

Can Human Dignity Replace Individual Dignity?

WU Jiahao*

Abstract: *The theory of human dignity identifies certain inherent human characteristics, elevating humanity as the pinnacle of creation and valuing individuals as carriers of these traits. Under this framework, individuals are called to actively embody their human essence and participate in political life to serve the community. Overall, this interpretive paradigm of dignity establishes a distinct concept of autonomy and provides methods for its realization, fostering the secularization of politics by emphasizing human value. The doctrine of individual dignity presupposes the intrinsic worth of individuals and defends their autonomy and equal status through the imposition of legal obligations on the state. However, limited by its essentialist and communitarian orientation, the scope of autonomy and equality it provides to individuals remains constrained. By transcending ontology with a value-based approach, the concept of individual dignity creates a unique, open structure that incorporates and reflects on global human rights practices. This adaptability enables it to integrate abstract societies, advance the global human rights agenda, and critique and refine political realities. Consequently, the concept of individual dignity cannot be supplanted by the human dignity theory.*

Keywords: concept of dignity ♦ essentialism ♦ individual value ♦ reflection and balance ♦ functional analysis

I. Introduction

In modern law and legal studies, the foundational and fundamental nature of the concept of “dignity” is undeniable. As scholars have noted, “In the discourse of modern human rights, dignity is a central concept, a normative standard for political life, and the most widely accepted framework internationally.”¹ However, the ambiguity and abstraction in the connotations of dignity readily lead to interpretive disagreements, and understandings of dignity across different countries and regions exhibit significant cultural relativity. For instance, the *Cairo Declaration on Human Rights in Islam* considers “freedom of expression” to be premised on not violating “sanctities and the dignity of Prophets,”² while the *American Declaration of the Rights and Duties of Man* emphasizes that dignity should form the basis of an individual’s rights and obligations

* WU Jiahao (吴佳昊), Assistant Researcher, Institute for Human Rights Research, East China University of Political Science and Law. His research focuses on social theories of law and human rights law. Funded Project: This is a phased research outcome of a Key Project of the National Social Science Fund of China, entitled “Research on Improving the Legal Governance System to Guarantee Social Equity and Justice” (Project Number 20AZD028).

¹ Michael Rosen, *Dignity: Its History and Meaning*, translated by Shi Ke (Beijing: Law Press • China, 2015), 1-2.

² It is stated in Article 22(c) of *The Cairo Declaration on Human Rights in Islam*: “Information is a vital necessity to society. It may not be exploited or misused in such a way as may violate sanctities and the dignity of Prophets, undermine moral and ethical values or disintegrate, corrupt or harm society or weaken its faith.”

to the community.³ The polysemy and complexity of the concept of dignity also make it susceptible to being manipulated by individuals with varying political stances, even supporting two diametrically opposed viewpoints simultaneously. For example, in debates concerning euthanasia, both sides of the argument sometimes invoke individual dignity in their pursuit of victory.⁴ It can be said that people from different cultural traditions and value systems have not yet reached a high degree of consensus on dignity, to the extent that the only universally agreed-upon aspect at present is the shell of the concept of dignity itself.

Among the various scholarly interpretations of dignity, the explanation that highlights “humanity” as a collective entity is particularly noteworthy, which this paper terms “human dignity.” Firstly, this concept is grounded in humanity’s uniqueness compared to animals, such as our rational capacity, a mindset echoed in ancient Greek and Roman literature.⁵ Secondly, this perspective on dignity imposes self-imposed obligations on individuals to pursue excellence and perfection.⁶ Lastly, given that this dignity paradigm emphasizes individual obligations to the community to limit personal autonomy, it still retains relevance in a limited number of judicial proceedings in contemporary courts.⁷ Therefore, this paper aims to discuss the following question: In the fields of politics and law, can human dignity replace individual dignity as a new paradigm of interpretation?

The following four points need to be clarified beforehand: Firstly, the definition of dignity. Given the significant time span between the two paradigms of dignity, our understanding of the same terminology differs greatly from that of the ancients. To ensure coherence of discussion while addressing both concepts with the same terminology, this paper employs the concept of dignity in its broadest sense, namely, “the recognition of an individual’s inherent moral value.”⁸ Secondly, clarifying the intended meaning of the concept. Considering the lack of a unified conclusion in the complex discussions of modern philosophy regarding the connotation of individual dignity and its importance in the global human rights cause, this paper selects interpretations of this concept in international law (primarily judicial activities) as the focal point of observation. Thirdly, the rationale for selecting the content for comparison. Research on dignity in human rights law primarily aims to provide effective guidance for political and legal activities, thus placing greater emphasis on the

³ The Preamble of the “American Declaration of the Rights and Duties of Man”: “The fulfillment of duty by each individual is a prerequisite to the rights of all. Rights and duties are interrelated in every social and political activity of man. While rights exalt individual liberty, duties express the dignity of that liberty.”

⁴ Norbert Hoerster, *Ethik des Embryonenschutzes, Ein rechtsphilosophischer Essay*, Stuttgart 2002, S.23 f.

⁵ Josiah Ober, “Meritocratic and Civic Dignity in Greco-Roman Antiquity,” *The Cambridge Handbook of Human Dignity*, 2014, page 53-63. This study introduces two types of dignity prevalent in ancient Greece and Rome that differ from modern understandings: meritocratic dignity, which refers to dignity acquired through exemplary conduct, and civic dignity, which refers to dignity gained through participation in public life.

⁶ Oliver Sensen, *Kant on Human Dignity*, translated by Li Kezheng and Wang Fuling (Beijing: The Commercial Press, 2022), 244.

⁷ Leslie Meltzer Henry, “The jurisprudence of dignity,” *U. Pa. L. Rev.* 160 (2011): 169. This study summarizes the use of the concept of dignity in judicial proceedings by American courts and abstracts five ideal types. Among them, virtue-oriented dignity is employed to impose certain self-obligations on individuals. For instance, in the case of *Indiana v. Edwards*, the court prohibited the mentally impaired party from representing themselves and deemed their behavior in court potentially detrimental to their own image.

⁸ In the legal field, the term “dignity” indeed encompasses the meaning of “worth”. Oscar Schachte, “Human dignity as a normative concept,” *American Journal of International Law* 77.4 (1983): 848-854.

rationale for dignity, the behavioral norms derived from it, and the relationship between individuals and states.⁹ Fourthly, in terms of methodology, this study adopts the perspective of an external observer rather than an internal participant, limiting the objective of argumentation to describing and comparing the two different paradigms of dignity understanding without involving value judgments on either.

II. The Connotation and Contribution of Human Dignity

A. The essence of human dignity

1. The rationale for dignity: the nobility of humankind

For scholars who advocate the concept of human dignity, individuals possess value because they have certain ontological characteristics as humans. A notable feature of classical philosophy is that ethics has always been a branch of metaphysics, and the question of “what humans ought to do” is often closely related to that of “what humans essentially are.” Firstly, this leads to an essentialist cosmology, where human uniqueness is derived through comparison with other beings, and action is based on such uniqueness.¹⁰ Secondly, this implies that individuals’ moral values do not lie within themselves but in their essential characteristics as humans. In other words, the nobility of humankind as a whole fulfills the dignity of each individual, and dignity stems from the positive manifestation of one’s human essence — on which an individual’s autonomy also hinges. Lastly, since dignity originates from the essential characteristics of humans, ethical issues are transformed into cognitive ones, namely, what constitutes human essence. This is exactly where the theoretical disagreements among classical thinkers lie. For instance, Aristotle emphasizes that the rational function of humans grants them divinity, while other animals are constrained to the inferior activities of the nutritive and sentient souls. Humans are superior to other beings because they possess the ability to think.¹¹ Cicero, on the other hand, argues that humans can control irrational aspects such as emotions and desires through rationality, stating that “But it is essential to every inquiry about duty that we keep before our eyes how far superior man is by nature to cattle and other beasts: they have no thought except for sensual pleasure and this they are impelled by every instinct to seek;”¹² It should be noted that regardless of the different standpoints taken by these theories, they all unanimously acknowledge the uniqueness of humans compared to other species, laying a theoretical foundation for the discourse on human dignity.

2. The demands of dignity: pursuing excellence and contributing to the community

⁹ David J. Mattson and G. Clark Susan, “Human dignity in concept and practice,” *Policy Sciences* 44 (2011): 303-319. Additionally, the selection of comparative content also drew reference from the following study: Rinie Steinmann, “The Core Meaning of Human Dignity,” *Potchefstroom Electronic Law Journal/Potchefstroomse Elektroniese Regsblad* 19.1 (2016).

¹⁰ Ancient Greek tragedies mirror this characteristic of classical cosmology, which is manifested in the lack of distinction between natural laws and conventional norms. Ethical requirements on humans are perceived as a natural law, just like a stone thrown upwards inevitably falling to the ground; similarly, those who commit wrongs cannot escape the sanctions of fate. See Baker, Herschel Clay, *The Image of Man: A Study of the Idea of Human Dignity in Classical Antiquity, the Middle Ages, and the Renaissance*, Harper Torchbooks, 1961, page 23.

¹¹ Aristotle, *On the Soul and Other Psychological Works*, translated by Wu Shoupeng (Beijing: The Commercial Press, 1999), 140-142. See also Eduard Zeller, *A History of Greek Philosophy* (vol. IV, Part 2), translated by Cao Qingyun (Beijing: People’s Publishing House, 2020), 394-395.

¹² Cicero, *On Obligations*, translated by Zhang Zhuming and Long Li (Nanjing: Yilin Press, 2015), 43.

The theory of human dignity emphasizes the imposition of obligations on individuals, thereby motivating them to actively behave in ways that manifest the essence of humanity. Individuals enjoy dignity because they share in the glory of the noble human race. However, this implies that human value is not intrinsic or inherent but must be earned through efforts; it also means that dignity is inseparable from behavior, as only appropriate conduct can demonstrate one's dignity as a human being. This assertion hints at an essentialist teleological stance: deriving behavioral obligations from certain ontological presuppositions about human essence. For example, since nature has endowed humans with rationality, we should act accordingly, making correct judgments and reasonable trade-offs. Plato's unique dualism is a typical representative of this stance. In his theory, the sensible world is false (valueless), while the world of ideas is real (valuable).¹³ Human values lie in the soul because only the soul enables us to acquire true knowledge (ideas) through recollection.¹⁴ Thus, individuals bear the obligation to actively engage, using rationality to understand the world and themselves.¹⁵ Cicero, who is considered one of the earliest scholars to use the term "Dignitas," wrote in his book *De Officiis* ("On Duties"): "If we will only bear in mind the superiority and dignity of our nature, we shall realize how wrong it is to abandon ourselves to excess and to live in luxury and voluptuousness, and how right it is to live in thrift, self-denial, simplicity, and sobriety."¹⁶ In other words, human rationality sets obligations for individuals to exercise self-control.¹⁷

Human dignity necessitates the recognition of one's value in society, and for the vast majority who are unlikely to become philosophers, active participation in political life constitutes an integral part of their self-worth. Citizen engagement, emphasized in ancient Greek political and legal theories, exemplifies this notion. It is important to note that the democratic participation of ancient Greek citizens was not a right in the modern legal sense but rather akin to citizenship, a blend of rights and obligations. This implies that citizens had no liberty to abstain from political participation.¹⁸ It is difficult for modern people to fathom the significance of political life to the ancients. For ancient Greeks, the polis aimed to distinguish "citizens" from "barbarians" and to safeguard "reason." Politics was vital because it allowed individuals to articulate their views and demonstrate their rational value through "speech." Detachment from politics or public life often signified the loss of rationality or citizenship for an individual. In ancient times, non-citizens were morally equivalent to non-humans, let alone possessing human

¹³ "You are speaking of the Form of the Good, which is the highest object of knowledge, and from which all things that are just and so on derive their usefulness and value. And without the Form of the Good, even if you have all the other knowledge in the world, it is of no use to you, just as it is of no use to possess anything without the good." Plato, *The Republic*, translated by Gu Shouguan (Changsha: Yuelu Book Society, 2018), 304.

¹⁴ "But the doctrine of recollection and knowledge has been proven to be true, for we have agreed that the soul exists before it enters the body, just as surely as the absolute essence exists." Plato, *Phaedo*, translated and annotated by Yang Jiang (Beijing: SDX Joint Publishing Company, 2015), 73-74.

¹⁵ Plato regarded virtue as a state of well-being of the soul: "And is not the creation of health in the human body the establishment of a natural relation of control and subordination among its constituents, in accordance with the principle which regulates them?" Plato, *The Republic*, 205.

¹⁶ Cicero, *On Obligations*, 44.

¹⁷ "Nature" carries normative force in Cicero's context. "For anyone who will listen to the voice of reason (and all who wish to live according to nature's laws must listen to it)..." Ibid., 113.

¹⁸ Fustel de Coulanges, *The Ancient City: A Study on the Religion, Laws, and Institutions of Greece and Rome*, translated by Tan Lizhu et al. (Shanghai: East China Normal University Press, 2005), 180-184.

value or dignity. According to Aristotle, happiness stems from the fulfillment of one's human nature. Thus, socially inclined individuals cannot achieve happiness in isolation. The polis served as the arena for humans to engage in politics, which is a hallmark of human activity: it represents an intermediary activity between theoretical wisdom and animal life, enabling individuals to exhibit their essence as humans — prudence.¹⁹

3. Political community in the context of dignity: the primacy of the community

In terms of human dignity, political communities are constitutive, serving as the domains and arenas where individuals achieve their dignity. In short, while modern individuals can conceive of existing independently of the state and society, ancient Greeks could not fathom a person existing away from the polis. In other words, the most fundamental unit of ancient societies was not an isolated individual but a social being with inherent social nature and emotions, who existed and was understood solely as part of a community.²⁰ This characteristic was not unique to ancient Greece in the West; it was also prevalent in ancient Rome and the Middle Ages, where “they strictly reserved the title of ‘human’ solely for their communities. Mere possession of human appearance was insufficient; one must also live according to traditions established and proclaimed by the gods.”²¹ In other words, it is impossible for individuals to maintain their human identity after separating from the community, let alone possess human value or dignity. As mentioned earlier, it is precisely membership in the polis and participation in political life that define citizens, or humans. Research by E. Benveniste shows us that the Greek word for “freedom,” *eleúthería*, originates from the Indo-European root *leudh*, which means both “people” and “humanity” as well as “growth” and “development.” The original meaning of *eleúthería* is “belonging to one's lineage and to the people.” Slaves were not free because they did not belong to a group sharing common characteristics²² and, consequently, lacked the dignity entitled to members of humanity.

From a value perspective, human dignity requires absolute individual submission to the community, with the former existing for the latter, rather than the other way around. When Aristotle speaks of individuals pursuing happiness, he does not suggest that politics is a means for individuals to attain happiness; quite the contrary, happiness refers solely to “the happiness of citizens.” Being a virtuous person means being an exemplary citizen, one who fully fulfills his or her role as a part of the polis. Unlike modern states that are required to respect the private sphere of citizens, Aristotle advocates for the polis' intervention in private life, as most people are unaware of what interests are best for them. “No citizen should be presumed to have ownership over himself”²³; individuals belong to the polis, which must guide them in pursuing

¹⁹ Aristotle believed that “Prudence is the only virtue peculiar to the ruler” See Aristotle, *Politics*, translated by Wu Shoupeng (Beijing: The Commercial Press, 2009), 128. For the translation of “prudence,” please refer to Appendix III, page 509 of the same book.

²⁰ Henry Maine, *Ancient Law*, translated by Shen Jingyi (Beijing: The Commercial Press, 1959), 83. The polis is also a type of community; see Ferdinand Tönnies, *Gemeinschaft und Gesellschaft*, *Community and Society*, translated by Lin Rongyuan (Beijing: Peking University Press, 2010), 4.

²¹ Finkelkraut A, *La humanidad perdida*, Anagrama, trad. Th. Kauf, Barcelona, 1998, page 13.

²² Benveniste, Émile and Giorgio Agamben, *Dictionary of Indo-European Concepts and Society*, translated by Elizabeth Palmer (London: HAU Books, 2016), 338-340.

²³ Aristotle, *Politics*, 413.

happiness at every moment of their existence. Legislators must shape citizens through education, motivating them to contribute to the stability of the polis. While Stoicism, particularly the theories of Seneca, ascribes unique intrinsic value to individuals, it is important to clarify that the ultimate and highest goal of this recognition is not to safeguard individual interests but to maintain the stability of the human community.

B. The positive significance of human dignity

In terms of historical development, the doctrine of human dignity emerged far earlier than the theory of individual dignity. By analyzing the uniqueness of human existence, the doctrine of human dignity nurtured an understanding of autonomy and equality that is entirely different from modern concepts. While inheriting certain elements of human dignity, the theory of individual dignity discarded others within this ethical framework, gradually clarifying its positioning in the process.

1. Unique autonomy: transcending this world

The theory of human dignity has created a unique concept of autonomy that distinguishes it from individualistic conceptions of freedom at the value level and lays the theoretical foundation for modern advocacy of individual autonomy at the historical level. Individuals can transcend the empirical world by practicing ought-to-be values. In short, it is no longer a matter of thinking based on how one lives but rather pursuing a life based on one's thoughts. This makes individual value no longer dependent on external contingent realities, such as noble lineage or social status obtained through good fortune, but rather derived from moral characteristics that align with human nature. The inscription at the Temple of Apollo in Delphi, "Know thyself," represents the awareness of ancient sages concerning the meaning of human existence. Through contemplation of the self and the world, they realize that they can exist independently of society.²⁴ This marks the birth of an unprecedented autonomy: on the one hand, the spirit of individuals is independent of the group, free from conformist and blind thinking²⁵; on the other hand, individuals are independent of the empirical world, recognizing the ought-to-be values that transcend the actual society.²⁶ As symbolic animals, humans are not only members of the empirical world but also citizens of the world of values. The term "transcendence" means "stepping back to look far ahead,"²⁷ that is, stepping out of society to seek a meaning (or value) of existence that does not depend on society. "Through such a process, previously unconsciously accepted views,

²⁴ Individualism first emerged in communities during the classical period, characterized by "alienation from the social world" and "relativization of worldly life" (typical representatives include India's "ascetics", pre-Socratic philosophers, and Christians). These characteristics paved the way for the "development of individual spirit", thereby giving rise to the ideal of autonomy. See Louis Dumont, *Essays on Individualism*, translated by Gui Yufang (Nanjing: Yilin Press, 2014), 23-26.

²⁵ The characteristics of primitive thinking, which include the interpenetration of subject and object and the arbitrary association of collective representations, often result in individual consciousness yielding to collective unconsciousness. See Claude Lévi-Strauss, *La Pensée Sauvage (The Savage Mind)*, translated by Li Youzheng (Beijing: The Commercial Press, 1987), 33, 37-38, 46-47, 206, 212 and 248-249.

²⁶ Ancient Greek philosophers believed that through political rule, "One can first paradigmatically distinguish oneself from non-human ways of life, as well as from the way most people actually live." In other words, they sought to transcend present conditions by inquiring into "what a person ought to be", rather than being confined to the factual judgment of "what a person is." See Walter Schweidler, *On Human Dignity*, translated by He Nian (Beijing: People's Publishing House, 2017), 8.

²⁷ Benjamin I. Schwartz, "The Age of Transcendence," *Daedalus* 104 (1975): 1-7.

customs, and forms are examined, questioned, and resolved anew.”²⁸ Autonomous individuals, in the modern sense, are the result of a further deepening of subjective consciousness based on the above concept, making the value of the subject no longer dependent on the practice of certain transcendent values or ethical requirements, but rather originating from the individuals themselves.²⁹

2. Methods for pursuing autonomy: self-technology

The theory of human dignity defines autonomy with transcendence as its core and provides methods for achieving this goal. Modern states either adopt a neutral, non-interventionist approach or impose legal obligations on individuals to promote self-improvement. However, in ancient times when state capacity was limited, the realization of such political and ethical goals relied on self-technology, which gradually developed since ancient Greece.³⁰ For Greeks in the era of Socrates and Plato, sexuality was not severely repressed, but people demonstrated active control over pleasure.³¹ This represented a practice of freedom: people had complete autonomy in controlling their desires and gained freedom through it.³² The self did not become a slave to desires and pleasures but their master, reflecting the strong desire for self-concern among ancient Greeks. The Stoics inherited, utilized, and transformed these ideas. Various self-focused techniques (such as writing, self-examination, and self-cultivation) aimed to bring established truths into the subject through the recall and recognition of experiences, allowing the subject to assimilate them and prepare for re-engagement with reality, thereby transforming and optimizing the subject.³³ Historically, modern individuals have borrowed self-technology from classical times to advance self-governance. By continuously scrutinizing and repeatedly articulating the self³⁴, individuals have constructed themselves into the universalized subject in what Émile Durkheim termed the “Cult of the Individual.” In the cult of the individual, the importance of personal dignity does not stem from one’s personal character or uniqueness that distinguishes them from others but from what they share with all - humanity itself.³⁵

3. Embracing this world: the secularization of politics

Contrary to the belief that individuals should devote themselves to the community,

²⁸ Karl Jaspers, *The Origin and Goal of History*, translated by Li Xuetao (Shanghai: East China Normal University Press, 2016), 9.

²⁹ For two different understandings of autonomy, see Jin Guantao, *Axial Civilizations and Modern Society* (Beijing: Dongfang Publishing House, 2021), 291-292.

³⁰ “The individual is able to effect, by their own means or with the help of others, a certain number of operations on their own body and soul, thoughts, conduct, and way of being, so as to transform themselves in order to attain a certain state of happiness, purity, wisdom, perfection, or immortality.” Michel Foucault, *Technologies of the Self*, edited by Wang Min’an (Beijing: Peking University Press, 2015), 1.

³¹ Michel Foucault, *The Use of Pleasure*, translated by Yu Biping (Shanghai: Shanghai People’s Publishing House, 2022), 66-69.

³² The most classic example of self-control is Socrates’ renowned allegory of the chariot with three horses, depicting the three parts of the soul, as narrated by Plato in *Phaedrus*. See Plato, *Phaedrus*, translated by Zhu Guangqian (Beijing: The Commercial Press, 2017), 29-30.

³³ Michel Foucault, *The Care of the Self*, translated by Yu Biping (Shanghai: Shanghai People’s Publishing House, 2016), 63-67.

³⁴ Michel Foucault, *The History of Sexuality*, vol. 1: *An Introduction*, translated by Yu Biping (Shanghai: Shanghai People’s Publishing House, 2022), 19-20.

³⁵ Durkheim, “Individualism and the Intellectual,” in *On Morality and Society*, R. Bellah ed. (Chicago: University of Chicago Press, 1973), 46.

the theory of human dignity also asserts that political activities within a community should be human-centered and prioritize human values. While the stability and harmony of the community, rather than the pursuit of individual happiness, remain paramount political goals, the essence of politics equally stems from humanity's desire for happiness. Only by aligning with this desire can community stability be achieved. Firstly, humanity's normal material desires should be acknowledged. Humans are an indivisible whole³⁶; although the soul is considered superior to the body, a correct definition of a human cannot separate the two. Therefore, the purification of the soul should not come at the cost of denying normal desires. Despite their distrust of "material things," ancient Greeks held this view mainly because material things were subjects of uncertain knowledge. However, this attitude did not hinder them from enjoying life; the human body has always been a legitimate concern.³⁷ Secondly, in terms of the means of political activities, legal justice should uphold the principle of producing or maintaining happiness and strive for the common interests of all. "Therefore, in one sense, we call those acts just that tend to produce and preserve happiness and its components for the political community."³⁸ Lastly, the success of political activities — achieving happiness and independent polis — depends on certain crucial real-world factors, such as territory, population, and trade, all of which can be influenced or controlled by humans.³⁹ These measures imply that humans should not only be the goal of politics but also have the capacity to achieve happiness, demonstrating a secular understanding of the relationship between humans and the political community.

III. The Distinction Between Individual Dignity and Human Dignity

Compared to human dignity, individual dignity presupposes an intrinsic value within individuals. According to British scholar Lukes, "the idea of human dignity" is "a fundamental ethical principle," indicating that "the individual person possesses an intrinsic and supreme value or worth."⁴⁰ According to Lucas' understanding, human dignity is not only a moral law embodying the meaning and value of human existence but also a "universal principle" for judging the rationality and legitimacy of all external social institutions in reality. In this context, any institution or law that contradicts the requirements of individual dignity can be deemed as unreasonable or unjust.

A. The dignity of humans in comparison

1. The rationale for dignity: being human

The value of human dignity, which individuals need to prove through excellence, is presupposed as a premise within the context of individual dignity. "If there is a so-

³⁶ For instance, Plato believed that the posture of standing upright is determined by the soul, thereby highlighting the sacredness of the soul. See Plato, *Timaeus*, translated by Xie Wenyu (Shanghai: Shanghai People's Publishing House, 2005), 64-65. However, Aristotle offered a differing interpretation on a similar theme, arguing that it is the upright posture that makes the development of human cognitive abilities possible. He seemed to define humans from a holistic perspective, perceiving the integrity of human existence and emphasizing the mutual support among rationality, body, and senses. See Aristotle, *On the Parts of Animals*, translated by Wu Shoupeng (Beijing: The Commercial Press, 2011), 192.

³⁷ Baker, Herschel Clay, *The Image of Man: A Study of the Idea of Human Dignity in Classical Antiquity, the Middle Ages, and the Renaissance* (New York: Harper Torchbooks, 1961), 166.

³⁸ Aristotle, *Nicomachean Ethics*, translated by Liao Shenbai (Beijing: The Commercial Press, 2003), 129.

³⁹ Aristotle, *Politics*, 357-397.

⁴⁰ Steven Lukes, *Individualism*, translated by Yan Kewen (Nanjing: Jiangsu People's Publishing House, 2001), 43, 48 and 120-121.

called ‘basis’ for individual dignity, it lies solely in the fact that one is a human being.”⁴¹ Many legal documents of the United Nations reveal the intrinsic connection between individual dignity and the individual. The *Universal Declaration of Human Rights* (1948) clearly states in its preamble that “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.” The word “inherent” indicates that dignity is not a gift bestowed by the state or law, but rather an attribute solely because one is human. Article 1 further correlates dignity with all members of society, emphasizing that “all human beings are born free and equal in dignity and rights.” The *International Covenant on Economic, Social, and Cultural Rights* and the *International Covenant on Civil and Political Rights*, both adopted in 1966, also emphasize that “these rights derive from the inherent dignity of the human person.” Regarding the prefix “inherent” used in these international human rights conventions, scholars interpret it as dignity possessed by everyone solely as a human being, regardless of gender, membership in a particular group (ethnic, national, religious, etc.), or any achievements one may have made. When we say that everyone possesses “equal” inherent dignity, it means that no one possesses more or less dignity inherently than anyone else. In other words, “all human beings are equal in dignity...” Therefore, when I say “inherent dignity,” I am essentially referring to “equal inherent dignity.”⁴²

Secondly, the conclusion that individuals possess intrinsic value does not necessarily require proof by resorting to specific human traits. It is widely acknowledged that the recognition of individual dignity, or the inherent value of individuals, as the cornerstone of modern political order, represents a political and moral reaction against the humanitarian tragedies of World War II. In other words, the dignity of individuals is a presupposed conclusion, and the paths and methods for deducing this conclusion are open. As Rawls stated, in a global society with diverse values and ideological divisions, a universal concept of justice must be “independent of any particular comprehensive doctrine.”⁴³ Traditional moral reasoning models face a dilemma, as they still attempt to deduce conclusions from a presupposed, correctly held premise. Nowadays, political and moral “truths” can only be obtained through “reflection and balance.” In summary, moral principles are conceived by identifying certain justice intuitions, and then the correctness of the deductive premises is reflected upon in the process of continuous application until a temporary balance is reached.⁴⁴ In Dworkin’s sense, individual dignity serves as the moral theory of a constructive model, which, unlike traditional natural law theories that postulate some metaphysical objective reality, assumes that we should integrate specific judgments guiding our actions into a coherent plan of action.⁴⁵ Donnelly also believes that “Human rights

⁴¹ Hu Yuhong, “An Analysis of the Legal Attributes of Individual Dignity,” *Social Sciences in China* 5 (2016).

⁴² Michael J. Perry, *The Constitution, the Courts, and Human Rights: An Inquiry into the Legitimacy of Constitutional Policymaking by the Judiciary*, translated by Xu Shuang and Wang Bencun (Beijing: The Commercial Press, 2016), 35.

⁴³ John Rawls, *The Law of Peoples*, translated by Chen Xiaosheng (Changchun: Jilin Publishing House, 2013), 4.

⁴⁴ John Rawls, *A Theory of Justice*, translated by He Huaihong, He Baogang, et al. (Beijing: China Social Sciences Press, 2009), 38-40.

⁴⁵ Ronald Dworkin, *Taking Rights Seriously*, translated by Xin Chunying and Wu Yuzhang (Shanghai: Shanghai Sanlian Bookstore, 2008), 220-221.

practices dig deeply into the soil of human dignity, and in the process, they reshape that soil.”⁴⁶

2. The demand for dignity: embracing autonomy and equality

While the theory of human dignity primarily emphasizes individuals’ active engagement in self-improvement and contributions to the community, individual dignity is mainly rooted in safeguarding the autonomy and equality of individuals, enabling them to pursue their life goals freely. These commitments to individual dignity are often fulfilled by imposing legal obligations on states and governments. Scholars have identified three core elements of individual dignity: (1) respect for individuals’ rights, wishes, and choices; (2) access to decent living conditions, work, and careers; and (3) the equal requirement to establish constitutional principles that guarantee dignity for all and provide preferential protection for the dignity of specific groups.⁴⁷ Although the aforementioned enumeration does not explicitly define the connotation of individual dignity, the following behavioral requirements, identified in legal practices across countries, exhibit a clear affinity with the essence of individual dignity: individual autonomy, protection against discrimination or unfair treatment, freedom from torture or degrading treatment, and fulfillment of basic personal needs.⁴⁸

The protection of individual autonomy emphasizes shielding against external interference, implying that individuals have the right to decide the kind of life they wish to lead. John Stuart Mill’s famous quote epitomizes all similar propositions: “The only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant.”⁴⁹ Dignity is manifested only when one can decide on matters pertaining to one’s existence, lifestyle, and livelihood on an autonomous basis. Conversely, when all life plans and social actions are subject to the control of others, dignity becomes a non-starter. A ruling by the Federal Constitutional Court of Germany clearly states, “The image of the human being in the Basic Law is not that of an isolated, autonomous individual. Rather, the Basic Law determines the tension between the individual and the state in a manner that respects the inherent value of the individual, within the context of the individual’s ‘community-relatedness’ and ‘community connections’.”⁵⁰ Evidently, without autonomy, there is no dignity.

The theory of individual dignity opposes discrimination or unequal treatment based on natural or social factors, advocating that states should eliminate such practices in society by legal or administrative means to the greatest extent possible. In the judicial sphere, since equality or the prohibition of discrimination cannot dictate identical treatment for everyone at all times, individual dignity is often used by judges as a benchmark to determine which differences are acceptable and which are not. For example, in the case of *Khlaifia and Others v. Italy*, heard by the European Court of

⁴⁶ Jack Donnelly, “Normative Versus Taxonomic Humanity: Varieties of Human Dignity in the Western Tradition,” *Journal of Human Rights* 14 (2015): 1-22.

⁴⁷ Hu Yuhong and Wu Jiahao, “Dedicated to the ‘Humanistic Interpretation of Law’,” *Social Scientist* 1 (2023).

⁴⁸ Christopher McCrudden, “Human Dignity and Judicial Interpretation of Human Rights,” *European Journal of International Law* 19 (2008): 655-724.

⁴⁹ John Stuart Mill, *On Liberty*, translated by Meng Fanli (Shanghai: Shanghai Sanlian Bookstore, 2019), 8.

⁵⁰ BVerfGE 4, 7. Cited in Cai Weiyin, “An Exploration of the Provision on ‘Human Dignity’ in Article 1 of the German Basic Law,” *Constitutional Era*, vol. 18, no. 1 (1992).

Human Rights (ECHR), concerning the deportation of Tunisian refugees by the Italian government, the judges held that the Italian government's deportation solely on the basis of group membership, religion, or nationality, without considering each individual's specific circumstances through personal interviews, violated Article 4 of Protocol No.4 to the *European Convention on Human Rights*. The court emphasized: "Collective deportation diminishes human dignity because it treats individuals as part of a group, processing them uniformly rather than addressing each person's situation individually."⁵¹ Ultimately, treating people as interchangeable "objects of a kind" contradicts the requirements of individual dignity.

The theory of individual dignity also prohibits torture and degrading treatment. Torture undermines an individual's physical and mental integrity, treating them merely as objects of punishment. As scholars have noted, "The purpose of torture is to destroy any individual control that the victim has over their conditions of existence, thereby stripping them of any autonomy or subjective experience of dignity that might enable them to resist the demands of their interrogators."⁵² In the case of *Ireland v. United Kingdom*, Judge Evrigenis believed, "By incorporating the concept of inhuman and degrading treatment into the notion of torture, the drafters of the Convention intended to broaden the prohibition in Article 3 — originally targeted at torture - to encompass other types of conduct that cause intolerable suffering or affect an individual's dignity."⁵³ Similarly, the prohibition against degrading treatment safeguards an individual's personal dignity. In the case of *Palomo Sanchez and Others v. Spain*, the European Court of Human Rights held, "In a professional setting, severely insulting or offensive remarks that infringing upon an individual's personal dignity constitute a grave breach of duty. Given the gravity of the harm caused, harsh penalties can be justified."⁵⁴

The relevant provisions concerning economic, social, and cultural rights in international human rights conventions are often interpreted by courts as closely linked to individual dignity. Experiences of exclusion, poverty, and discrimination have taught us that fundamental freedoms and equal rights hold equal value for all citizens only when social and cultural rights are also included.⁵⁵ In this regard, courts across different jurisdictions have expanded the scope of fundamental rights through expansive interpretation, utilizing the concept of individual dignity to require a state to fulfill people's basic survival needs. For instance, the Inter-American Court of Human Rights has broadened the concept of the right to life, stating that it "includes not only the right of everyone not to be arbitrarily deprived of life but also the right not to be prevented from accessing conditions necessary for a dignity-preserving existence."⁵⁶ Based on this interpretation, the court has questioned the Guatemalan government's failure to provide care for homeless children. Similarly, the European Court of Human

⁵¹ *Khlaifia and Others v. Italy*, (App no 16483/12) ECHR 2016.

⁵² Roger Cotterell, *Sociological Jurisprudence*, translated by Li Jun and Zhang Wanhong (Beijing: Peking University Press, 2022), 255.

⁵³ *Ireland v. United Kingdom*, (App no 5310/71) ECHR 1978.

⁵⁴ *Palomo Sanchez and Others v. Spain*, (App no 28955/06, 28957/06, 28959/06 and 28964/06) ECHR 2011.

⁵⁵ John Rawls, *A Theory of Justice*, 56-58.

⁵⁶ *Inter-American Court of Human Rights, Case of the 'Street Children' (Villagran-Morales et al.) v. Guatemala*, Judgment of Nov. 1999 (Merits), at para. 144.

Rights has expansively interpreted Article 3 of the *European Convention on Human Rights*, which prohibits torture, with the majority of judges asserting that “in such circumstances, where a person has to sleep on the floor of an inadequately lit, crowded, and noisy airport transit area for several months consecutively, without easy access to shower or cooking facilities, unable to engage in outdoor activities, and denied medical or social assistance, this falls below the minimum standards required for respecting individual dignity.”⁵⁷

3. Political communities from the perspective of dignity: individual-centeredness

Compared to human dignity, individual dignity offers a fresh understanding of the relationship between individuals and political communities. Although individual dignity, as a value, must be realized through the nation-state, it possesses supranational attributes. The law merely declares and protects human dignity; it does not create or invent it. During the negotiations leading to the adoption of the *Universal Declaration of Human Rights* in history, one crucial reason for selecting the concept of dignity was that it “does not rely solely on authority derived from the state,”⁵⁸ as any rights and interests granted by a state can be fully revoked by it. On the one hand, individual dignity integrates with the cosmopolitan ideal, placing human identity above citizenship through a “sense of humanity.”⁵⁹ On the other hand, it recognizes an individual, rather than a community, as the smallest fundamental unit of society and the sole possessor of dignity. This explains why numerous behavioral requirements stemming from individual dignity constitute the main content of state obligations, with individuals emerging as rights advocates based on these requirements.

Furthermore, the concept of individual dignity has transformed the sources of political legitimacy in modern states by acknowledging the inherent intrinsic value of individuals. “Every power, indeed every form of social relationship, generally seeks to justify itself. In fact, the continued existence of every domination requires a strong self-justification by appealing to its principle of legitimacy.”⁶⁰ According to the theory of social contract, modern states are constructed through social contracts. This implies that states possess certain desirable attributes that convince any rational person to consent to exit the state of nature. Consequently, this determines that states must uphold social peace and tranquility, enabling people to lead decent, dignified, and happy lives. Following World War II, in light of the Fascist regimes’ violations of human rights, individual dignity was revisited and subsequently recognized as a fundamental value in the *Charter of the United Nations* and the *Universal Declaration of Human Rights*. When drafting the German Constitution after the war, Mangoldt, the Chairman of the Constitutional Committee for the Basic Law, explicitly stated, “For us, it is of utmost importance to emphasize and prioritize individual dignity from the outset. The task of this clause is to establish freedom and human rights within legal relations, with

⁵⁷ Z. A. and Others v. Russia, (App no 61411/15, 61420/15, 61427/15 and 3028/16) ECHR 2019.

⁵⁸ David Weisstub, “Honor, dignity and the framing of multiculturalist values,” in *The concept of human dignity in human rights discourse* (Leiden: Brill Nijhoff, 2001), 263.

⁵⁹ Eusebio Fernández García, “Dignidad humana y ciudadanía cosmopolita,” *Librería-Editorial Dykinson* 21 (2011): 108.

⁶⁰ Max Weber, *Economy and Society: An Outline of Interpretive Sociology*, translated by Kang Le and Jian Huimei (Guilin: Guangxi Normal University Press, 2010), 18.

individual dignity serving as the goal and direction.”⁶¹ This proposal garnered majority support and was ultimately implemented as an unamendable provision in the Basic Law.

B. Results of the comparison

1. The autonomy provided by the theory of human dignity is inadequate

Firstly, the theory of human dignity mandates individuals to actualize prescribed human nature through external active behavior, thereby leading to a form of determinism in a dual sense: at the outset, humans are distinguished from other entities in nature by certain capabilities, and the term “dignity” is employed to express this special status; at the end, there exists an ideal human model, meaning that we are deemed to have an obligation to fully realize our original dignity. In contrast, the concept of individual dignity aims to transcend any form of determinism.⁶² It does not focus on a preset or ideal human image but rather on the freedom of each individual to choose different modes of life. When individuals are unaware or unable to pursue excellence on their own, the theory of human dignity permits state intervention in private life through power. In the view of these thinkers, the masses are poor judges of their affairs and unclear about what constitutes their best interests. Therefore, a prudent legislator is necessary to achieve justice through politics and law and to instill virtue among people. As Giuseppe Cambiano pointed out, education in Aristotle’s view became a form of cultivation, that is, shaping a complete person according to a fixed model.⁶³

Secondly, the precedence of the community in the conceptual framework and value hierarchy requires absolute submission from individuals, thereby limiting the scope and essence of autonomy. If individual dignity strives to empower every individual to make self-determinations and bear responsibility for realizing the value of their own life, then human dignity requires each individual to better integrate into the community to maintain social stability and harmony. Consequently, individual goals and values are assimilated into the community, as Werner Jaeger commented on Aristotle’s teachings: “When Aristotle says that the best life for the city and the individual is the same, he does not mean that the state is in good condition if everyone is well-fed and comfortable. Rather, the value of the city is based on the spirit and morality of its citizens, and the ultimate source is the moral soul of the individual. The highest ethical concept that the soul can attain is the city.”⁶⁴

Thirdly, the theory of human dignity falls short of generating the modern concept of rights. This perspective does not assert that our ability to make demands on others arises from our possession of freedom and rationality. On the contrary, possessing rationality or freedom is viewed as giving rise to an obligation to use our abilities appropriately. In other words, individuals do not possess rights in the sense of “entitlement”; rather, they are indirectly acquired through individuals’ self-obligations. For instance, many classical thinkers’ theories include prohibitions against cruelty, even

⁶¹ Zhou Yuntao, *On Constitutional Personality Rights and Civil Personality Rights: An Examination Centered on German Law* (Beijing: China Renmin University Press, 2010), 30.

⁶² Oliver Sensen, *Kant on Human Dignity*, 228.

⁶³ Jean-Pierre Vernant, *The Greeks*, translated by Charles Lambert and Teresa Lavender Fagan (Chicago: The University of Chicago Press, 1995), 113-115.

⁶⁴ Werner Jaeger and José Gaos, *Aristóteles: bases para la historia de su desarrollo intelectual*, Fondo de Cultura Económica, 1946, page 316-317.

when the victims are enemies or slaves. However, this prohibition does not imply that slaves or enemies have a “right” not to be harmed; rather, it underscores individuals’ obligation of “self-care,” or protecting the soul from harm caused by uncontrolled emotions such as anger and tyranny.⁶⁵ This viewpoint is further supported by the fact that rights in the sense of “entitlement” are not prominent among thinkers who employ the theory of human dignity.⁶⁶

2. The equality provided by the theory of human dignity is limited

Firstly, the equality provided by the theory of human dignity is confined to specific groups. When I use the term “human” dignity, I never imply that it encompasses a universal concept of humanity. Direct evidence of this is the widespread existence of slavery and the exclusion of foreigners during classical times. To explain this phenomenon, we need to distinguish between two different concepts of humanity: humanity in the biological sense and humanity in the normative sense. The former refers to beings possessing certain biological characteristics, while the latter refers to beings possessing certain qualities.⁶⁷ In modern international legal documents, it is assumed that these two concepts overlap, but in ancient times, the scope of humanity in the normative sense was much narrower than that in the biological sense. “In Roman law, *persona* refers to someone who possesses civil rights, which is distinctly different from *homo*, which merely refers to someone who is a member of humanity. *Homo*, of course, differs from animals, but lacks any special qualities or characteristics. Therefore, *homo*, like the Greek word *anthropos*, was often used derogatorily to refer to those who were not protected by any law.”⁶⁸

Even within specific groups, the theory of human dignity tends to justify inequalities among individuals at the moral value level. When human dignity positions autonomy as the pursuit of excellence, a natural inequality inevitably accompanies it, given that people are not equivalent in abilities, and factors such as endowments and luck further exacerbate such inequality. Since dignity depends on the active realization of certain extrinsic values, differentiation among individuals based on natural endowments is inevitable. Unlike modern legal theories that strive to exclude all accidental factors in evaluating individuals,⁶⁹ advocates of human dignity such as Plato emphasize the unequal distribution of value among humanity based on certain specific natural qualities, ultimately leading to a hierarchical society where a minority is presumed superior, and the rest of the population is stratified according to their talents. Naturally, this mode of thinking aligns with the communitarian political demands of the classical period, and the reason is not hard to understand: Both politics and ethics in

⁶⁵ Cicero believed that cruelty violates the decorum of conduct, “it is an evil that derives pleasure from the misfortunes of others, yet brings no benefit to oneself.” Marco Tulio Cicerón, *Disputaciones tuscultas*, Traducción Alberto Medina González, Titivillus, 2019, page 349.

⁶⁶ Tuck argues that the concept of rights in the sense of “Desert-based Rights” originated in property law in the 12th century, and its widespread dissemination only occurred in the 17th century. See Tuck Richard, *Natural Rights Theories, Their Origin and Development* (Cambridge: Cambridge University Press, 1979), 9-11.

⁶⁷ Jack Donnelly, “Normative versus Taxonomic Humanity: Varieties of Human Dignity in the Western Tradition,” *Journal of Human Rights* 14 (2015): 1-22.

⁶⁸ Hannah Arendt, *Responsibility and Judgment*, translated by Chen Lianying (Shanghai: Shanghai People’s Publishing House, 2011), 10.

⁶⁹ John Rawls, *A Theory of Justice*, 10.

ancient Greece were branches of cosmology and thus isomorphic.⁷⁰ As they advocated, human health depends on enabling the highest reason to exercise all its capacities, and the health of the state relies on harmonious and just relations among its parts; since there will inevitably be philosophers who require leisure and intellectually inferior slaves to support them, the respective statuses of these two groups are naturally “deserved” for the stability and health of the polis.

IV. Why the Theory of Individual Dignity Cannot Be Replaced by the Doctrine of Human Dignity

A. Observations on value

At this point in the discussion, a potential contradiction must be addressed before drawing any conclusions. As mentioned at the beginning of this paper, the methodology adopted here is from the perspective of an external observer, aiming solely to describe and compare two distinct views of dignity without venturing into value judgments on either. This raises the question: Is it possible to discuss the question “why the theory of individual dignity cannot be replaced by the doctrine of human dignity” while refraining from making value judgments? The author believes that the perspective of an external observer can indeed provide a sketch of the social functions of a particular value system, outlining the empirical benefits derived from specific values, just as Weber pointed out the positive significance of Protestant ethics for the development of early capitalism. Of course, some may argue, “Such discourse confuses the “is” with the “ought,” replacing normative arguments with utility arguments. You implicitly premise that we should do what is beneficial to us. However, values cannot be reduced to utility; they also constitute the meaning of life for the subject.”⁷¹ This discourse also ignores the objective reality of human beings possessing free will; people living in classical times could have rejected the theory of individual dignity and embraced the doctrine of human dignity, even if the former, in our view, was more likely to bring them ‘benefits’.

In response, the author offers two points: First, the aforementioned criticism is valid. Even if the author proves, from the perspective of social theory, that the theory of individual dignity offers more benefits than the doctrine of human dignity, such arguments are relatively weak in terms of supporting the conclusions the paper seeks to achieve. However, these criticisms do not negate the usefulness of the observations made in the paper and provide a sound rationale for preferring individual dignity over human dignity. In other words, if we cherish the material achievements of modern civilization and the moral experience of recognizing the inherent value of individuals, we should dare to make value choices. In this sense, the paper’s conclusion can be seen as a call to action.

⁷⁰ Plato, *The Republic*, 187.

⁷¹ Clifford Geertz once pointed out that law, as a cultural product, is not merely a technical means of resolving social problems but also a way of giving meaning to particular things in particular places, “expressing and transmitting people’s views about the world, order, justice, and other fundamental issues.” Clifford Geertz, “Local Knowledge: Further Essays in Interpretive Anthropology,” in *Cultural Interpretation of Law*, translated by Deng Zhenglai, edited by Liang Zhiping (Beijing: SDX Joint Publishing Company, 1994), 145-146.

Secondly, and more importantly, the aforementioned criticism overlooks the open-ended nature of the concept of individual dignity. Unlike traditional moral concepts, individual dignity does not hinge on metaphysical assumptions about human nature. This is because any such assumptions are unlikely to garner universal support in today's ideologically divided global society, which contradicts the universalist stance on individual dignity articulated in important international documents such as the *Universal Declaration of Human Rights*. Instead, individual dignity serves as an "overlapping consensus"⁷² among the diverse holistic doctrines of civilized nations. This theory reflects on global human rights practices and aims to justify and improve human rights activities. In other words, in the process of application, individual dignity undergoes a cycle of testing the outcomes to reflect on the validity of its premises, repeating this process until a provisional equilibrium is reached — a product of "reflective equilibrium." In this sense, the interpretation of the essence of individual dignity by international courts, as a vital component of global human rights practices, inherently constitutes a part of the process of constructing the theory of individual dignity. The observations in this paper regarding the social utility of individual dignity also facilitate the process of reflective equilibrium. Consequently, from the perspective of an external observer, the paper indirectly addresses the normative question: if certain value principles of individual dignity genuinely contribute to advancing the global human rights cause, then these principles can be formulated and acquire normative binding force.

B. Integrating the abstract society

From the perspective of social operation, only individual dignity holds the potential to integrate the highly differentiated modern abstract society. An "abstract" society⁷³ refers to one in which interpersonal interaction and identification are difficult to reduce to personal experiences in specific contexts. As Luhmann puts it, "Society can no longer be represented at the level of social interaction." Modern society is highly complex and functionally differentiated. On the one hand, the intensification of labor division diversifies beliefs and makes individual experiences of life so narrow that communication becomes difficult⁷⁴; on the other hand, it necessitates our mutual dependence to sustain normal life. The importance of individual dignity lies in its conception of certain inherent elements shared by all individuals, allowing people to feel part of a larger whole, thereby enabling moral diversity without leading to social fragmentation. Specifically, first, the conception of a universal subject stabilizes expectations in social interactions, making it possible to trust strangers.⁷⁵ Second, the

⁷² Jack Donnelly, *Universal Human Rights in Theory and Practice*, 3rd edition (Ithaca: Cornell University Press, 2013), 130-132.

⁷³ Niklas Luhmann, *Essays on Self-Reference* (New York: Columbia University Press, 1990), 113.

⁷⁴ Ulrich Beck, *Risk Society: Towards a New Modernity*, translated by He Bowen (Nanjing: Yilin Press, 2004), 279-280.

⁷⁵ In modern social interactions or transactions, reliance is not placed on specific moral judgments of a familiar individual, but rather on categorical understanding or typed knowledge of a stranger. On the one hand, many characteristics of these abstract subjects must be presumed to stabilize reasonable expectations, among which individual dignity is the most important. On the other hand, individual dignity as knowledge is also applied through self-technology, where individuals undergo various disciplinary trainings or reflective activities to become subjects of dignity, thereby realizing the aforementioned presumptions. See Niklas Luhmann, *Trust*, translated by Qu Tiepeng and Li Qiang (Shanghai: Shanghai People's Publishing House, 2005), 62-79.

advocacy of autonomy liberates individuals from external control and arbitrary prohibitions, enabling their full participation in social life. Third, ensuring that everyone can have a minimally decent life and access to basic necessities prevents individuals from being controlled by others in terms of survival conditions, thus avoiding the sensation of their autonomous identity being undermined. Fourth, arbitrary discriminations are prohibited because they hinder people's freedom to interact with others and participate in socioeconomic relations.⁷⁶ These functions are beyond the reach of the theory of human dignity that merely regards individuals as carriers of human traits and parts of a community.

C. Advancing the global cause of human rights

Compared to human dignity, individual dignity transcends ontology through axiology, creating a unique open structure and thereby acquiring a strong cross-cultural potential. This is conducive to realizing the noble ideal of building a community with a shared future for mankind. In other words, the value of individuals has shifted from being something proven through ontological evidence to being a preset axiological premise that "individuals ought to be valuable," thereby completing the "deification" of humans.⁷⁷ Consequently, the proposition that "individuals are valuable" becomes a given, while the rationale for value becomes an open space to be filled and interpreted by various philosophical theories. This lays the academic foundation for enriching the connotation and expanding the denotation of individual dignity. This is the first point. Second, individual dignity offers more possibilities in both connotation and denotation. Individuals are no longer required to actively pursue excellence, which diversifies behavioral standards. Third, under the theory of Individual dignity, national and individual goals are distinguished from each other. In the past, individual goals were subsumed into communal goals, and individuals were, to some extent, required to submit to the whole. However, nowadays, national goals should instead be premised on respecting individual values. As such, there are numerous possibilities for coordinating the relationship between these two types of goals. The aforementioned three reasons ensure that the concept of individual dignity will inevitably provide ample room for judgment in various cultural regions during the development of the rule of law, thereby bringing about richness and diversity in its connotation.

As a matter of fact, the appeal of the theory of individual dignity in today's global society lies in both its plasticity and moral appeal. Individual dignity can take on different hues across various civilizations and social demands, which paradoxically makes it easier to realize the ideal of cosmopolitanism. For instance, in the case of *State v. Makwanyane and Mchun*, Justice Mokgoro attempted to link the concept of dignity with the African indigenous concept of ubuntu, stating, "Ubuntu, in its general sense, means humanity. Metaphorically, it underscores the importance of communal solidarity for survival. While it encompasses key values such as communal solidarity, empathy, respect, individual dignity, compliance with fundamental norms, and community cohesion, in its fundamental sense, it signifies humanity and morality. Its essence

⁷⁶ Rawls, A, "Conflict as a Foundation for Consensus: Contradictions of Industrial Capitalism in Book III of Durkheim's Division of Labor", *Critical Sociology* 29 (2003): 295-335.

⁷⁷ Michael Gillespie, *The Theological Origins of Modernity*, translated by Zhang Butian (Changsha: Hunan Science and Technology Press, 2019), 44 and 94-104.

emphasizes respect for individual dignity.” As individual dignity embraces the diversity of civilizations, the latter should never serve as a rationale for rejecting the former. The progress of the global human rights cause is not only driven by the top-down efforts of international human rights organizations and activists but also by the bottom-up aspiration of socially vulnerable groups for greater individual autonomy and broader equal protection. “We have no reason to apologize for the moral individualism that lies at the core of human rights discourse: it is precisely this that makes it appealing to marginalized and oppressed groups who suffer from exploitation and dependency.” In fact, the acceptance of individual dignity by constitutional states, civilizations, and their peoples has laid a cultural foundation for the continuous enrichment of its connotation and the ever-expanding scope of its application.

In fact, the appeal of the theory of human dignity in today’s global society lies in its plasticity and moral appeal. Human dignity can take on different hues across diverse civilizations and social needs, which paradoxically makes it easier to realize the ideal of cosmopolitanism. For instance, in the case of *State v. Makwanyane and Mchun*, Justice Mokgoro attempted to link the concept of dignity with the African indigenous concept of ubuntu, stating, “Ubuntu means, quite simply, humanity. Metaphorically, it captures the essence of being human in terms of our interconnectedness for our very survival. Although it encompasses such key values as communal solidarity, empathy, respect, human dignity, adherence to fundamental norms, and community cohesion, in its basic sense, it means humanity and morality. Its ethos emphasizes respect for human dignity.”⁷⁸ While human dignity embraces the diversity of civilizations, the latter should never serve as a reason to reject the former. The advancement of global human rights not only stems from the top-down promotion by international human rights organizations and activists but also from the bottom-up aspiration of socially vulnerable groups for greater individual autonomy and broader equal protection. “We have no fundamental reason to apologize for moral individualism, which is central to the discourse of human rights: it is precisely what makes it appealing to dependent groups suffering from exploitation and oppression.”⁷⁹ Indeed, the acceptance of human dignity by various constitutional states, civilizations, and their peoples has laid a cultural foundation for the continuous enrichment of its connotation and the increasing expansion of its scope.

D. Open structure and realistic critique

The critique of the concept of individual dignity also lies in its unique open structure. Firstly, the open structure of the theory of individual dignity does not provide a clear blueprint for a social ideal but instead supports a contractual society whose specific form can be altered according to individual will. In practice, this is reflected in the theory’s lack of positive prescriptions for “how individuals should behave,” not requiring individuals to actively conform to an ideal life template set by society or the state. Instead, it defines what constitutes violations of individual dignity in negative terms, thereby urging the state to continuously improve the status quo and eliminate

⁷⁸ *State v. Makwanyane and Mchunu*, 1995 (6) BCLR 665 (CC).

⁷⁹ Michael Ignatieff, “Human Rights as Politics and Idolatry,” translated by Hu Shuijun, *Global Law Review* 4 (2005).

obstacles that threaten individuals' pursuit of autonomous and ideal lives. Secondly, the theory of individual dignity establishes individuals as the natural subjects of rights, granting them "priority" status in matters of belief, lifestyle, attitudes, and public affairs management. Political activities have transformed the originally centralized mode of operation, allowing for individual participation in decision-making, at least in part.⁸⁰ Especially with courts actively exercising their "judicial power" and the ongoing interpretation of fundamental rights, individuals can change the legal structure of society as a whole through litigation in accordance with their wishes. In summary, the theory of individual dignity is never content with constructing standards or enumerating connotations. Instead, it advocates, promotes, and contests for a more decent and dignified life for members of society with a constructive attitude, revolutionary propositions, and academic elaboration. When national laws, policies, and actions violate the basic requirements of individual dignity, they must be the subject of critique and the object of revision.

The plasticity and critical nature of the concept of individual dignity also provide judges with useful legal rhetoric to address complex value disagreements in practice. Firstly, a common approach is that courts often use individual dignity as a unified yardstick for measurement when dealing with conflicts between rights or values of equal rank. When a particular right or value is described as involving dignity, it indicates that the court considers it to be given considerable (and even, in some cases, overwhelming) weight.⁸¹ In the *R. v. Keegstra* case heard by the Supreme Court of Canada, the majority of judges bypassed the traditional strategy of pitting freedom of speech against government interests. Instead, it argued that hate speech undermines individual dignity, thereby significantly reducing the weight assigned to freedom of speech in proportion assessments.⁸² Secondly, individual dignity is also employed as a rhetorical device by the European Court of Human Rights. The frequent appearance of this concept in court rulings often signals that the defendant's state actions are sufficiently egregious and that immediate measures should be taken to rectify them. This typically involves structural issues within specific countries' legal systems and societies.⁸³ Of course, it is worth noting that, given the ambiguity of the concept of dignity, the courts' strategy of using dignity as a persuasive tool is not always successful. However, the development of laws in human society is always a process of trial and error. Therefore, the narrative of individual dignity in jurisprudence is equally an important part of the theory of individual dignity and cannot be overlooked.

V. Conclusion

From the perspective of an external observer, this paper describes and contrasts

⁸⁰ Beck describes it as "Within the framework provided by legal statutes and their rules of interpretation, there emerges a usable judicial variation." Ulrich Beck, *Risk Society: Towards a New Modernity*, translated by He Bowen (Nanjing: Yilin Press, 2004), 246-249.

⁸¹ Aaron Baker, "Comparison Tainted by Justification: Against A Compendious Question in Article 14 Discrimination," *Public Law* 3 (2006).

⁸² *R. v. Keegstra*. [1990] 3 S. C. R.697.

⁸³ The author's statistics reveal that the more frequently the European Court of Human Rights mentions dignity in its judgments (ranging from 1 to 18 times), the more likely it is to find a violation of Article 3 of the *European Convention on Human Rights*. See Fikfak, Veronika and Lora Izvorova, "Language and persuasion: human dignity at the european court of human rights," *Human Rights Law Review*, vol. 22, no. 3 (2022).

two distinct understandings of dignity. The doctrine of human dignity identifies inherent characteristics that fundamentally distinguish humans from other beings, thereby granting individuals human status and value as carriers of these characteristics. Building upon this foundation, individuals are called upon to actively demonstrate the essence of humanity and fully engage in political life to serve their communities. Meanwhile, the theory of human dignity establishes a unique concept of autonomy and provides methods for achieving it, promoting the secularization of politics by emphasizing human values. In contrast, the theory of individual dignity presumes their intrinsic value, and thus does not impose positive behavioral requirements on the subject. Instead, it strives to safeguard individual autonomy and equality by imposing legal obligations on the state, with many behavioral requirements emerging from this commitment. Upon comparison, it becomes evident that the autonomy and equality offered by the doctrine of human dignity are extremely limited for individuals, constrained by its essentialist teleological reasoning and community-centric value stance. In closing, this paper believes that the concept of individual dignity transcends ontology through axiology, creating a unique open structure that allows it to become an overlapping consensus among integral doctrines in civilized nations through reflective equilibrium with its practical applications. On this basis, only the theory of individual dignity can integrate abstract societies, advance the global human rights cause, and critically improve political realities. Therefore, it cannot be replaced by the doctrine of human dignity.

(Translated by *LI Chunyan*)