarounds to Native American claims of sovereignty.

The 1803 Louisiana Purchase kicked off this development. Then Minister to France, Robert Livingston, communicated to Talleyrand the “pressing nature” of acquiring the Louisiana territory. He was concerned that Spain’s hostility – stemming in part from their support of Creek territorial claims – would stoke the “just sense of national independence and national dignity” of western settlers towards violence.<sup>243</sup> The new territory was already inhabited by Native Americans, but the treaty served to justify a pre-arranged contract with a legitimate foreign power. Native American tribes in the region were not consulted. The following decades saw multitudes of Supreme Court cases that formalized this denationalization and dehumanization of the Native Americans.

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<sup>241</sup> “Treaty With the Creeks: 1790.” *The Avalon Project*. [https://avalon.law.yale.edu/18th\\_century/cre1790.asp](https://avalon.law.yale.edu/18th_century/cre1790.asp).

<sup>242</sup> Walker, Francis. *The Indian Question*. 1874. <https://quod.lib.umich.edu/m/moa/ACK1342.0001.001?rgn=main;view=fulltext>.

<sup>243</sup> Parsons, Edward Alexander. “The Letters of Robert R. Livingston.” *The American Antiquarian Society*. <https://www.americanantiquarian.org/proceedings/44807068.pdf>.

One such case originated in a corrupt sales contract in Georgia. The Yazoo Land Act of 1795 from the Georgia legislature parceled the Yazoo land – most of Alabama and Mississippi – into four sections, selling them for \$500,000. Later, it was revealed that the passage of the act was contingent on bribes by speculators. This scandal not only pushed Washington to reconsider state authority in making arrangements with Native American tribes, but also resulted in the 1810 landmark Supreme Court case *Fletcher v. Peck*. Chief Justice Marshall penned the majority opinion, ruling that the contract was legitimate despite the legislature’s illegal conduct. In a concurring opinion, Justice Johnson went further. He argued that the Indian nation is not truly a nation: “some have totally extinguished their national fire...[others] hold their national existence at the will of the State within which they reside.”<sup>244</sup> No longer did they have absolute claim to their land, since they were no longer a nation.

While founding Americans pursued national dignity for the new republic and its citizenship, they refused to grant like status to the Native Americans. This is one of the great tragedies of national dignity ideas. Though dignitarian language has long emphasized universal brotherhood and sisterhood, evident in the texts of the Florentine republicans, the construction of the “nation” excluded those viewed not committed to human progress or civilization. Prejudices otherized foreigners, but even at home, perversions of national dignity ideas were used to deny Americans – citizen and non-citizen – the rights and privileges of the new Union.

### **A New Citizenship and the Politics of Exclusion**

National dignitarianism proved to be a double-edged sword during the Founding Era. Nationalistic invocations of “dignity” contributed to a heartless encroachment on Native

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<sup>244</sup> *Fletcher v. Peck*, 10 U.S. 87 (1810). <https://supreme.justia.com/cases/federal/us/10/87/#tab-opinion-1907670>.



American lands and denial of their basic humanity. At home, the story is no different. Though national dignitarian thought mandates an expansive and pluralistic republic – both in regard to a diversity of views and in more liberal immigration policies, the latter particularly thanks to the Commonwealthmen – the realities of the American founding era often sundered this legacy. Undoubtedly, national dignitarian ideas seek to valorize the “dignity of the citizen.”<sup>245</sup> Questions over citizenship were, however, plagued by notions of national glory or grandeur, false aggrandizements of the respect national dignity sought to secure. Tragically, national dignity became a weapon to blunt the rights afforded to American citizens, fed dreams of American empire, failed to forge consensus over conflicts on immigration and naturalization, and was unable to convince founding Americans to end slavery.

Among the most blatant abuses of the national dignity to curtail individual rights were John Adams’ Alien and Sedition Acts in 1798, which went beyond the denials of individual freedoms of speech and press discussed in the first chapter. Reacting to domestic turmoil over French and British conflict, Adams claimed that the Acts were necessary to protect the “Peace and dignity of the United States.” Adams’ Federalist allies looked to American foreign policy concerns as justification. “National dignity,” Representative William Murray argued, “is the [real] substance against any and every foreign power which attacks our commerce.”<sup>246</sup> Regardless, the Alien and Sedition Acts constituted an obvious violation of the individual dignity that national dignitarians were supposedly committed to protect.

Clearly, Adams was practicing a politics of exclusion. The list of action taken by the federal government against the press is extensive: for example, editors of the Philadelphia

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<sup>245</sup> Wilson, James. *Collected Works of James Wilson*. (Indianapolis: Liberty Fund, 2007). Vol. 2. <https://oll.libertyfund.org/titles/wilson-collected-works-of-james-wilson-vol-2>.

<sup>246</sup> Smith, James Morton. “The Grass Roots Origins of the Kentucky Resolutions.” *The William and Mary Quarterly*. Vol. 27, No. 2. (April 1970). pp. 221-245.

*Aurora* were arrested for instigating a “United Irish Riot,” undermining “national dignity and decorum,” while Federalist politicians claimed the *Gazette of the United States* in New York City undermined the dignity of the Senate, and thus the country. Along with targeting Democratic-Republican journalists, the Alien Act extended residency requirements for naturalization from five to fourteen years.<sup>247</sup> Democratic-Republicans were right to criticize Adams for trying to limit the voting population – indeed, one could reasonably argue that this was the first statutory instance of partisan voter suppression in American national history.

Dreams of empire also instilled fear in the new republic. The earliest novel attempts to rehabilitate rank in the new republic, or at least a perceived threat to do so, was the creation of the Society of the Cincinnati, a fraternal association of Continental Army officers. Now a philanthropic organization laudably dedicated to the preservation of colonial texts, the Society in 1783 was widely considered a threat to equality. Though it invoked the “exalted rights and liberties of human nature” in its founding document, the Society also envisioned the “future dignity of the American Empire.” This would be supported by the “eldest male posterity” of the Society’s members, consisting of “officers of the American Army.” Judge Aedanus Burke, a Democratic-Republican from South Carolina, predicted a “hereditary peerage,” eventually consuming the republic. His *Considerations on the Society or Order of Cincinnati* incurred bitter debate. Samuel Adams complained to John Adams that this “Order of Military Men” would lessen the “Dignity of the States” and end “free Existence.” John Adams heartily agreed.<sup>248</sup> In 1787, the Society was accused of fomenting Shays’ Rebellion and interfering in the

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<sup>247</sup> Smith, James Morton. “The ‘Aurora’ and the Alien and Sedition Laws: Part II: The Editorship of William Duane.” *The Pennsylvania Magazine of History and Biography*. Vol. 77, No. 2. (April 1953). pp. 123-155.

<sup>248</sup> Adams, Samuel. “Samuel Adams to John Adams, 16 April 1784.” *National Archives*. <https://archive.is/7fm4b>.; Adams, John. “John Adams to Samuel Adams, 25 June 1784.” *National Archives*. <https://founders.archives.gov/documents/Adams/06-16-02-0148>.

Constitutional Convention. Elbridge Gerry of Massachusetts channeled fears of a Society-led coup d'état, resigning that the people could unwittingly “[throw] such a power into their hands.”<sup>249</sup>

The threat posed by the Society of the Cincinnati to the republic was greatly exaggerated, mostly fodder for tabloid papers and gossip. Far more insidious a threat to dignitarian thinking were debates over citizenship and immigration. The 1790s and early 1800s featured a slate of naturalization laws – in 1790, 1795, 1798, and 1802 – that the radical Whigs and Commonwealthmen might have found abhorrent. It is also demonstrative of the rankish ideologies pervasive in the founding generation. Citizenship was contained only to “free white persons” of “good character,” and the residency period required for naturalization fluctuated rapidly between these acts, ranging from five to fourteen years. These acts show that citizenship was considered an impossibility for non-white Americans. Even the most liberal of immigration proponents favored rankish restrictions. Hamilton, for example, considered the most “desirable class” of immigrants to be those “persons in Europe of moderate fortunes.”

Still, there was opposition to severe restrictions and perceptions of impartiality. Gouverneur Morris’ amendment at the constitutional convention to restrict public office to citizens who have resided in the country for fourteen years or more was met with general hostility. Benjamin Franklin warned against hardline qualifications for citizenship as showing “partiality to the rich,” harming the nation and discouraging the migration of the “common people.” If national dignitarianism demands respect of citizens by the government, certainly these restrictions would be an affront to recently naturalized citizens. James Wilson, an immigrant himself, noted the “discouragement & mortification [immigrants] must feel from the

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<sup>249</sup> Madison, James et al. “The Debates in the Federal Convention of 1787 reported by James Madison: July 1825.” *National Archives*. <https://archive.is/FuAPH>.

degrading discrimination” proposed by Morris. Morris’ argument about emigrants posing a threat to the national dignity and “common interest” were quashed.

Slavery also occupied the minds of Americans concerned with the national dignity. Some used ideas of national grandeur to justify the practice. George Whitefield, for example, believed slavery would lead to prosperity and national greatness. He celebrated the legalization of slavery in Georgia and lauded South Carolina’s slave trade, and promoted its adoption.<sup>250</sup> Charles Pinckney of South Carolina followed similar thinking. As recorded in the debates over the Constitution, “[Pinckney] contended that [slavery] would be for the interest of the whole Union.” Others channeled the dignity of the nation to denounce it. John Adams’ *Dissertation on the Canon and Feudal Law* denounced slavery as a “sacrilegious breach of trust” and antithetical to national “honor or interest or happiness,” constitutive goals of national dignitarianism.<sup>251</sup> National dignity failed to generate sufficient opposition to slavery. Notably, Harriet Beecher Stowe recognized this in the preface to *Uncle Tom’s Cabin*: “It was not to whitewash the national dignity [that the abolitionist movement gained steam], but to claim a degraded race from degradation.”

### **The Legacy of National Dignity**

The Janus-faced history of national dignity speaks to its dual capability as a tool for national construction and destruction. At its best, national dignitarianism seeks to affirm the individual dignity of the polity’s citizens; achieve respect and security abroad; promote self-respect and a spirit of amity at home; and, achieve the common good. At its worst, national

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<sup>250</sup> Stein, Stephen J. “George Whitefield on Slavery: Some New Evidence.” *Church History*. Vol. 42, No. 2. (June 1973). pp. 243-256.

<sup>251</sup> Adams, John. *A Dissertation on the Canon and Feudal Law*. 1765.

<https://teachingamericanhistory.org/library/document/a-dissertation-on-the-canon-and-feudal-law/>.

dignity is twisted into delusions of national grandeur or glory, informing rankism and racist ideologies at home; engendering feelings of national superiority, especially against non-European states; and, justifying harmful intrusions on the rights of citizens and human beings within the polity. National dignity as grandeur continued to exert a terrible influence on American politics at home, and engendered feelings of supremacy abroad. As Beth Lew-Williams accounts in her book *The Chinese Must Go: Violence, Exclusion, and the Making of the Alien in America*, proponents of Chinese exclusion in the 1870s and 1880s feared the “national dignity...was at stake; [as well as] the future of U.S. society and government.” Polk claimed Mexico’s insult to the national dignity justified war over Texas and California, while Woodrow Wilson threatened to invade Mexico again to “uphold our national dignity.”

Yet, for all its past and potential harm, national dignity ideas still continue to offer the hope of fulfilling individual dignity and the common good. Woodrow Wilson’s National Park Service Organic Act, which greatly expanded the National Park system, justified itself with claims that the parks would increase “national dignity and recognition of their superlative environmental quality.” In the area of foreign policy, Franklin D. Roosevelt recognized the “national dignity” of the newly independent Philippines while John F. Kennedy and Jimmy Carter invoked “national dignity” of other nations in their campaigns for international human rights in Latin America and Europe. In the 20<sup>th</sup> century, dignitarians like Roosevelt, Kennedy, and Carter demonstrated that the quest for respect can enkindle solidarity amongst nations as much as between fellow Americans.

## Conclusion

# Dignity at the Founding and Today

This thesis has endeavored to show that dignity has had a long and vitally important role in shaping the attitudes, politics, and institutions of the United States. The crucible of the Revolutionary War, the Great Awakening, and the Transatlantic character of the Moderate Enlightenment brought dignitarianism to the fore in American politics. Refashioned in the Aristotelian-Stoic language of *eudaimonia* and the theological language of the “image of God,” and tempered by rationalist, liberal tolerance and republican solidarity, dignitarianism experienced a major revival during the Renaissance and Enlightenment, initiating a movement towards egalitarianism in America and beyond. It was, in the words of Francis Fukuyama, a true “dignity revolution.”

The American dignity revolution had two elements: individual and national dignity. Individual dignitarianism, aided by the writings of Roger Williams, John Locke, and Jonathan Edwards, forced a reorientation of the state and the individual. Abridging the words of James Madison, founding dignitarians sought to create a government dedicated to the many rather than the few. Right triumphed over the cruel and the unusual; diversity of thought accepted over the rigidity of uniformity; and, the common celebrated as noble. This too was the basis for national dignitarian concerns. Recognizing the collective dignity of each individual citizen placed unique demands on the structure of the American political system and not just the individual rights

accorded to each citizen. The wisdom of Bruni, Milton, Harrington, Gordon and Trenchard, and the many other old republicans implied that a dignitarian republic must ensure *de jure* pluralism through freedom of speech, the press, and relatively liberal immigration policies – all also concerns of individual dignity.

Yet, the history of dignitarianism in America has not always been a cheerful one. It is marred with great tragedy. While individual dignity provided a basis to advance human rights and flourishing, national dignity claims often sundered these efforts. When contaminated with the rankism of the age, the quest for national respect justified atrocities at home and abroad. John Adams, who affirmed individual dignity more than most founders, succumbed to political pressures in promoting exclusionary politics with his Alien and Sedition Acts and the Naturalization Act of 1798. Jefferson and George Mason, promoters of freedom of conscience, participated in a slave system that robbed freedom of choice and autonomy from millions. George Washington helped initiate a westward expansion that denied the basic humanity of generations of Native Americans. The list is daunting, and an affirmation of the “ascriptivism” that Rogers Smith uses to describe the dark tradition ascribing a lack of true dignity to many groups that characterizes American politics. The founders’ failures provide a valuable lesson. In an age where authoritarian ascriptivists like Narendra Modi, Xi Jinping, Viktor Orban, and more, use national dignity language to justify egregious rankisms and racisms, the American founding era serves as a warning against these petty, narrow nationalisms.<sup>252</sup>

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<sup>252</sup> “PM Modi completes stunning debut year in international affairs; recasts India’s image on the world stage.” *The Economic Times*. May 10, 2015. <https://economictimes.indiatimes.com/news/politics-and-nation/pm-modi-completes-stunning-debut-year-in-international-affairs-recasts-indias-image-on-the-world-stage/articleshow/47216970.cms?from=mdr>; Li, Pei. “In Bid to Protect ‘National Dignity,’ China Cracks Down on Foreign Place Names.” *The Wall Street Journal*. March 23, 2016. <https://blogs.wsj.com/chinarealtime/2016/03/23/in-bid-to-protect-national-dignity-china-cracks-down-on-foreign-place-names/>; and, Gorondi, Pablo. “Hungary unveils memorial to crash that killed Polish leader.” *The Seattle Times*. April 6, 2018. <https://www.seattletimes.com/nation-world/hungary-unveils-memorial-to-crash-that-killed-polish-leader/>.

In the American founding era the antidote to that ascriptivism, dignitarianism, notched many victories: a basis for representative government, numerous individual liberties, and the promise of the Declaration of Independence. After the Second World War, dignitarians affirmed this dream to billions more with the United Nations' Declaration of Universal Human Rights. "All human beings are born free and equal in dignity and rights," the Preamble proclaims, "They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood."<sup>253</sup> The U.N.'s call to recognize dignity has proven to be a launching pad for the cause of universal human rights. Venerable organizations like B'Tselem, Dignity Rights International, DignityUSA, the Human Dignity Trust, Human Rights Watch, Amnesty International, and hundreds more, invoke human dignity in their mission to promote justice, equality, and freedom for all.

Even in the United States, the hope of the Declaration of Independence and the Declaration of Universal Human Rights still remains to be fulfilled today – the longing of its fulfillment is yearned for by millions now, and millions to come – but its spirit instills fire in modern thinkers and leaders still waging war against the plague of rankism and discrimination. That quest, however, must begin with the need to better understand dignity after the American founding. It begins with trying to unweave the influence of human dignity on the women's rights movement that began in the 1820s, the suffrage movement, and modern contests for equality and rights to bodily autonomy. It begins with the workers rights' movement of the 1830s, the rise of trade unionism, Franklin Roosevelt's New Deal, and the call for "dignity of work." It begins with the trials, travails, and triumph of the abolitionist movement and the push for civil rights and

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<sup>253</sup> "Universal Declaration of Human Rights. *United Nations*. <https://www.un.org/en/universal-declaration-human-rights/>.



racial equality from the 1860s into the 1960s, and to this day. The tapestry of American history is long, and dignity's story remains untold. More work must be done.

Today, the United States is experiencing a renaissance in dignity language. Dignity, especially in its individualistic variant, occupies modern political discourse with astounding frequency. Senator Sherrod Brown, a Democrat from Ohio, even included the phrase in his re-election campaign slogan: "The Dignity of Work."<sup>254</sup> Vice President Joseph Biden regularly invokes dignity. In reminiscing about his father, "A job is about a lot more than a paycheck – it's about dignity"; or, when invoking his Catholic faith, "Everyone's entitled to dignity, that's a basic tenet in my household."<sup>255</sup> Perhaps the most innovative use of dignity language comes from Representative Alexandria Ocasio-Cortez. Her campaign website says politics "is about championing the dignity of our neighbors," adroitly laying claim to the tradition of individual worth and the social aspect of dignitarian thought. She also uses it to justify her commitment to social democracy, claiming, "When we talk about the word socialism, I think what it really means is just democratic participation in our economic dignity, and our economic, social, and racial dignity... To me, what socialism means is to guarantee a basic level of dignity."<sup>256</sup>

Dignitarian goals are also occasionally considered by politicians and intellectuals on the center-right, though it is notable, and sad, to point out that the use of the term "dignity" is often absent in conservative speech today. One of the great exceptions to that observation is Senator

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<sup>254</sup> "Home – The Dignity of Work Tour." <https://dignityofwork.com/>.

<sup>255</sup> Viser, Matt. "Joe Biden unspools an endless supply of 'Bidenisms' on the campaign trail." *The Washington Post*. January 24, 2020. [https://www.washingtonpost.com/politics/joe-biden-unspools-an-endless-supply-of-biden-isms-on-the-campaign-trail/2020/01/24/475033b4-3eba-11ea-b90d-5652806c3b3a\\_story.html](https://www.washingtonpost.com/politics/joe-biden-unspools-an-endless-supply-of-biden-isms-on-the-campaign-trail/2020/01/24/475033b4-3eba-11ea-b90d-5652806c3b3a_story.html).; "Highlights from Joe Biden's Vision for America." *Biden for President*. <https://joebiden.com/catholics/>.

<sup>256</sup> Bradford, Colin I. "Individual dignity, Alexandria Ocasio-Cortez, and the future of American politics." *The Brookings Institution*. July 2, 2018. <https://www.brookings.edu/blog/up-front/2018/07/02/individual-dignity-alexandria-ocasio-cortez-and-the-future-of-american-politics/>.; Read, Bridget. "28-Year-Old Alexandria Ocasio-Cortez Might Just Be the Future of the Democratic Party." *Vogue*. June 25, 2018. <https://www.vogue.com/article/alexandria-ocasio-cortez-interview-primary-election>.

Marco Rubio of Florida. Rubio often talks about the “dignity of work” from the vantage point of Catholic social teaching, and occasionally when discussing his opposition to abortion rights. It is an innovating recognition of the connection between individual dignity and national prosperity and flourishing.<sup>257</sup> President Trump’s rhetoric, on the other hand, lacks the soul of dignitarianism. He mentioned national dignity in his most recent remarks on a potential Middle East Peace Plan between Israel and Palestine, and used it when bashing Hillary Clinton during the 2016 election: “we are going to end the Clinton Corruption and restore dignity and honesty to government service.” It should be noted, however, that most of Trump’s uses of dignitarian language is limited to pre-written presidential proclamations, memoranda, prepared remarks, or press releases, rather than during his off-the-cuff speeches at rallies.<sup>258</sup> Trump’s speech, not just due to its conspicuous lack of dignity, but because of its active denial of it through disturbing and othering rhetoric, must be described as ascriptivist.<sup>259</sup> It is often an echo of America’s darker political traditions. Thankfully, a number of enterprising conservatives have chosen to use nationalist dignity language aimed at this ascriptivism. For example, the rightwing magazine *The Bulwark* recently published an article titled “How to Restore Our National Dignity” by Susan Wright. Wright summons the spirit of Reagan’s “A Time for Choosing” speech in denouncing Trump and the new left in the Democratic Party.<sup>260</sup>

That contemporary politicians and thinkers continue to invoke the moral gravity of dignity points to the staying power of dignitarianism, not just thanks to the framework’s

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<sup>257</sup> Rubio, Marco. “America Needs to Restore Dignity of Work.” *The Atlantic*. December 13, 2018.

<https://www.theatlantic.com/ideas/archive/2018/12/help-working-class-voters-us-must-value-work/578032/>.

<sup>258</sup> For more on President Trump’s use of dignitarian language, please see University of California Santa Barbara’s *American Presidency Project*. <https://www.presidency.ucsb.edu/>.

<sup>259</sup> For more on “ascriptivism” as an American political tradition please see: Smith, Rogers M.. *Civic Ideals: Conflicting Visions of Citizenship in U.S. History*. (New Haven and London: Yale University Press, 1997).

<sup>260</sup> Wright, Susan. “How to Restore Our National Dignity.” *The Bulwark*. March 31, 2019. <https://thebulwark.com/how-to-restore-our-national-dignity/>.

importance in modern human rights discourse, but also due to its role early in the nation's history. Though dignity has been used in different ways by different people at different times, it is inarguable that the core tenets of the U.S. Constitution, "to form a more perfect Union, establish Justice, insure domestic Tranquility, provide the common defence, promote the general Welfare, and secure the Blessings of Liberty," express the hopes of human dignity. It is inarguable that the Declaration of Independence asserts the radical equality and immeasurable worth of human life when it holds that "all men are created equal, that they are endowed by their Creator with certain unalienable rights." In a time fraught with dissonance, doubt, and discontent, hopefully the poetry of human dignity will remind us "we are not enemies, but friends," and call us to the better angels of our nature.

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