

On Human Dignity as Social Status: A Bottom-Up Approach

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Abstract: *Human dignity is a core concept in contemporary moral philosophy, political science, and jurisprudence. The “social status theory” proposed by Jeremy Waldron argues that human dignity is a social construct, focusing on the fundamental equal social status of individuals. It addresses behaviors of humiliation or devaluation by others, emphasizing both the negative prohibition of such harms and the positive promotion of protections against them. Unlike traditional theories of dignity that often rely on abstract or metaphysical justifications, the social status theory adopts a bottom-up approach grounded in the social practices of dignity. This perspective avoids entanglement in endless value debates over the concept and provides new rationale for affirming human dignity. Furthermore, it refines the understanding of human dignity by identifying three specific types of social harm to dignity and corresponding protective measures. The social status theory significantly mitigates cultural skepticism regarding the concept of human dignity, offering a relatively objective and practicable framework for defining dignity norms. Practically, the theory aligns well with the application of human dignity in both public and private law domains and effectively explains the concept as utilized in international human rights conventions and practices. While there is room for further refinement, the social status theory currently stands out as the most advantageous and robust framework for understanding and promoting human dignity.*

Keywords: Human Dignity; Social Status; Respect; Humiliation.

I. Introduction

The concept of human dignity plays a crucial role in political science, jurisprudence, and moral philosophy. Few philosophical concepts are given such great importance as the concept of human dignity across so many disciplines.¹ However, the ultimate meaning of human dignity remains an open issue. Over time, the concept of human dignity has evolved to carry a multitude of complex meanings and consequently becomes extremely unstable in its boundaries and scope of application. There are diverse interpretations of its essential connotations

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¹ Marcus Duwell, *Humiliation, Degradation, Dehumanization* (Berlin: Springer, 2011), 216-217.

in practice.² However, an ideal interpretation of this concept should capture its uniqueness, distinguish it from other normative concepts like justice and freedom, and ensure its irreplaceable roles. Otherwise, it would become a redundant and “useless concept” that is unworthy of separate discussion. Its normative demands could be replaced by more precise and fundamental normative concepts like autonomy and freedom, so discarding it would not incur any negative impact on humanity.³ Does the concept of human dignity have any special requirements? If so, what are they specifically? Among the vast array of theories on dignity, the recent “social status theory” offers an excellent solution. Adam Etinson argued that human dignity concerns the most basic equal social status of each person and its indicators. In his view, human dignity is unique in that it requires us to refrain from social humiliation or degrading actions towards others and to take positive measures to help protect them from such harm.⁴ Therefore, the author calls his theory of human dignity the “social status theory.”

As the pioneer of the social status theory, Adam Etinson is one of the most active and promising young scholars in the contemporary field of human rights and dignity studies.⁵ Studying under Jeremy Waldron, John Tasioulas, and Roger Crisp, he has taught at the University of Chicago and the University of St Andrews successively. He has published numerous articles on such topics as human dignity and human rights in top journals in the world, including *Philosophy*, *Philosophy & Public Affairs*, *European Journal of Political Theory*, *Utilitas*, and *The Journal of Moral Philosophy*. He has earned widespread acclaim with his unique arguments and profound insights into human dignity. Compared to traditional dignity theories, the social status theory has several advantages. First, it adopts a “bottom-up” approach to derive answers to human dignity from the perspective of value basis or essence by inductively summarizing its application in social practices. This approach not only covers practical exploration but also provides a value-level synthesis and distillation, offering new grounds for justifying the concept of human dignity and avoiding the endless embarrassing debates about its foundational value or essence faced by traditional theories at the onset, thus providing a feasible breakthrough for constructing a widely accepted concept of dignity. Second, the social status theory further expands the details of using the concept of human dignity by identifying three types of dignity violations and the corresponding countermeasures and adding new social elements. This has made the concept more operational and interpretable, and more than a hollow slogan or political tool,⁶

² Wang Fuling, “Dignity: as the Moral Basis of Rights,” *Journal of Renmin University of China* 6 (2014): 54.

³ Ruth Macklin, “Dignity is a Useless Concept,” *British Medical Journal* 327 (2003): 1419.

⁴ Adam Etinson, “What’s So Special about Human Dignity?,” 48 *Philosophy & Public Affairs* 4 (2020): 355.

⁵ In 2011, Adam Etinson completed his doctoral dissertation, “Human Rights and the Problem of Ethnocentrism,” at the University of Oxford, under the supervision of Jeremy Waldron, John Tasioulas, and Roger Crisp. In 2018, Etinson published *Human Rights: Moral or Political?*, a book that is regarded as a must-read for anyone interested in the past, present, and future of human rights. See <http://www.adametinson.com/>.

⁶ Norbert Hoerster, “Ethik des Embryonenschutzes. Ein rechtsphilosophischer Essay,” 15 *Ethik Med* 2 (2003): 133.

injecting new vitality into it. Why would Etinson adopt a bottom-up approach, and how has he specifically implemented it? Furthermore, what new content has the social status theory brought to the concept of human dignity, and what are its limitations? This paper will explore the social status theory of dignity, aiming to offer readers a clearer and more practical concept of dignity.

II. Rooted in Practice: A Bottom-Up Argument for Dignity and Its Advantages

Generally speaking, a comprehensive philosophical theory of dignity should include four core elements. First, it needs to explain the essence of human dignity by answering the question “what human dignity is” — whether it is a special intrinsic value, a manifestation of one or several values, or even a reflection of moral virtues. Second, it should elucidate the basis of human dignity, that is, how a person acquires or loses dignity. Third, as a normative concept, it should inform us of its practical demands — what obligations or reasons it generates. Finally, there is the methodological issue of how to conduct and understand all these inquiries.⁷ In other words, a comprehensive philosophical theory of human dignity should not only analyze in depth the “components of human dignity,” i.e., “how individuals gain and lose human dignity,” but also explore the “proper approach to understand human dignity,” i.e., “how to correctly understand and study these components.”

The social status theory suggests that the usual path for constructing a theory of human dignity is “from top to bottom” — starting with the most fundamental metaphysical question of the essence of human dignity and then addressing other related issues one by one.⁸ However, the theories of human dignity constructed in this way are often stipulative.⁹ Firstly, some scholars associate human dignity with inviolability. Dworkin pointed out that there are two fundamental principles in human life, namely the principle of intrinsic value and the principle of personal responsibility. The former refers to the idea that every life has a special objective value and everyone should treat life well and live well; the latter indicates that everyone has a special responsibility for the success of their own life, namely the responsibility to determine and implement what constitutes a good and worthwhile life. Dworkin believed that these two principles jointly define the essence of human dignity and thus called them the principles of dignity.¹⁰ Rawls also noted that

⁷ Adam Etinson, “What’s So Special about Human Dignity?,” 356.

⁸ Some readers might wonder how to understand “top” and “bottom” specifically. “Top” concerns the essence of a concept, such as “what the essence of human dignity is.” “Bottom” refers to the concrete manifestations of a concept in life, such as “the forms in which human dignity is manifested.” Traditional theorists believe that when constructing a theory about human dignity, one should start with a preliminary hypothesis or conception of its essence and then reason from there to apply it to everyday life practices. However, other scholars advocate that the concept of human dignity should begin with its everyday usage, that is, starting from the bottom to construct a theory of human dignity through gradual abstraction. More details are provided in the following section.

⁹ Jeremy Waldron, *Dignity, Rank, and Rights* (Oxford: Oxford University Press, 2012), 22-24.

¹⁰ Ronald Dworkin, *Is Democracy Possible Here? Principles for a New Political Debate*, translated by Lu

protecting human dignity means recognizing an inviolability based on justice, which cannot be overridden even by the welfare of the entire society.

Secondly, some scholars associate human dignity with important human capabilities. Gilibert argued that the essence of human dignity is a series of valuable capabilities,¹¹ including perception, knowledge, prudence, moral reasoning and choice, aesthetics, self-awareness, creative production, social cooperation, and empathy. In fact, Gilibert largely inherited Nussbaum's discussion of basic human capabilities. Nussbaum pointed out that basic capabilities are integral to minimal social justice, and only by possessing them can one live a life required by human dignity, i.e., a "life with dignity." Therefore, basic capabilities include but are not limited to life; bodily health; bodily integrity; senses, imagination and thought; emotions; practical reason; affiliation; other species; play; and control over one's environment.¹² Griffin, on the other hand, regarded human dignity as the capability to choose and pursue a conception of a worthwhile life, termed normative agency.¹³

Finally, some scholars associate human dignity with membership in the moral community, or "moral status." This theory requires people to maintain an attitude of respect in interactions, respecting others' moral status, which essentially means respecting their dignity. For example, Joel Feinberg noted that respecting human dignity involves respecting a person's status as the claimant of potential rights, standing up like men and being able to look others in the eye.¹⁴ Darwall further pointed out that respecting human dignity is seen as respecting a person's authoritative position to make second personal claims.¹⁵ Some scholars believe that human dignity, as moral status, requires us to fully consider others' interests when taking action.¹⁶

However, the association of human dignity with these elements is merely a wishful linguistic stipulation by scholars, without any special reason or evidence to attribute such connotations to "human dignity." In fact, any other term could be designated to shoulder this task if we so desire. In other words, these typical dignity theories, when used to explain the concept of human dignity, do not rely on any specific practices of the concept as we have observed in everyday life.¹⁷ This leads us to question "Why does human dignity imply inviolability, core capabilities, or

Nan and Wang Qi (Beijing: Peking University Press, 2014), 8-10.

¹¹ Pablo Gilibert, "Human Rights, Human Dignity, and Power," in *Philosophical Foundations of Human Rights*, Rowan Cruft, S. Matthew Liao, Massimo Renzo eds. (Oxford: Oxford University Press, 2015), 204.

¹² Martha C. Nussbaum, *Frontiers of Justice: Disability, Nationality, Species Membership* (Cambridge: Harvard University Press, 2007), 76-78.

¹³ James Griffin, *On Human Rights* (Oxford: Oxford University Press, 2008), 33.

¹⁴ Charles R. Beitz, "Human Dignity in the Theory of Human Rights: Nothing But a Phrase?," 41 *Philosophy & Public Affairs* 3 (2013): 278-279.

¹⁵ Stephen Darwall, "Equal Dignity and Rights," in *Dignity: A History*, Remy Debes ed. (Oxford: Oxford University Press, 2017), 192-194.

¹⁶ Patrick Leem and Robert P. George, "The Nature and Basis of Human Dignity," 21 *Ratio Juris* 2 (2008): 173.

¹⁷ Jeremy Waldron, *Dignity, Rank, and Rights*, 22-23.

a certain moral identity?” If we acknowledge that the term “human dignity” has to follow some rules in everyday use, we should also recognize that these rules impose limits on it. This means the concept of human dignity can only be considered as such when it aligns to some extent with its everyday use. Otherwise, it would be seen as a concept about “something else.”¹⁸

It is evident that starting from metaphysical essence, scholars tend to support their preferred views. The preference not only undermines the objectivity of the theoretical research on human dignity¹⁹, but also reinforces the common misconception that human dignity is ultimately just a theoretical “maidservant”, onto which almost any theoretical agenda can be mapped.²⁰ At the level of basic consensus, there seems to be a universal agreement on the importance of human dignity, yet its understanding and application show significant differences and diversity. This phenomenon has led to a perplexing paradox: scholars aim to clarify human dignity while “surreptitiously” treating it as a concept aligned with their views or values, turning the debate over the concept of human dignity into a contest of personal opinions. As Costas Douzinas stated, human dignity is actually an important battleground for hegemony, with certain ideologies attempting to appropriate the concept to universalize their specific values or culture, though the claimed universality may be the sanctity of life, inviolability, free will, or autonomy. Everyone is trying to monopolize universality, or in other words, to transform their particularity into universal validity.²¹

To avoid the aforementioned problems and acquire a concept of human dignity that is both practical and neutral, the social status theory advocates for a “bottom-up” approach in exploring the concept of human dignity. This approach aims to eliminate the arbitrariness and subjectivity often associated with human dignity theories. Instead of following the traditional path of justifying such theories by starting with the essence of human dignity, it seeks to understand dignity “from the opposite direction” by examining the actual demands or claims related to human dignity in social life. This involves observing how human dignity is practically applied, what it requires, and when it is violated or endangered. All this will help uncover its core meaning. After that, attention can be paid to principles that might be high enough to explain the concept of human dignity. However, to explain what needs to be explained, there is no need to resort to the highly abstract moral principles used in top-down methods, nor to assume that any of these contentious abstract principles are correct, or even that a large-scale moral system is possible.

¹⁸ Adam Etinson, “On Being Faithful to the ‘Practice’: A Response to Nickel,” in *Human Rights: Moral or Political?*, Adam Etinson ed. (Oxford: Oxford University Press, 2018), 167.

¹⁹ This approach often leads to questions. For example, when theorists hypothesized the essence of human dignity, were they just making arbitrary assumptions, or were they fabricating concepts to serve their own agendas? What is the basis for their assumptions or conceptions? What are the standards? Is there any realism to these ideas?

²⁰ Adam Etinson, “What’s So Special about Human Dignity?,” 355.

²¹ Christopher McCrudden, “In Pursuit of Human Dignity: An Introduction to Current Debates,” in *Understanding Human Dignity*, Christopher McCrudden ed. (Oxford: Oxford University Press, 2014), 11.

Even dignity theories constructed using a top-down approach cannot be viable without first explaining how the concept of human dignity is used in social life. We need to use experience from social life to test whether what is derived from these highly abstract moral principles can truly represent human dignity. Certainly, we don't need to regard the use of human dignity in today's social life as immutable; however, if we need to understand its meaning without relying on the notion of "the principles or prohibitions from which human dignity has been derived," then the social use of the concept of human dignity is the most likely and significant source.²²

The greatest advantage of the bottom-up approach proposed by the social status theory is that it has keenly grasped a fundamental requirement of the normative concept of dignity, namely, the concept of human dignity should align with current mainstream social practices. If we acknowledge the value of everyday practices of human dignity, we should seek a continuity of some sort between the concept and practice. By starting from the social practices of human dignity, we naturally avoid the reliance of the top-down approach on some prescriptive factors independent of human dignity practice, which could lead to arbitrary conceptualizations of the essence of human dignity. We also avoid endless value disputes over the concept of human dignity. Therefore, this method can help us understand the concept of human dignity based on current social practices and derive a universally accepted norm of human dignity.

III. Expanding the Argument: The Concrete Application of Human Dignity in Social Life

A. Analysis of three groups of typical cases of human dignity infringement

For the social status theory, the social application of human dignity is crucial for a correct understanding of the concept. The bottom-up approach requires us to grasp the application of human dignity in social life. Then, how is the concept of human dignity applied in practice? Let's scrutinize the following three groups of cases²³:

Table 1. Different Situations of Human Dignity Infringement

Bicycle theft case	Property damage case	Homicide case
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²² James Griffin, *On Human Rights*, 29.

²³ The three groups of cases are derived from Etinson's thesis. For ease of understanding, the present author has made appropriate adaptations.

<p>Situation 1</p>	<p>One morning, A was cycling to work. Upon arriving at the company, she locked her bicycle at the designated bike rack according to company regulations, like many of her colleagues did. After clocking off, when she was ready to leave, she discovered that her bicycle had been stolen.</p>	<p>One evening, a group of idle and delinquent teenagers threw stones at the window of a local roadside shop, intending to damage the property inside. Fortunately, it was past the shop's business hours, and no one was inside. Therefore, no injuries occurred.</p>	<p>Late one night, A encountered two armed assailants on the way home, who tried to steal A's backpack by force. The encounter quickly escalated into a violent fight, during which one of the assailants shot A in the chest. The gunshot wound was confirmed to be fatal.</p>
<p>Situation 2</p>	<p>One morning, A, who is disabled, rode a specially designed bicycle, her only means of independent transportation, to go to work. She followed the company rules and locked her bicycle at the designated bike rack, where her colleagues' bicycles were also parked. However, when she clocked off and was ready to leave, she discovered her bicycle had been stolen. A preliminary investigation revealed that the theft was premeditated, aimed at depriving her of her only means of independent mobility,</p>	<p>One evening, a group of wandering KKK youth members threw stones at the window of a local roadside shop, intending to damage the property inside. Fortunately, it was past the shop's business hours, and no one was inside, so no injuries occurred. An investigation revealed that the shop was run by an African American family who had recently moved into this predominantly white community. The attack was clearly an act of intimidation against the victim.</p>	<p>Late one night, A encountered two armed assailants on the way home who attempted to take away A's backpack by force. The encounter quickly escalated into a violent brawl. Subsequently, A was subdued by the criminals, who ordered A to kneel on the ground with hands bound behind and cruelly shot A in the head, killing A.</p>

	leaving her unable to get home on her own.		
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By comparatively analyzing these three sets of cases, we can see that not all moral wrongs are considered violation or denigration of human dignity. In the bicycle theft case of Situation 1, a clearly suffered harm morally. Imagine, you have a brand-new bicycle like she did, you would want anyone trying to take it to seek your permission beforehand. Although A suffered harm, the current information generally does not lead to the conclusion that A's dignity as a person is violated. In the property damage case of Situation 1, the shop owner was clearly wrongly treated, suffering unwarranted damage to private property. Nevertheless, the reckless youths did not harm anyone's dignity. The same applies to the homicide case in Situation 1. However, when we further examine the variants of these three cases in Situation 2, we find the conclusions change. In the bicycle theft case in Situation 2, the theft was a premeditated act against A, a disabled person, with the despicable aim of depriving her of her only means of independent transportation and forcing her to rely on others for mobility, thus causing her immense helplessness and fear. In this variant, we naturally consider it a violation of human dignity. Let's move on to the property damage case in Situation 2. With the addition of elements like "KKK,"²⁴ "African American," and "intimidation," it's difficult not to view the case as a serious violation of human dignity. In the homicide case in Situation 2, Etnison adjusted the specifics of A's victimization. Unlike the initial scenario, A was not impulsively shot to death but was forced into a series of humiliating positions, such as kneeling, before being cruelly killed with a close-range shot to the head. These disturbing and distressing details significantly

²⁴ KKK, abbreviation for the Ku Klux Klan, is an organization in the United States that has promoted white supremacy and racial discrimination against people of color since the late 19th century. It is characterized by its strong xenophobic traits. As a typical representative of racism and extremism in the U.S., the group openly advocates racial discrimination, persecutes Black people and progressive individuals, and engages in sabotaging social stability.

altered the nature of the crime, greatly heightening the awareness of the profound concern for human dignity.²⁵

In real life, human dignity is not merely a “placeholder,” but rather, it contains rich normative content. It is closely linked to our social life, particularly social vulnerability. Etinson pointed out that human dignity is similar to honor; just as violations of honor are characterized by insult, humiliation, or degradation, actions that violate human dignity also possess these traits — primarily manifested as the humiliation or degradation of social status. In short, the uniqueness of human dignity lies in its demand that we avoid incurring humiliation or degradation to others and take active measures to protect them from such harm.²⁶ If we acknowledge the intrinsic connection between human dignity and this kind of harm, we can better understand the aforementioned cases and their variants. Take the bicycle theft case as an example. The main difference between Situation 2 and Situation 1 consists in the degradation or humiliation of the victim. First, in Situation 2, the thief deprived the victim of the ability to move independently, a capability typically seen as crucial to one’s pride or self-esteem. Therefore, this crime significantly impacted the victim by lowering her social status in a way that is not typical of an ordinary bicycle theft. Second, the motivation behind the crime significantly differed from most ordinary bicycle thefts. It was a malicious and carefully planned attack specifically targeting a disabled individual. This affected the nature of the case in two ways. On the one hand, it means that the theft was distinctly personal. The theft of A’s bicycle on that day was a deliberate, premeditated attack aimed at her. We all know that the attack, especially targeting a vulnerability (physical disability) that already brings shame to the victim, was already a significant humiliation. On the other hand, the anticipated impact of the crime — making A dependent on others and unable to move — indicates that its purpose was not merely to harm or incapacitate the victim but to specifically humiliate the victim: to destroy her self-esteem and make her feel inferior. Therefore, in terms of both the impact and intention of the act, Situation 2 clearly had a greater degree of humiliation or degradation compared to an ordinary bicycle theft. At this point, there is a significant positive correlation between the humiliating or degrading nature of the criminal act and its apparent violation of human dignity.²⁷

This relationship is also evident in the property damage case and the homicide case. In the property damage case in Situation 2, the attack was not random but specifically targeted at an African American family. The racial identity of African Americans has already become a source of social stigma and systemic discrimination. The purpose of such attacks was not only to cause material damage but also to exert psychological pressure on the victims at a social level, making

²⁵ Adam Etinson, “What’s So Special about Human Dignity?,” 357-360.

²⁶ *Ibid.*, 355-356.

²⁷ Adam Etinson, “What’s So Special about Human Dignity?,” 364.

them feel ostracized, humiliated, and fearful, thus leaving them isolated and helpless in society. In the homicide case in Situation 2, when the perpetrators ordered A to kneel as a punishment, it became clear that their interest had shifted from merely stealing a backpack or acquiring money. Their true intent was evidently more malicious, possibly aiming to humiliate the victim A to make him feel insignificant and worthless, or to exhibit or enjoy a sense of dominance. This behavior, to some extent, involved a degradation of social status, blatantly trampling on human dignity.²⁸

B. The social status theory: a more competitive interpretation of the concept of human dignity?

At this point, the perspective of the social status theory has essentially taken shape, suggesting that human dignity is primarily concerned with a specific type of harm — namely, the humiliation or degradation of a person’s social status. Compared to other views, its practical fidelity grants it greater competitiveness, allowing the concept of human dignity to exert a more robust influence. As mentioned earlier, some scholars associated the concept of human dignity with moral status. However, as an abstract concept of moral status, it clearly could not explain the issues in the three sets of cases discussed. From the perspective of moral status, all situations in the bicycle theft case, property damage case, and homicide case involve moral wrongs and rights violations, such as violation of property rights and disregard for others’ claims, which is clearly against our intuition.²⁹

Similarly, theories that associate human dignity with important capabilities or inviolability are faced with similar issues. On the one hand, in the theories of Gilibert and Nussbaum, human dignity is founded on the possession of a range of valuable capabilities such as life, health, perception, imagination, and thought. Thus, the three sets of cases in both Situation 1 and Situation 2 constitute violations of these capabilities and, consequently, harm to human dignity.³⁰ On the other hand, theories of inviolability, as represented by that of Dworkin, imply that everyone should have a set of basic rights, including the right to life, equality, and autonomy, which are generally non-negotiable or non-exchangeable, and which provide solid protection for individuals. These rights can be limited or weighed only in extremely special circumstances. However, this also implies that for the aforementioned three typical cases, regardless of how the details change, they all involve violations of “inviolable” rights such as the right to life and property rights.

²⁸ Ibid., 365.

²⁹ Ibid., 358-359.

³⁰ Perhaps Griffin’s view of human dignity as normative agency could explain the bicycle theft case, as Situation 2 involves stripping A of her ability to act autonomously. However, this theory also fails to explain the homicide case: Both Situation 1 and Situation 2 involve a deprivation of normative agency; why are we particularly outraged by Situation 2? In the property damage case, why does the situation change when the element of the KKK is introduced? Is it because the latter affects normative agency? We do not know. Ibid., 360-362.

Seen from the principle of inviolability, these cases all constitute violations of human dignity.³¹

However, is this really the case? We clearly sense that in the aforementioned cases, Situation 2 significantly infringed on human dignity compared to Situation 1. What remains unclear is whether the theories of inviolability or important capabilities can explain this distinction. According to these scholars, in life, any minor moral wrong or any act of infringement would constitute a violation of human dignity, with differences perhaps in the degree of the violation. This view often manifests in the notion that any harm to personal property rights or personal rights can be considered damage to human dignity.³² Notwithstanding, this is not the case. The social status theory compellingly demonstrates that human dignity only involves specific harm. Sometimes, an infringement on someone's property indeed triggers indignation over the violation of human dignity, but that is because the infringement also involves humiliation or degradation, as seen in the bicycle theft case and the property damage case in Situation 2. Therefore, not every act of property infringement constitutes harm to human dignity³³. If every form of harm were to become a harm to human dignity, the language of dignity would become "overgeneralized", and perhaps easier to manage and more "suave." However, its role in political philosophy would be diminished and less significant.³⁴

In today's academia, the concept of human dignity is increasingly questioned for its redundancy and ambiguity. First, regarding redundancy, the U.S. bioethicist Ruth Macklin explicitly stated that human dignity is a "useless concept," and that discarding it would not have any negative impact on humanity.³⁵ In other words, the concept of human dignity itself lacks novelty, as its normative demands can be replaced by more precise and fundamental moral concepts such as autonomy and basic rights. For Griffin and Gilabert, human dignity essentially represents the specific value of autonomy or a collection of values like autonomy and well-being. In Dworkin's view, human dignity is actually a collection of basic rights. Second, regarding ambiguity, some scholars argue that the concept of human dignity is merely a "hollow formula without argumentative significance" in its normative use. German scholar Norbert Hoerster pointed out that, on the one hand, the concept of human dignity lacks precise and specific content; on the other hand, its ambiguity makes it susceptible to ideological erosion, turning it into a political tool.³⁶ The

³¹ Ibid., 361-362.

³² The author wishes to thank the external reviewers for their additional suggestions, to which the author hereby responds.

³³ For example, during the morning rush hour, when I was driving on a congested road, my car was unfortunately rear-ended by a careless driver due to the complex road conditions. The driver immediately got out and offered a sincere apology. In this situation, my property rights are clearly damaged materially, but it is unimaginable to claim that my dignity is also harmed.

³⁴ Jeremy Waldron, *Dignity, Rank, and Rights*, 22-24.

³⁵ Ruth Macklin, "Dignity is a Useless Concept," 1419.

³⁶ Norbert Hoerster, "Ethik des Embryonenschutzes. Ein rechtsphilosophischer Essay," 15 *Ethik Med* 2 (2003): 133.

most typical example is the theory that equates human dignity with moral status, which merely conveys the meaning of “respecting people” without providing any guidance for action. Its ultimate role might just be to showcase a series of behaviors that align with moral requirements or correct moral ideas, while violations of human dignity merely reflect moral wrongs or unacceptable behaviors. In other words, when people claim that a certain behavior is prohibited because it harms human dignity, this assertion essentially repeats the idea that “a certain behavior is prohibited because it is not allowed.”³⁷

The social status theory focuses on the concrete manifestation of human dignity in social practices, effectively countering the contemporary academic criticisms regarding the redundancy and ambiguity of the concept of human dignity. Through the analysis of the aforementioned three sets of typical cases of dignity practice, it becomes evident that human dignity is a meaningful and unique concept. On the one hand, by employing a bottom-up approach, the concept of human dignity is defined and constructed within social relationships and everyday social practices. This approach not only addresses criticisms of the prescriptive nature of the concept but also provides it with substantive content, that is, human dignity primarily involves the humiliation or degradation of a person’s social status. On the other hand, the social status theory endows the concept of human dignity with uniqueness, not only because the concept of dignity as social status is inherently novel and cannot be replaced by normative concepts like freedom or autonomy, but also because the avoidance of humiliation or degradation largely depends on specific societal conventions or public standards. In this way, the concept of human dignity possesses both uniqueness and concreteness, presenting more distinct and compelling characteristics.

IV. Summary and Refinement: Three Methods of Humiliation or Degradation of Others

In summary, if we focus on the practical application of human dignity — specifically, on the actual demands for human dignity and when it is violated or endangered — we find that it is concerned with social status: avoiding humiliation or degradation. However, the question is, what exactly constitutes degradation or humiliation of others? Without a deep understanding of the nature of this harm, discussing its connection to human dignity would become meaningless. The social status theory has identified at least three common methods of inflicting such harm.³⁸

A. Method one: holding a disrespectful attitude

“Attitude” refers to a person’s views, feelings, emotional tendencies, and behavioral inclinations toward objects, people, or situations. It reflects an

³⁷ Wang Hui, “On the Concept and Institutionalization of Human Dignity,” *China Legal Science* 4 (2014): 107-108.

³⁸ Adam Etinson, “What’s So Special about Human Dignity?,” 365.

individual's evaluation of a certain object. In interpersonal interactions, one should maintain a respectful attitude toward others. If an attitude contains elements of contempt or arrogance, it can be considered disrespectful. At a moral level, this disrespectful attitude can be manifested as a tendency to discriminate against or disregard others: believing that they have little or no moral authority or viewing them as inferior or merely as a means to an end or an object to be used at will. Alternatively, it may involve a tendency closer to disdain or disesteem, believing that someone lacks respectable behavior, character, traits, or achievements.³⁹ When discussing the issue of degrading black people, we should recognize that it involves not only moral discrimination, i.e., considering these people inferior, but also further disdain, for example, viewing them as “undeveloped” or “barbarians.” Why can a disrespectful attitude lead to a reduction in social status? That is because others' attitudes are fundamental elements that constitute social relationships and social status.⁴⁰ To securely occupy a position in society, such as the position as a friend, colleague, or classmate, one must receive sufficient acknowledgment in attitude from others — you must be “seen as” having that status. Otherwise, our social status will be threatened, undermined, or even obliterated, leading to humiliation or degradation.⁴¹ In other words, a definite and stable social status depends on not only personal subjective recognition but also the relationship of the individual with significant others. To successfully integrate the imagined personal status with the recognition that arises in everyday social life, individuals must be able to live in society with the certainty that, in playing everyday social roles or holding a social status in broad daylight, they are indeed seen by significant others as the person they believe themselves to be.⁴²

B. Method two: expressing a disrespectful attitude

The social status theory points out that beyond holding a disrespectful attitude, an individual can also express this attitude toward others to make the degrading or humiliating act more pronounced. Expressing an attitude means that an individual shows his or her internal attitude through gestures, tone, posture, and other behaviors. It is important to note that the key connection between a person's behavior and the expressed attitude is largely provided by the reasons behind the

³⁹ Ibid., 366.

⁴⁰ Others' attitudes toward you constitute your social status, which ideally should align with the social status you believe you deserve. For example, ideally, others hold a friendly attitude toward you, considering you their friend, and you believe the same — that you are their friend. Once there is a discrepancy, i.e., if you are inferior or unworthy of associating with them in others' minds, even if this attitude is not explicitly expressed and you are unaware of it, your social status is still degraded, and your dignity is still harmed. Some readers might ask, what does this “hidden harm” matter? On the one hand, it can subtly diminish your actual freedom and opportunities; on the other hand, if you inadvertently discover this “secret” one day, it can cause you significant distress. However, as will be pointed out later, expressing a disrespectful attitude is clearly more direct and serious in its harm to dignity compared to merely holding such an attitude.

⁴¹ G. A. Cohen, *Finding Oneself in the Other* (Princeton: Princeton University Press, 2013), 197.

⁴² Peter L. Berger and Thomas Luckmann, *The Social Construction of Reality: A Treatise in the Sociology of Knowledge*, translated by Wu Suran (Beijing: Peking University Press, 2019), 124-126.

behavior, namely, the “intentions.” Expressing an attitude through behavior essentially means acting based on the reasons given by that attitude.⁴³ In other words, a behavior can convey many different attitudes — which may indicate differences in the relationship between the actor and others — depending on the reasons for acting in that way.⁴⁴ However, some behaviors clearly express an attitude or the “underlying reasons for doing so.” For example, making gestures like pulling up the corners of the eyes to make a “slant-eye” face expresses discrimination against Asians; throwing bananas at Black people implies that “Black people are monkeys.” In the property damage case in Situation 2, the KKK youth members’ act of vandalism undoubtedly aimed to express a set of dark evil attitudes, namely hatred and exclusion. Through this behavior, they sent a clear message to the shop owner (and perhaps others present) that they were not welcome here.⁴⁵

From the above examples, we can clearly understand the importance of intentions (or “reasons behind actions”) in expression. First, it explains why mistreatment of someone can sometimes be considered humiliation and other times not. During rush hour, I might experience a vehicle overtaking or be forced to stop, which is undoubtedly unpleasant. In spite of that, it is not a direct attack on my dignity as a person because this behavior is not targeted at me personally. Like indiscriminate bicycle theft, when overtaking or stopping others, drivers are usually not concerned whether I am a specific person; in fact, they may have no particular view of me. Their intention might simply be to hurry home, and I happen to be in the way. Here is another example. If my car is maliciously scratched in an underground parking lot, it is undoubtedly personal mistreatment, though it does not necessarily involve a violation of human dignity, as the act might not be aimed at me personally but could be for other reasons, such as the perpetrator’s venting of frustration. However, if this action is based on racial prejudice against me, for example, on the ground that I am Black or African American and deemed unworthy to share the same parking garage, the nature would change entirely. Second, it helps us understand why explicit humiliation (publicizing the humiliation) can have more profound effects. This is because deliberately expressed disrespect triggers unique social effects — my social status depends on others’ attitudes. Consequently, when someone holds a degrading attitude toward me, it means that, in terms of our relationship, I have already lost equal social status to some degree. However, when

⁴³ Adam Etinson, “What’s So Special about Human Dignity?,” 367.

⁴⁴ Elizabeth S. Anderson and Richard H. Pildes, “Expressive Theories of Law: A General Restatement,” 148 *University of Pennsylvania Law Review* 5 (2000): 1510. Let’s consider such a scenario: Imagine a notorious criminal goes to buy breakfast. To the criminal, the breakfast shop owner might merely be a means to an end or an insignificant object. If necessary, he wouldn’t hesitate to resort to extreme measures. However, to avoid unnecessary trouble, he always chooses to pay when buying breakfast. Nevertheless, this act of paying expresses a completely different attitude compared to those who genuinely believe that the breakfast shop owner shares the same value as the rest of us. See T. M. Scanlon, *Moral Dimensions: Permissibility, Meaning, Blame* (Cambridge: Harvard University Press, 2008), 99.

⁴⁵ Adam Etinson, “What’s So Special about Human Dignity?,” 368.

this person intentionally communicates this disrespectful attitude to me, or when I “receive” it, the reduction in my social status in front of that person becomes more pronounced and complete.⁴⁶

While intentions are important, the attitude expressed by certain behaviors is not entirely determined by personal intentions. On the one hand, the social implications of the behavior must be considered. For example, if I inadvertently tell a sexist joke while talking to a female colleague, this behavior is undoubtedly disrespectful to her personally and to all women. Even though I may have no ill will, my words and actions have already caused harm to human dignity. In the homicide case in Situation 2, even if the perpetrators did not intend to humiliate or degrade A when forcing him to kneel for execution, their action still constitutes a serious symbolic humiliation. In carrying out torture, I might just be following orders from superiors, without other intentions, but that is not the crux of the issue. Expressing disrespectful attitudes toward others is not merely about personal subjective intentions or purposes. More importantly, our actions must conform to socially accepted norms and public standards.⁴⁷ On the other hand, the actor might act negligently or carelessly, without noticing or considering certain factors as reasons for action, but this carelessness or disregard is most telling. Motorcyclists honking late at night might be trying to signal their friends, but they failed to consider the elderly in a nearby nursing home. In acting, they did not consider the peace of the elderly as a reason for their action, reflecting an indifferent attitude toward the elderly. Even though unintentional, their act expressed disrespect toward the elderly.⁴⁸

C. Method three: loss of status symbols

The social status theory holds that there is a set of public standards for expressing attitudes, which help determine specific behaviors that can express certain attitudes. For example, throwing up the middle finger is considered a humiliating gesture, while giving a thumbs down is seen as a sign of disdain. Similarly, social respectability has its own set of public standards, encompassing a range of status symbol requirements related to dress, appearance, behavior, occupation, material conditions, and lifestyle. In other words, these standards reflect societal perceptions of what is decent and appropriate, while revealing views on what is shameful, inappropriate, or indecent. For instance, in most social contexts, using appropriate clothing to cover the body is a mark of decency. The third common form of humiliation or degradation often involves the loss or lack of these social status symbols.⁴⁹ When a person loses or lacks symbols of social status (or is stigmatized), it naturally leads to “disrespectful attitudes” and

⁴⁶ Ibid.

⁴⁷ Elizabeth S. Anderson and Richard H. Pildes, “Expressive Theories of Law: A General Restatement,” 148 *University of Pennsylvania Law Review* 5 (2000): 1512.

⁴⁸ Ibid., 1513.

⁴⁹ Adam Etinson, “What’s So Special about Human Dignity?,” 370.

“disrespectful expressions”, resulting in the aforementioned two forms of humiliation and degradation. For example, in public places, people might develop tendencies of discrimination and disdain (disrespectful attitudes) toward beggars who are scantily clad and foul-smelling. This disrespectful attitude can lead to degrading behaviors (disrespectful expressions), such as making the “middle finger” gesture toward them or signaling them to go away.

The status symbols of an individual can be undermined by various parties. Firstly, the damage can come from others or the government. For instance, in the context of torture, the torturer not only expresses a disrespectful attitude through violent actions but also destroys the victim’s status symbols (e.g., being naked and suffering the profuse flow of tears and mucus or incontinence), placing them in a pitiable state. This dual humiliation and degradation make torture a typical case of violating human dignity. Additionally, if a financially capable government refuses to improve the living conditions of some people, leaving them in squalid environments, it undoubtedly damages their status symbols. Secondly, the damage can also come from the individuals themselves, as their actions or words might violate the standards of social respectability. For example, a racist’s act of publicly shouting Nazi slogans and displaying Nazi gestures on the streets of Germany would severely violate public standards of social respectability, thus leading to a loss of status symbols and consequently public disdain.

D. Human dignity: the basic social equality status as humanity must not be humiliated or degraded

By summarizing the three methods of humiliating or degrading others in the social status theory, we can infer that respecting human dignity involves: first, maintaining a respectful attitude toward others; second, expressing this attitude through actions, words, and public practices; and third, maintaining others’ social respectability or status symbols in various ways. Any behavior against these principles may be considered as humiliating or degrading others. However, this analysis is still too broad, as not every instance of degradation or humiliation constitutes a violation of human dignity. For example, when a literary critic gives a low rating to a novelist’s work, which has been created with painstaking effort, or when a demanding food critic questions the culinary skills of a restaurant chef, the novelist or chef may feel humiliated. However, considering such questioning as an affront to human dignity would be confusing. In fact, in some cases, people might need or appreciate literary critics and food critics who dare to “humiliate others.”

Etinson pointed out that dignity has multiple types, which relate to an individual’s social status in different spheres of society. In the judiciary and sports, judges and athletes have the dignity befitting their respective roles. Human dignity is just one of many types of dignity, and it relates to our most basic equal status in

society as a person, unaffected by any other identity.⁵⁰ Therefore, acts of humiliation or degradation do not necessarily violate human dignity. Their specific impact depends on their type. Only when it involves the humiliation or degradation of our basic equal status in society does it infringe on human dignity. For example, a football player may be humiliated for repeatedly conceding goals, threatening his or her dignity as an athlete. A politician may be despised and scorned for corruption and betrayal, and have his or her dignity as a politician threatened. These situations are not entirely the same as those where human dignity is threatened. However, any form of racial discrimination is a significant violation of human dignity because it deprives the victims of their most basic equal status as human beings, which is the foundation for their other worldly pursuits.⁵¹

Therefore, we can further construct the social status theory, stating that human dignity as social status requires us to: first, maintain an attitude of equal respect for others' social status as human beings; second, express this attitude through actions, words, and public practices; and third, possess symbols and lifestyles that reflect the most basic equal status as a person. Regarding the second and third points, the ways of expressing respect and the public standards as symbols of social respect may vary depending on the different public groups involved. For example, in some cultural contexts, the OK gesture means "praise," "correct," or "no problem." However, in other cultural environments, the gesture has derogatory and humiliating connotations, being considered an offensive gesture. This indicates that different cultures vary significantly in defining humiliating or degrading treatment, but we cannot adopt a relativistic stance based on this. We must recognize that the obligation to prohibit the humiliation and degradation of the fundamental equal status of humanity is universal, even though its specific manifestations may vary depending on the social context.⁵² The problem is that public standards for social respect symbols often include markers unrelated to basic social equal status in the evaluation of social respectability. For example, irrelevant characteristics such as gender, appearance, and physical defects are often used in society as standards for measuring a person's social respectability. This practice is clearly problematic — should a person be considered inferior or lose his or her status as a person simply because of a physical defect, such as a limp? The answer is clearly no, because a person's physical ability is not directly related to his or her basic social status. The symbols and lifestyle of the most basic equal status as a person only require social markers and lifestyles aligned with shared humanity, perhaps including a certain amount of water and food, appropriate clothing, shelter, education, etc. Therefore, we should challenge any public standards that impose unjust burdens on individuals or groups, especially those norms of respect that

⁵⁰ Ibid., 371-372.

⁵¹ Ibid.

⁵² Michael Rosen, *Dignity: Its History and Meaning*, translated by Shi Ke (Beijing: Law Press · China, 2018), 120-121.

stigmatize behaviors or conditions beyond the actor's control, such as disability.⁵³ However, despite the fact that this should be the case, we must still face the reality of the social environment. The theory of human dignity should fully consider various non-ideal social realities. As a result, we must also clarify that when a person is stigmatized due to a limp, his or her dignity as a person is indeed violated, even though the limp itself is not directly related to basic social status.

Before we proceed, let's briefly recap what we have discussed so far. Traditional theories of human dignity follow a top-down approach, constructing theories from judgments about intrinsic value, but leading to prescriptive theories that become "a maidservant to be dressed up at will." In response, Etinson proposed a bottom-up social status theory, which avoids preconceived value judgments about human dignity by asking what human dignity actually requires and when it is violated or endangered. In summary, the social status theory has the following four elements.

1. Human dignity has a special normative content related to social vulnerability.
2. Human dignity is related to the humiliation or degradation of a person's most basic equal status in society, and can be harmed in three common methods at least: (1) holding a disrespectful attitude; (2) expressing a disrespectful attitude; (3) depriving status symbols. Therefore, respecting human dignity requires (1) maintaining an attitude of equal respect for others' social status as human beings; (2) expressing this attitude through our actions, words, and public practices; (3) possessing symbols and lifestyles that reflect the most basic equal status as a person.
3. Human dignity is based on the social relationships between individuals generated by social life.
4. Human dignity is essentially a person's most basic social status.

It is important to note that, in terms of conclusions, the social status theory seems quite similar to the views of scholars like Jeremy Waldron, Avishai Margalit, and David Luban, who also see dignity as a status with its core meaning centered on not humiliating people.⁵⁴ The connection between the concept of human dignity and humiliation seems to be a widely accepted notion.⁵⁵ Then, what

⁵³ Adam Etinson, "What's So Special about Human Dignity?," 373-374.

⁵⁴ David Luban, "Human Dignity, Humiliation, and Torture," 19 *Kennedy Inst Ethics Journal* 3 (2009). Avishai Margalit, *The Decent Society* (Cambridge: Harvard University Press, 1998). Here the present author would like to thank the external reviewers for their suggested revisions, distinguishing Etinson from other predecessors who hold similar views to highlight his originality.

⁵⁵ For example, from a legal perspective, Waldron proposed that human dignity is a legal status that resides in the realm of law and is constructed by law, while the concept of dignity in philosophy is derived from law. See Zhang Zhuoming, "A Theory of Dignity Beyond Liberalism — Jeremy Waldron's Philosophy of Dignity," *Human Rights* 6 (2022). Avishai Margalit pointed out in *The Decent Society* that a decent society is one that does not humiliate people, and that such a society essentially stems from human self-esteem or basic dignity. Margalit based this either on religious arguments, where respecting people is respecting God, or on arguments

distinguishes Etnison from these scholars in contribution, or how does the social status theory differ? The author believes the innovation of the social status theory lies in the following aspects. First, in terms of the argumentation approaches, the aforementioned scholars did not derive the concept of human dignity from contemporary social practices. In comparison, Etnison's method of gradually progressing from specific instances to general theory introduces new support or justification for this theoretical approach, thus significantly enhancing its strength and persuasiveness of argumentation. Second, from the perspective of specific content, although the theory focuses on status and humiliation, the social status theory emphasizes that dignity is not derived from legal construction or religious traditions but is a product of social construction, representing social status. Finally, the social status theory further analyzes three specific methods of degrading or humiliating an individual's social status and relates them to social public standards. This has undoubtedly helped to enrich the content of this theoretical approach and defend the practicality of the concept of human dignity.

V. Back to Practice: How to Understand the Concept of Dignity in Laws?

Human dignity is an extremely important concept and challenge in the field of law. The social status theory, based on social practices, summarizes the essence of human dignity as the prohibition of humiliating or degrading the most basic equal status of individuals in society, and identifies three typical methods of humiliation or degradation. Then, what impact would this concept have on current legal practice? According to this theory, how should we interpret human dignity in legal practice? In other words, how does the social status theory relate to specific legal norms, and what legal implications does it have?

A. The meaning of human dignity in public and private laws

From the perspective of public law, the concept of dignity advocated by the social status theory — freedom from social humiliation or degradation as a form of specific harm — to be embedded in constitutional norms and to be respected and protected by the state. In other words, the concept of human dignity in the constitution acts more as a specific form of harm that the state must take seriously, and that relates to the humiliation and degradation of social status within the community, rather than serving as a guiding principle that “leads the constitution.”

In fact, this concept of dignity aligns more closely with the basic structure of China's *Constitution*, which stipulates in Article 38 that “The personal dignity of citizens of the People's Republic of China shall not be violated. It is prohibited to use any means to insult, libel or falsely accuse citizens.” According to mainstream interpretations, this provision was formulated based on a deep reflection on the

about universal human characteristics, where fundamentally free people deserve respect. See Wang Jinxia, “From a Decent Society to a Society Governed by Law: Reading Margalit's *The Decent Society*,” *Peking University Law Review* 1 (2017).

unique historical lessons of China and by drawing on international constitutional practices. It emphasizes that a person must not be subjected to insult or defamation.⁵⁶ Professor Kong Lingwang pointed out that the dignity clause in the *Constitution* protects citizens' personal integrity, health, name, honor, and image from insult and defamation.⁵⁷ Additionally, from a textual structure perspective, Article 38 of the *Constitution* combines positive and negative descriptions. The first part positively stipulates the protection of personal dignity, while the latter part negatively stipulates the prohibition of actions that infringe on personal dignity. From the explicitly listed actions such as "insult, libel, and false accusation," we can see that China's *Constitution* established the purpose of protecting citizens from social humiliation or degradation when it was first enacted.⁵⁸ Moreover, Article 38 is positioned under the general human rights protection principle of "The state shall respect and protect human rights" in paragraph 3 of Article 33, and between Article 37, which concerns the inviolability of personal freedom, and Article 39, which concerns the inviolability of the home. Thus, the dignity clause is evidently on par with other specific rights, making dignity part of the basic rights.⁵⁹ Therefore, the concept of dignity advocated by the social status theory can provide new interpretative perspectives and theoretical support for the dignity clause in China's *Constitution*. In fact, as noted at the beginning of this section, the drafters of the *Constitution* initially formulated this clause based on social situations that were widely regarded as typical infringements of dignity at the time.

It is important to note that in recent years, academia has gradually questioned the original functional positioning of Article 38 of the *Constitution*, advocating that this provision should draw on the German constitutional model and abstract it as a foundational constitutional value⁶⁰, or as an inviolable⁶¹, supreme, and absolute value⁶² to play a justificatory role in the *Constitution*. It should be acknowledged that the intention behind these proposals is positive, as they attempt to elevate human dignity as a core guiding principle of the *Constitution*. However, they are essentially a prescriptive purpose-driven interpretation, with rationality and feasibility requiring further in-depth discussion. On one hand, normatively, Article 38 cannot be interpreted as having a fundamental value in China's *Constitution*, and therefore does not possess overarching and permeating functions in relation to

⁵⁶ Xu Chongde, *Chinese Constitution (Fourth Edition)* (Beijing: China Renmin University Press, 2010), 321.

⁵⁷ Kong Lingwang, "The New Constitution Protects Citizens' Personal Dignity from Infringement," *Law Science* 12 (1982): 7-8.

⁵⁸ Xu Chongde, *History of the Constitution of the People's Republic of China (Volume II)* (Fuzhou: Fujian People's Publishing House, 2005), 497.

⁵⁹ Li Haiping, "Normative Analysis on Human Dignity in Constitutional Law," *Contemporary Law Review* 6 (2011): 30.

⁶⁰ Lin Laifan, "Human Dignity and Personal Dignity: on Interpretation Scheme of No. 38 of the PRC Constitution," *Zhejiang Social Sciences* 3 (2008): 47-53.

⁶¹ Zheng Yushuang, "On the Value Justification and Jurisprudential Structure of Human Dignity," *Journal of Comparative Law* 5 (2019): 170-185.

⁶² Bai Bin, "The Normative Meaning of 'Personal Dignity' in the Constitution and Its System Status," *Law and Economy* 6 (2019): 51-66.

other provisions.⁶³ On the other hand, there are two types of concepts in law: one originates from everyday usage, and the other comes from legal innovation, with typical examples being “bona fide acquisition” and “imaginative concurrence.” The concept of human dignity clearly belongs to the former, so when its meaning is unclear, we should return to its everyday semantics. The aforementioned understanding of human dignity does not align with the everyday applications of the concept familiar to us and cannot explain why we should view it in such a way. Furthermore, apart from expressing the idea of “respecting people,” these views do not lead to any specific behavioral guidelines and do not help address the criticisms of redundancy and ambiguity faced by the concept of human dignity.⁶⁴

From the perspective of private law, human dignity in private law manifests as the prohibition against humiliating or degrading others. In other words, in daily interpersonal interactions, we must respect others’ social status and treat them accordingly. In China, the most direct expression of the concept of human dignity in private law is found in the book of personality rights in the *Civil Code*, which includes specific rights such as the right to reputation, honor, image, name, and privacy. Therefore, personality rights as a “bundle of rights” are not entirely equivalent to human dignity. In the social status theory, in certain situations, infringements on an individual’s property rights or bodily rights may indeed provoke a profound sense of violated human dignity. However, this feeling stems from the fact that the infringer’s actions against another person’s property or body also carry an element of humiliation or degradation of the most basic equal social status as a person. Some readers might wonder: according to the above explanation, how does the concept of human dignity differ in the constitutional and civil law contexts? In fact, the key here lies in the difference in the object of the obligation, i.e., who the obligated party is. According to the neutral constitution perspective, the constitution constrains public power and involves the relationship between citizens and the state, while private law involves relationships between citizens.⁶⁵ They function at different levels to protect human dignity.

B. The meaning of human dignity in international human rights law

From the perspective of international human rights, human dignity is closely linked to the development of human rights and is ubiquitous in contemporary human rights discussions, where “no other ideal seems to be so clearly accepted.”⁶⁶

⁶³ Song Xin, “Human Dignity and Personal Dignity — Discussion Based on the German Basic Law and the Chinese Constitution,” *Journal of Shanghai University of Political Science & Law (The Rule of Law Forum)* 5 (2017): 62-64.

⁶⁴ Certainly, we do not exclude the possibility that the dignity clause in the *Constitution* could serve as a foundational value. However, this requires that, on the one hand, theories like inviolability or moral status can effectively address criticisms of redundancy, ambiguity, and prescriptiveness; on the other hand, interpretations of Article 38 of the *Constitution* must withstand the scrutiny of legal doctrine.

⁶⁵ Zhai Xiaobo, “Neutral, or Total? A Theory of the Nature of Constitutional Law,” *Journal of Soochow University: Law Edition* 4 (2022): 13-26.

⁶⁶ Charles R. Beitz, “Human Dignity in the Theory of Human Rights: Nothing But a Phrase?,” 259.

Can the social status theory adequately respond to the concept of human dignity used in international human rights conventions and practices? The answer is yes. Multiple articles in international human rights conventions have repeatedly recognized and emphasized the close connection between human dignity and the avoidance of humiliation or degradation. The 1949 Geneva Conventions, including the *Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field*, the *Geneva Convention Relative to the Treatment of Prisoners of War*, and the *Geneva Convention Relative to the Protection of Civilian Persons in Time of War*, explicitly stated in Article 3 that non-combatants must not be subjected to murder, mutilation, cruel treatment, and torture; taking of hostages; outrages upon personal dignity, in particular humiliating and degrading treatment; and the passing of sentences and the carrying out of executions without previous judgment. If the Geneva Conventions emphasized the link between human dignity and humiliation or degradation, then the 2011 *Elements of Crimes* published by the International Criminal Court almost equated the two. The *Elements of Crimes*, which serves as an explanatory document for the *Rome Statute of the International Criminal Court*, aims to assist the International Criminal Court in adjudicating cases, explicitly stating that infringement on human dignity involves the element that “the perpetrator humiliated, degraded or otherwise violated the dignity of one or more persons.”⁶⁷

The judicial precedents of human rights show that human dignity has taken a prominent place in decisions on the meaning and scope of the prohibition of torture and similar terms, such as inhuman or degrading treatment. In *Ireland v. UK*⁶⁸, the judge identified the concept of human dignity as the core concept of “degrading” treatment under Article 3 of the *European Convention on Human Rights*, stating that acts of severe humiliation and debasement, such as shaving the head, applying oil and plastering, smearing, splashing dirty water, parading naked in front of strangers, being forced to eat feces, and deliberately pretending to be ugly, are violations of human dignity or contempt for human dignity.⁶⁹ In *Pretty v. UK*,⁷⁰ the European Court of Human Rights stated that where treatment humiliates or debases an individual, showing a lack of respect for, or diminishing, his or her human dignity, or arouses feelings of fear, anguish or inferiority capable of breaking an individual’s moral and physical resistance, it may be characterised as degrading and also fall within the prohibition of Article 3 of the *European Convention on Human Rights*. The Israeli Supreme Court similarly held that similar interrogation methods used by the Israeli security forces were entirely related to the concept of human dignity.⁷¹ In 1995, the French Conseil d’État

⁶⁷ Article 8.2. b. xxi, *Elements of Crimes*, page 27.

⁶⁸ *Ireland v United Kingdom* (1979-80) 2 EHRR 25.

⁶⁹ Christopher McCrudden, “Human Dignity and Judicial Interpretation of Human Rights,” 19 *The European Journal of International Law* 4 (2008): 686.

⁷⁰ *Pretty v. United Kingdom* (2002) 1 EHRR 35.

⁷¹ *Ibid.*, 687.

upheld a municipal order “prohibiting dwarf throwing.” Despite the fact that the parties had expressly expressed their willingness to participate in the activity and make a living from it, it maintained that the use of a physically disabled person as a throwing object was a degradation of human dignity. In its view, the key issue seems to be the expressive meaning of the act — treating the vulnerable minority as the plaything of the majority, i.e., a “throwing object”, even though the humiliation is consensual.⁷² In the Hong Kong Special Administrative Region of China, human dignity plays a crucial role in the adjudication of cases involving the prohibition of torture and inhuman treatment. Hong Kong’s courts invoked human dignity in 12 cases involving torture and cruel and humiliating treatment. In the context of Hong Kong adjudication, the prohibition of torture, inhuman or humiliating treatment or punishment is at the heart of human dignity.⁷³

Furthermore, the social status theory can also explain the more widespread and robust view that “human dignity is the foundation of human rights.” This view is also referred to as the “foundationalist claim,” which means that human dignity should occupy a more fundamental position in the chain of establishing human rights norms, rather than being on the same level as human rights.⁷⁴ Regarding this, Etinson pointed out that human rights and human dignity are closely linked because granting human rights primarily means respecting individuals, although it may have many other implications. Firstly, the institutionalization of human rights reflects respect for individual dignity, emphasizing the importance of individuals in society and relative to the state. That is because human rights are instruments of power, and granting power not only provides people with decision-making opportunities but also signifies a high degree of recognizing, trusting, and respecting their decision-making ability and judgment. This corresponds to requirement (2) of the concept of human dignity, which is to express an attitude of respect.⁷⁵ Secondly, from the perspective of human dignity, the distribution of these powers is equal, thereby sending a clear signal of equal respect. In particular, regarding political power, its equal distribution further reinforces this signal as a common status marker. In other words, equal political empowerment is an appropriate response to the people’s social equality status and lifestyle, which corresponds to requirement (3).⁷⁶ Finally, human rights presuppose that everyone is an object of respect and a bearer of rights, corresponding to requirement (1).⁷⁷ In summary, in modern society, granting human rights has been widely regarded as an attitude, expression, and symbol of respecting the most basic social equality

⁷² Adam Etinson, “What’s So Special about Human Dignity?,” 379.

⁷³ Shen Taixia and Wang Chao, “The Interpretation and Shaping of Human Dignity by Hong Kong’s Courts,” *Hong Kong and Macao Journal* 3 (2022): 33.

⁷⁴ Jeremy Waldron, “Is Dignity the Foundation of Human Rights?” in *Philosophical Foundations of Human Rights*, in Rowan Cruft, S. Matthew Liao, Massimo Renzo eds. (Oxford: Oxford University Press, 2015), 118.

⁷⁵ Adam Etinson, “What’s So Special about Human Dignity?,” 380.

⁷⁶ *Ibid.*

⁷⁷ *Ibid.*

status that individuals should enjoy as humans. If some people's rights are not reflected in human rights, it indicates a lack of respect for their most basic social equality status as humans. In this sense, human dignity can be said to be the foundation of human rights because it calls for or guides people to at least adopt an attitude of respect for individuals, that is, respecting other people's most basic social status; in modern society, respecting people often manifests as granting them their due human rights. Certainly, this does not mean that human dignity can directly generate specific human rights.

VI. Conclusion: Prospects of the Social Status Theory

The social status theory offers a new approach and implications for understanding the concept of human dignity by constructing it from the perspective of social practices. However, this theory is not without flaws and still requires further clarification. Firstly, it does not adequately explain how it derives the idea that "human dignity is equivalent to social equality, meaning everyone has an 'equal' social status and may be subjected to humiliation or degradation" from the view that "human dignity is equivalent to recognizing that all individuals have a certain social status and possibly are subjected to humiliation or degradation." This derivation process lacks logical clarity and confuses the concepts of "everyone having a certain social status" with "equality of social status." Although Etinson repeatedly emphasized that his theory partially accepted Waldron's view, which considers human dignity as a process of equalizing individual status upwards or universalizing noble ranks (aristocratic privileges),⁷⁸ it still must explain "Why does human dignity demand the upward equalization of individual status and the universalization of high status? How is this upward equalization achieved?" Therefore, although the bottom-up reasoning approach can temporarily set aside lengthy debates in the realm of values, it remains a flimsy theory of dignity. To grant equal social status to everyone, it is necessary to supplement the theory with discussions on the essential conditions of contemporary social cooperation or certain more fundamental moral characteristics inherent to being human.

Secondly, the concept of human dignity as social status involves interactions between people. Does this mean that outside the social framework, the issue of human dignity ceases to exist? Let's take *Robinson Crusoe* as an example. First, Robinson was stranded on an island, isolated from society, and later met the native "Friday." If at this point, one of them committed a severe act of humiliation against the other — like Robinson forcing "Friday" to wear shackles and crawl — would this constitute a violation of human dignity? Second, before meeting "Friday," Robinson lived alone on the island. In this situation, if he resorted to self-harm, self-torture, or a racially motivated suicide, wouldn't he harm human dignity?⁷⁹ In response to this, Etinson's theory of dignity should clarify how the habits that

⁷⁸ Jeremy Waldron, *Dignity, Rank, and Rights*, 33-35.

⁷⁹ Robert Hann, "A Theory of Human Dignity," Available online at https://www.academia.edu/44826196/A_Theory_of_Human_Dignity_Final_draft_version_January_2021.

express attitudes and reflect social symbols are formed and how old and new habits alternate.⁸⁰ In fact, the present author believes that in the “two-person scenario” involving Robinson and “Friday,” the basic conditions for forming habits were already present. In particular, concerning the requirement for the status symbol (3), Robinson would develop a series of habits regarding what certain behaviors signify in his long-term interaction with “Friday,” thereby creating a “new society.” Thus, when he performed the aforementioned actions towards “Friday,” it would indeed violate human dignity. In the second example, Robinson’s actions still involved harm to human dignity because he came from a society and even though he was on the island, he would continue to internalize some of its norms of respect. However, over time, this sense of internalization would gradually diminish until it disappears.

Finally, the social status theory affirms that not being humiliated or degraded is a fundamental characteristic of human dignity. It is necessary to further discuss why humiliation or degradation is so important and intuitively considered a special form of harm. Is it absolute? Is it inalienable? In the case of dwarf throwing, where the dwarf involved willingly requested to be tossed, why did the French administrative court still reject it in the name of human dignity?

Nevertheless, from the current perspective, the social status theory proposed by Etinson and its line of reasoning still hold a significant comparative advantage. This theory deeply analyzes the concept of human dignity as social status from the perspective of social practices, asserting that status is an indispensable and crucial core element of the concept of dignity. Social status, as a fundamental aspect of dignity, possesses universality and fundamental importance, which is essential for understanding the essence of dignity. This concept of human dignity largely differs from traditional moral philosophy on dignity, thereby forming an independent field with unique functions that can effectively address contemporary challenges to the concept of dignity. Firstly, it avoids questions about the redundancy and ambiguity of the concept of human dignity by emphasizing its irreplaceable core characteristic, namely, the basic equal status of individuals in society. This concept has originated not from the moral domain but from the construction of social relationships, thus possessing uniqueness and concreteness. Secondly, it effectively avoids lengthy debates on the value connotations of the concept of human dignity in moral philosophy. Even though Etinson has not yet elaborated on the more essential characteristics of being human, people in different regions have generally recognized that everyone should have human dignity and enjoy the most basic social equality as a human being. As Reva Siegel has stated, the role of human dignity is to bring “agonists” together in a dialogue and create a platform for striving to find answers or at least offering reconciliation for conflicting values.⁸¹

⁸⁰ This also involves the issue of tolerance for public standards regarding certain unjust burdens, particularly the norms of respect that stigmatize behaviors or conditions beyond the individual’s control (such as disabilities), and when and how these norms should be phased out.

⁸¹ Reva Siegel, “Dignity and the Duty to Protect Unborn Life,” in *Understanding Human Dignity*, Christopher McCrudden ed. (Oxford: Oxford University Press, 2014), 523.

(Translated by *QIAN Chuijun*)