Citizenship and Dignity

Jeremy J. Waldron
NYU School of Law, jeremy.waldron@nyu.edu

Follow this and additional works at: http://lsr.nellco.org/nyu_plltwp
Part of the Constitutional Law Commons, Jurisprudence Commons, Legal History, Theory and Process Commons, and the Public Law and Legal Theory Commons

Recommended Citation
http://lsr.nellco.org/nyu_plltwp/378

This Article is brought to you for free and open access by the New York University School of Law at NELLCO Legal Scholarship Repository. It has been accepted for inclusion in New York University Public Law and Legal Theory Working Papers by an authorized administrator of NELLCO Legal Scholarship Repository. For more information, please contact tracythompson@nellco.org.
Citizenship and Dignity
Jeremy Waldron

Theories of dignity have to navigate their way between two apparently quite different conceptions. There is the old idea of dignity in the sense of the Roman dignitas—the status attached to a specific role or rank in a system of nobility and hierarchical office. And there is the egalitarian idea of human dignity, understood as invested in every human person from the highest to the lowest, from the moral hero to the most despicable criminal. This human dignity is supposed to attach to everyone no matter what their rank or role, and it remains with them inalienably no matter what they do or what happens to them. Theorists of dignity manage the relation between these conceptions in one of two ways: either they tell a story about the human dignity conception superseding the dignitas conception after a long period of uneasy coexistence since the time of the Stoic philosophers; or they tell a story about the dignitas conception morphing into the more egalitarian conception, a story that does not involve severing the connection between dignity and rank but involves a sort of transvaluation of dignitas, associating a high ranking status—a sort of nobility for everyone—with humanity as such.1

1. Kant on the Dignity of a Citizen

The philosophy of Immanuel Kant is almost always associated with the second conception—dignity attaching to humanity as such. In the *Groundwork of the Metaphysics of Morals*, Kant says that humanity has dignity insofar as it is capable

of morality, and he believes this capability exists in all humans irrespective of rank or deed.² But Kant also uses the first conception of dignity—role-related *dignitas.* In his later political philosophy, he talks of legislative, executive, and judicial offices as dignities;³ in a slightly different sense, he speaks of “the distribution of *dignities,* which are eminent estates without pay, based on honor alone” as one of the rights of “the supreme commander of a state.”⁴ He describes nobility as a dignity which “makes its possessors members of a higher estate even without any special services on their part,”⁵ and he seems obsessed with the question of whether dignity in this sense can be both hereditary and legitimate. But his conclusion that hereditary dignity must eventually fade away in a legitimate polity does not affect his willingness to talk about non-hereditary dignity or to associate dignity with hierarchy and with differential roles, privileges, and responsibilities.

So does Kant attempt to reconcile the two conceptions or bring them into relation with one another? He does not explicitly address the question of the relation between them. But one line at least seems to be thrown across whatever chasm separates the two. Having spoken of hierarchical dignities in *The Metaphysics of Morals,* he says this: “Certainly no human being can be without any dignity, since he at least has the dignity of a citizen.”⁶ In context, “the dignity of a citizen” is presented as one *dignitas* among others, albeit a pervasive one. But it is said to be a *dignitas* to which every human being as such is entitled. The


⁴ Ibid., 470 (6:328).

⁵ Ibid.

⁶ Ibid., 471 (6:329).
intriguing link that is established in this way between human dignity and \textit{dignitas} seems to me to be worth exploring.

I want to take this exploration beyond the confines of Kant’s philosophy. I want to consider its implications for human dignity generally and for the connections between citizenship and dignity that have been established in the twentieth century as well as in the eighteenth. But first, it is worth noting some peculiarities of Kant’s own account.

First, immediately after having introduced this connection between being a human being and having the dignity of citizenship, Kant qualifies the universality of the latter: “The exception is someone who has lost it by his own crime.”\footnote{Ibid., 471-2 (6:329-30).} This is not portrayed as derogating from the universality of human dignity, for later in the same work he invokes human dignity to secure a modicum of respect for and to limit the punishments that may be imposed upon vicious criminals.\footnote{Ibid., 580 (6:463): “I cannot deny all respect to even a vicious man as a human being; I cannot withdraw at least the respect that belongs to him in his quality as a human being, even though by his deeds he makes himself unworthy of it. So there can be disgraceful punishments that dishonor humanity itself (such as quartering a man, having him torn by dogs, cutting off his nose and ears).”} So it indicates a possible dissonance between the two concepts.

Secondly, as is well known, Kant imagines two grades of citizenship—active citizenship and passive citizenship—with the lower grade assigned to those who cannot present themselves in social, economic, and political life as fully independent of others. Only independent citizens—those who are not dependent directly on others for their livelihood—have “the right to manage the state as active members of it,” as voters or as jurors, for example.\footnote{Ibid., 458-9 (6:315).} If human dignity as such is connected to citizenship, it must presumably be connected to passive citizenship.
and Kant says as much when he notes that the passive citizens’ “dependence upon
the will of others and this inequality is, however, in no way opposed to their
freedom and equality as human beings.” They are still entitled to be treated “in
accordance with the laws of natural freedom of equality,” and treated indeed as
persons who make up the people of the state, for whose sake and for whose moral
co-existence civil society is established.10

It is important to see how uncomfortable Kant thought we should be about
this idea of passive citizenship: “the concept of a passive citizen seems to
contradict the concept of a citizen as such.”11 In the “Theory and Practice” essay,
Kant suggested that those whom he later called “passive citizens” shouldn’t be
called citizens at all but “cobeneficiaries.”12 But it is not just a matter of finding an
appropriate label. I think Kant’s view is that all humans are to be regarded in as
active a light as possible in the commonwealth of which they are subjects, whether
they can vote or not. Their must always be some possibility of advancing from the
passive ranks to the active ranks, similar to the requirements of equal opportunity
or offices open to talents that Kant also insists upon.13 Nobody is to be frozen into
passive citizenship by birth or descent.

That anticipates a third distinctive feature of Kant’s account of citizenship.
Kant is a hypothetical contractarian. For Kant, anyone’s citizenship connotes a
sense of the appropriateness of treating them and dealing with them as though they
were contracting founders of the state. Not that they actually were, but the Kantian

10Ibid., 458 (6:315).
11Ibid., 458 (6:314).
12 Immanuel Kant, “On the Common Saying: That may be Correct in Theory, but it
is of no Use in Practice” (hereafter TP) in Kant, Practical Philosophy, p. 294
(8:294).
13Ibid., 292-3 (8:292).
principle is that they must be regarded in this light. The idea of an original contract is

only an idea of reason, which, however, has its undoubted practical reality, namely to bind very legislator to give his laws in such a way that they could have arisen from the united will of a whole people and to regard each subject, insofar as he wants to be a citizen, as if he has joined in voting for such a will.14

And though it is only hypothetical, it generates a test of the actual legitimacy of any measure: “If a public law is so constituted that a whole people could not possibly give its consent to it … it is unjust.”15 (Once again, the example he gives of a law discredited by this test is one providing for the establishment of a system of differential hereditary dignities.)

A fourth point: though Kant’s authoritarianism is well known, it is not on account of his denigrating the idea of citizenship. Citizens are like framers and law-givers: they are conceived to have made the state for themselves rather than to be merely the subjects of authoritarian imposition. They must defer to the state and to the law, but still their difference is to something conceived of as made by them: the compulsory character of the deference is a reflection of the fact that, even under ideal circumstances, the making and nourishing of a state by those who are to be its citizens is conceived as a moral necessity not as the exercise of an option. No one ever had the moral option to remain in a state of nature, and no one has the moral option to revert to it at least as long as a well-organized state subsists.

Fifth, for Kant, the dignity of citizenship is constituted partly by the fact that being a citizen in a well-ordered state is something of an achievement—albeit a

14Ibid., 296-7 (8:297).
15Ibid., 297 (8:297).
morally necessary one. Helping to form a state (or at least not obstructing its formation), integrating oneself into its life, and submitting to its laws, involves a sort of transformation akin to that envisaged by Rousseau in Book I, Chapter 8 of *The Social Contract*.\(^\text{16}\) Citizens—even passive citizens—are entitled to look on those who have not transformed themselves in this way as “lawless savages.”\(^\text{17}\) This does not detract from the human dignity of the latter, but it marks a sense in which mere citizenship may be seen as something higher even than the high dignity of human moral capacity as such.

Its elevation, however, is a matter of the realization of a potential; it does not reflect any sort of difference of kind among human beings. All humans have the obligation to enter into civil society arrangements and by virtue of their moral capacities all humans have the ability to do so. The moral capacity which is basic to humanity and its dignity is often described by Kant as a form of individual rationality. But we should remember that it is also characterized in political or quasi-political terms: one can think of oneself as “a law-giving member in the kingdom of ends.” And this is my sixth point about the Kantian notion of citizenship. Kant uses this notion not only in his political philosophy but also as an image whose character is crucial for his moral philosophy. One thinks of one’s relation to others in moral terms by reference to the idea of something like common citizenship: “a systematic union of rational beings through common objective laws,” made by the very beings who are to be subject to them.\(^\text{18}\) Acting morally, one thinks of oneself as fit for this notional status “which he was already

---


\(^\text{17}\) Kant, *MM*, 482 (6:343-4).

\(^\text{18}\) Kant, *GW*, 83 (4:433).
destined to be by his own nature as an end in itself.”[19] “[T]he worthiness of every rational subject to be a law-giving member in the kingdom of ends” is the basis of our dignity and distinguishes each of us from “all merely natural beings.”[20] Being thought of as a law-giving member in a kingdom of ends is like being thought of as a sort of active citizen, who participates responsibly in the making of the laws and submits himself to them faithfully along with others. Kant ends his great passage on the kingdom of ends, with a reference back to human dignity: “The dignity of humanity consists just in this capacity to give universal law, though with the condition of being subject to this very law-giving.”[21]

The relation this establishes between Kant’s moral and political philosophy is extremely interesting. On the one hand it indicates a sort of priority for the latter over the former (which is not the usual order of batting in Kant interpretation): we draw on certain political ideals to make sense of our moral capacities. And the idea of law-giving and a systematic union under common laws must be worked out first and foremost in political philosophy before being used as an illuminating device in moral philosophy. But it is not just a device. As humans we have capacities that are already civic or citizenly in form even before we make ourselves into citizens in an active polity. What each of us is essentially—in our moral character, in our pre-political capacities, and in our political environment—is a (potential) citizen. So our human dignity is in large part the dignity of (potential) citizenship. What we become when we make ourselves into and behave as good citizens in an actual polity is a realization of what we always were: persons capable of living with others under laws which each of us has joined in making for ourselves.

[21] Ibid., 89 (4:440).
Finally, some Kantian points about universality and particularity. Actual political citizenship is membership of this or that particular community, which might seem to distinguish the citizen of one country from the citizens of other countries. Kant even makes a gesture to nativism when he says that “those who constitute a nation can be looked upon analogously to descendants of the same ancestors.”\(^{22}\) If we push this very far, we may have to abandon any idea of the dignity of citizenship as such, for what citizenship amounts to in one nation may be different from—and those who possess it may differentiate it sharply from—what citizenship amounts to in another nation. But Kant pulls back from this nationalism in several ways. He insists that the common ancestry conception of national citizenship is a myth. The only truth in it is that the citizens of a state are born of the same mother (the republic) and it is on this basis, not any atavistic basis, that they are to regard themselves as “of equally high birth.”\(^{23}\) He believes that the fundamental normative structure of each polity is the same: each state is to be a republic, and the necessity of establishing broadly republican institutions can be inferred from the *a priori* premises of political philosophy (premises that are also represented in the political imagery used, as I have said, in Kant’s moral philosophy).\(^{24}\) Even if the division of the world into separate states is important,\(^{25}\) still citizenship—or at least normative ideal of citizenship—is the same in all polities. Finally, we should not underestimate Kant’s aspirations for universal citizenship—citizenship of the world.\(^{26}\) Independent states need to transform their

\(^{22}\) Kant, *MM*, 482 (6:343).

\(^{23}\) Ibid.

\(^{24}\) Immanuel Kant, *Toward Perpetual Peace: A Philosophical Project* (hereafter *PP*), in Kant, *Practical Philosophy*, 322-3 (8:349-51).

\(^{25}\) Ibid., 336 (8:367-8).

\(^{26}\) Kant, *TP*, 281 (8:277).
relations with one another from a state of anarchy to something like an ordering in a loose federation under common laws. This is an imperative not just for sovereigns, but in a world of republics for citizens too: citizens of each nation have a responsibility to act politically in ways that make a “cosmopolitan constitution” possible.\textsuperscript{27} To the extent that they discharge this responsibility, they act not just as citizens of their own polity but as citizens of the world. Kant even speculates that it is only in this latter capacity that they bring about a harmony of politics with morals.\textsuperscript{28} In this way, the dignity of citizenship can finally present itself as a realization of the dignity of a moral being.

2. Citizenship and Human Dignity

I embarked on this long exploration of Immanuel Kant’s view of the dignity of citizenship because I think the subtle connections he establishes between the dignity associated with the political role of citizenship and the dignity of the human person in general resonate beyond the confines of his particular philosophy. They have implications for the way we think about human dignity in the modern world. I do not want to argue that human dignity and the dignity of citizenship are the same, or that the latter approximates the former. Still, when citizenship is taken to be an important status that, in one state or another, should be available to everyone, then what it amounts to may be a good guide to the way in which human dignity can be realized in a world of separate states.

Like Kant, then, I am assuming that citizenship is a certain sort of dignity. It is a status and, as I have argued elsewhere, “dignity” too is best understood as a

\textsuperscript{27} Kant, \textit{MM}, 487-8 (6:350-1) and Kant, \textit{TP}, 307 (8:310).

\textsuperscript{28} Kant, \textit{PP}, 350 (8:385).
status-term. Like other status-concepts—bankruptcy, infancy, felony, royalty, membership in the armed forces, etc.—citizenship comprises a bundle of rights, powers, duties, and liabilities, determined in its content and application as a matter of law rather than as a matter of choice and united by an underlying social concern focused on individuals of certain types or in certain predicaments. The dignity of citizenship just is this status, or this status of citizenship regarded in a positive light. Not every status is a dignity: “dignity” is usually associated with a status that is valued and particularly respected; we don’t talk about the dignity of felony or bankruptcy. But the remarkable thing about citizenship as a dignity—something it shares in common with human dignity—is that it is a status that is cherished as special notwithstanding the fact that it is widely spread among the members of a community.

Of course citizenship is not just one thing. It changes over time. And it differs, both in its implications and prerequisites, from one country to another. Countries differ on the basis on which they assign citizenship. In the United States, citizenship is assigned on the basis of place of birth—anyone born in the United States is entitled to citizenship of the United States—as well as descent from one or both citizen parents. Other countries—Germany until recently—have made it a matter of blood or descent alone. Countries make it easier or harder for those not initially entitled to citizenship to gain it by naturalization. And the implications are different. In the United States citizenship is necessary for the franchise; but in the United Kingdom the vote (and also the right of candidacy for a seat in Parliament) is extended to residents who are citizens of other countries historically connected with the U.K., such as Ireland or countries in the

---

29 See Waldron, *Dignity, Rank and Rights*, 57-61 and 73.

Commonwealth. Some countries (like Israel) impose a duty of military service on their citizens; most others these days do not, although citizens are on notice that they retain the right to do so.

But the differences are perhaps not as important as the similarities. Everywhere citizens have the right to enter and remain in the country of which they are a citizen. Everywhere citizens are entitled, where practicable, to protection by their country’s diplomatic and consular staff when they are abroad. In most places citizens have the right to vote and to participate in politics (even if in some countries others have that right as well); both in theory and in practice citizenship is the backbone of republican government and of democracy where it exists. As I have already indicated citizens may also have duties to support the state: they may be liable for example to military conscription in time of war, and in some countries even routinely during peacetime. Everywhere they owe a duty of allegiance to the government of the country of which they are a citizen, and may be punished for treason if they aid their country’s enemies.

These are the normal or normative incidents of citizenship. Together, as I said, they add up to a status in each polity that is special, equal, and pervasive. Citizenship is a high status: it comprises important rights like the franchise and the right to inhabit a certain country; even those incidents of it that involve duties or liabilities are in some sense valued by those who have them and coveted by those who don’t. It is an equal status: by contrast with Kant’s conception, citizenship in most countries does not admit of classes; the term “second-class citizen,” whenever it is used, is always a reproach against the society that is supposed to be imposing the distinctions it connotes.

Above all, citizenship is understood to be pervasive. In principle, the expectation is that all or most of those who make a life in a given country will be its citizens. In countries of immigration, it is expected that long-term resident
aliens will take out citizenship in due course.\textsuperscript{31} That citizenship is a high status dignity does not mean it is the special right of a few or even of a large privileged class in a society. Instead, citizenship is supposed to indicate the general quality of the relationship between the state and those subject to its power. By and large those subject to state power are not to be treated as mere subjects, but as active and empowered members of the political community for which the state is responsible. The close connection between the idea of citizenship and the idea of a popular republican or democratic constitution is supposed to indicate—as a fundamental premise of any good polity—that the government is always accountable to those over whom it rules.

Of course most advanced democracies are countries of immigration, and they do include a substantial population of non-citizens (visitors, guest-workers, resident aliens, and those who have entered the country illegally). It may seem that citizenship works as a sort of “us versus them” concept, marking a contrast between a privileged status and a less-privileged one, and that it is valued by those who have it precisely because of this distinction. Certainly there is a contrastive element: for one, being a citizen of the U.S. is different from being a citizen of Canada, even if the rights, privileges and responsibilities of citizenship are similar in both countries; for another, the rights and powers associated with citizenship are worth having in contrast no doubt to not having them. But it would be quite wrong to identify the value of the status of citizenship in a given country with any sort of the positional advantage within a given community. Citizenship would not lose its

\textsuperscript{31} In the United States, for example, courts have held that long-term resident aliens may not complain about certain discriminations in favor of citizens and those who have applied for citizenship if they fail to do so: see \textit{Ambach v. Norwick} 441 U.S. 68 (1979), at 81n and \textit{Nyquist v. Mauclet} 432 U.S. 1 (1977) at 10.
value if everyone within the boundaries of a state were a citizen of that state: the right to remain, the right to vote, etc. would still have the same importance.

So much is this so that the term is often used loosely in political philosophy to refer to anyone who lives in a country and is subject to its government, whether they are citizens in the strict sense or not. Though this usage has its dangers, it has its advantages too. As I said earlier, citizenship connotes not only the rights, powers, and responsibilities of a privileged class, but also the general quality of relationship between the state and those subject to its power. Most constitutional rights and other legal protections enjoyed by those who are, in the technical sense, citizens of a given polity are likely to be enjoyed by non-citizens too. In the United States, free speech, due process rights, equal protection, and anti-discrimination—all of these apply more or less to anyone within the jurisdiction, and the spirit in which they apply is (roughly) the spirit of citizenship. The government is required to treat everyone in the country with respect and it can be held to account for maltreatment of anyone, citizen or not. And it is required to show concern for the interests, well-being, and opportunities of everyone in its jurisdiction. This equality of concern and respect goes far beyond the dignity of citizenship in the narrow sense.

Does this mean that, in the looser sense, the dignity of the citizen merges with human dignity as such? Not quite. Even when it applies to all humans in a given country, the idea of the dignity of the citizen remains specific and relational: it directs us to something like a membership-relation or a constituent-relation between an individual and the government of the country where that individual resides. In principle, the idea of human dignity abstracts from that. It too is a status connoting equality and comprising a number of rights—we call them human rights.

---

Though rights make no sense without correlative duties and though the bearers of the duties correlative to human rights are usually states in the first instance, talk of human dignity is not already talk of a relation between particular persons and particular states. It makes sense to say that human dignity may represent a claim against all mankind, but it makes little sense to say that about the dignity of the citizen. Perhaps if we make it clear that we are talking—as we saw Kant sometimes talking—about citizenship of the world, then the distinction begins to blur. But, that apart, the dignity of the citizen perhaps represents one possible realization of human dignity. Everyone’s having a state that is responsible for her and a particular political community to which she belongs is a way of realizing human dignity, maybe the best way; but it doesn’t mean that human dignity and the dignity of the citizen are the same thing.

3. Dignity and the Right to a Nationality
In 1958, in the case of Trop v. Dulles, the Supreme Court of the United States held that any provision for the loss of citizenship as a penalty for an offense would violate the Eighth Amendment’s prohibition on cruel and unusual punishment. In finding this, the Court made the following comment on the cruel and unusual punishment clause: “The basic concept underlying the Eighth Amendment is nothing less than the dignity of man.”

Reference to dignity in Eighth Amendment cases is familiar to us from the death penalty jurisprudence of the 1970s, where the issue of dignity was connected to pain and degradation: “[A] punishment must not be so severe as to be degrading to the dignity of human beings. … The infliction of a severe punishment by the State cannot comport with human dignity when it is

__________________________

nothing more than the pointless infliction of suffering.”\textsuperscript{34} It seems to be part of dignity’s role to patrol the extremities of punishment; we saw this earlier in Kant’s reference to “disgraceful punishments that dishonor humanity itself.”\textsuperscript{35}

But denationalization is not in itself painful or cruel in the ordinary sense. As Chief Justice Warren observed, “[t]here may be involved no physical mistreatment, no primitive torture.” So how exactly does the decision in \textit{Trop v. Dulles} connect with the principle of human dignity that the Supreme Court insisted underpinned the Eighth Amendment? The Court’s answer is an interesting one, and it helps us address one last important question: what is the relation between the dignity of citizenship and the human dignity that underpins human rights?

The Court’s connection between dignity and the deprivation of citizenship is oriented in the first instance to the likely hardships of denationalization. Taking a person’s citizenship, said Chief Justice Warren, involves “the total destruction of the individual’s status in organized society”

[I]t destroys for the individual the political existence that was centuries in the development. The punishment strips the citizen of his status in the national and international political community. His very existence is at the sufferance of the country in which he happens to find himself. … It subjects the individual to a fate of ever-increasing fear and distress. He knows not what discriminations may be established against him, what proscriptions may be directed against him, and when and for what cause his existence in his native land may be terminated. … He is stateless, a condition deplored in the international community of democracies. (101-2)

\textsuperscript{34} \textit{Furman v. Georgia} 408 U.S. 238 (1972) at 271 and 279 (Brennan J., concurring).

\textsuperscript{35} Kant, \textit{MM}, 580 (6:463).
This is the basis on Chief Justice Warren agreed with the court below that “the American concept of man’s dignity does not comport with making even those we would punish completely ‘stateless’—fair game for the despoiler at home and the oppressor abroad, if indeed there is any place which will tolerate them at all.”

All this is true and important: respect for human dignity is incompatible with the creation of this sort of vulnerability. But it is hard not to read this passage also in the light of discussions of the significance of statelessness for human rights that were also taking place in the United States in this same period. Hannah Arendt’s account was the most prominent. The stateless person, she said, was in a sort of legal limbo, a situation of constantly having to transgress the law, indeed a situation of being necessarily governed directly by police power rather than by the rule of law (which would have assumed violations were the exception not the rule). One might have thought, she said, that the situation of these people would have been covered at least by human rights: but it turned out that without a nationality, without an attachment to and recognition by the legal system of a state, human rights were worthless.

The Rights of Man … had been defined as "inalienable" because they were supposed to be independent of all governments; but it turned out that the moment human beings lacked their own government and had to fall back upon their minimum rights, no authority was left to protect them and no institution was willing to guarantee them.

Paradoxically, human rights worked only for those who were citizens of a state:

---

38 Ibid., 268
[C]ivil rights—that is the varying rights of citizens in different countries—were supposed to embody and spell out in the form of tangible laws the eternal Rights of Man, which by themselves were supposed to be independent of citizenship and nationality. All human beings were citizens of some kind of political community; if the laws of their country did not live up to the demands of the Rights of Man, they were expected to change them, by legislation in democratic countries or through revolutionary action in despotisms.\(^{39}\)

But if one were not a citizen of a community, there was no legal framework within which one could agitate for one’s human rights. Because loss of national rights was identical with loss of human rights, it quickly became apparent that the most important right was the right to have rights, the right to be a member of an organized community where one’s claims of right would matter.

No doubt, Arendt’s pessimism about human rights was exaggerated. But the connection she drew between the human rights and the rights of the citizen is important. The great declarations and covenants of human rights associate rights very closely with human dignity, and it might seem that this association eclipses mere rights of citizenship. But it turns out both in practice and in theory that human rights are not normally secure unless they are incorporated in each country into the legal fabric that provides for citizenship.\(^{40}\) In real terms, then, the dignity of the citizen will be a necessary concomitant of human dignity. And an exploration of the contours of civic dignity will be an indispensable part of our theory of dignity as it applies to human beings as such.

\(^{39}\)Ibid., 293.

\(^{40}\)See, e.g., International Covenant for Civil and Political Rights, Preamble and Article 2.
4. Rights and Responsibilities

Aristotle famously maintained that a good citizen is one who knows how to rule and how to be ruled.\footnote{Aristotle, Politics (Penguin Books, 1981), 181 (Bk. III, ch. iv, 1277a25).} Citizens need to know both how to occupy political office—as a juror, for example, or as a member of the legislative assembly (in modern democracies as a voter or as a representative). But they also need to know how to receive and act upon decisions made by others: how to obey laws whose enactment one opposed or how to accept the verdict of a court when it decides in favor of the other party. On this account, the virtues of citizenship include the virtues of submission and restraint.

Now virtue is not the same as dignity, but one of the distinctive things about the introduction of the concept of human dignity into modern legal and political discourse is that it is formally capable of grounding duties and responsibilities as easily as it grounds rights and liberties. I don’t just mean that it grounds a duty to respect the dignity of others; though it does; any emancipatory concept like rights will generate correlative duties of that kind. I mean that dignity also generates certain responsibilities upon each person conceived as the bearer of dignity; it is not a wholly emancipatory concept.\footnote{For a discussion of this, see Stephanie Hennette-Vauchez, “A Human Dignitas? Remnants of the Ancient Legal Concept in Contemporary Dignity Jurisprudence,” International Journal of Constitutional Law, 9 (2011), 32.} Kant associated human dignity with certain duties to oneself—not only the sense of duty which lay at the core of the moral capacity that was the ground of dignity, but duties of self-respect and self-maintenance in regard to “the dignity of humanity within us.”\footnote{Kant, MM, 558-9 (6:436).} Similar themes are sounded in modern legal discussions of human dignity. Each person is said to bear a certain responsibility to human dignity in her own person, which might call in

\footnotesize\textbf{REFERENCES}

\footnote{Aristotle, Politics (Penguin Books, 1981), 181 (Bk. III, ch. iv, 1277a25).}
\footnote{Kant, MM, 558-9 (6:436).}
question certain claims to freedom—the claim to be able to degrade oneself for money, for example, in prostitution or in various forms of demeaning display.\textsuperscript{44}

In fact, the dignity of citizenship illustrates three, not just two ways in which duties and responsibilities may be implicated. As well as (i) the duty to respect others’ dignity (the duty that is correlative to the rights-based aspect of their dignity), there is also a distinction between (ii) the duty to submit to law and to political defeat, on the one hand, and (iii) the responsibility associated with the active exercise of citizenship rights, on the other.

Aristotle’s contrast illustrates (ii): one must know how to be ruled; this is particularly important in modern democracies, where individuals and parties take it in turns to rule and be ruled depending on the vicissitudes of the electoral cycle. We must reject any association of political defeat with degradation or humiliation. Submissive postures like obedience to the law and acceptance of political defeat are not incompatible with the dignity of citizenship; they are part of its essence.

But even when one is politically in the ascendant, the element of responsibility is still present. The rights and powers associated with citizenship are things one possesses not for one’s own sake but for the common good, and that imposes a certain discipline upon the way in which one exercises them. This is what I meant by (iii) the responsibility associated with the active exercise of citizenship rights. Elsewhere I have argued that many rights are best conceived as responsibility rights—the right to be trusted with and to exercise a certain

important responsibility in society or in a political system.\textsuperscript{45} The rights of parents, for example, are best seen in this light; so are many of the role-related rights generated for particular offices by the hierarchical notion of \textit{dignitas}, and so, I think, are the political rights associated with the dignity of citizenship. Part of the respect bound up with citizenship is our respect for the capacity of individuals to rise to the responsibility of looking beyond their own interests to policies, laws, and frameworks which respond fairly to the interests of all. Citizenship is a dignity because it credits its bearers with having what it takes to fulfill this role.

5. Contractarian Respect

I have referred several times to the close connection between citizenship and democracy. I guess one can be a citizen in an absolute monarchy, but Aristotle was right to insist that “our definition of citizen is best applied in a democracy.”\textsuperscript{46} Even if one’s single vote seems like a drop in the ocean, there is something powerful nevertheless in the thought that nothing but citizens’ votes like mine determine the outcomes in this polity.

But the dignity of citizenship goes even deeper than this and deeper too than respect for the capacity on which its responsible exercise depends. There are layers of respect beneath whatever democratic arrangements might exist for voting and other forms of political participation. The status of citizenship has a dignity that is not exhausted either by suffrage or by the rights and protections accorded in a constitutional democracy. It is the dignity of being one of those for whose sake the legal and political structures exist and by whose agency—along with that of millions of others—those structures are sustained. We distinguish between citizens


\textsuperscript{46}Aristotle, \textit{Politics}, 170 (Bk. III, ch.i, 1275b5).
and subjects and, when we do so, we mean to emphasize that a citizen is not just one who is at the mercy of an independently existing state and for whose sake certain constraints and requirements are imposed upon that state. The state is to be treated as though it were a concoction of the citizens, something that they have made and that they sustain together for the benefit of them all. And so each of the citizens is to be treated as though she were a founding member of the state, a participant in the social contract by which it was established.

Of course these ideas are mythic. The citizen really is not much more than a subject. The state is an independently empowered entity that confronts the subject in her abject vulnerability. The subject, far from being a signatory to any social contract, is in fact more or less helpless in shaping its structures and laws. And it may seem that the most we can do is to try to mitigate this helplessness by arranging a modicum of protection for the subject and ceding a microscopic quantum of political power to the subject and calling that “citizenship.” And yet, our commitment to the dignity of citizenship connotes a determination not to always see things in the light. Just as in times past we sacralized and dignified kingship even though we all knew kings were really nothing but human animals like any others, so now we create an aura of dignity for the ordinary subject. She is to be saluted, respected, empowered, and answered to, as though this were her society (among others’).

To dignify the status of a ruler, we used to tell stories about the God-given rights of kings; and similarly to dignify the status of citizen we tell ourselves stories about social contract. Of course, in both cases we know we are dealing with a fiction, but the fiction may be the best way of tracing the contours of respect that
we think are required. The strategy here is a version of the Kantian hypothetical contractarianism that we traced in section I: though the original contract is just an idea of reason, its practical reality is to require law-makers to enact only laws that could have been agreed to in an original contract. But there is this difference: Kant uses this device primarily as (negative) test or criterion for legitimacy. I am using it also to determine the overall attitude that should be taken towards the subject. Respecting her as a citizen means according her the respect that would be due to one of the framers of the country’s legal and constitutional arrangements. Her concerns are to be answered, her questions are not to be brushed aside, her views are to be respected along with those of everyone else. Whatever her actual political power amounts to, she has standing in these matters.

One way in which the dignity of citizenship, so understood, goes beyond what Kant calls “a touchstone of any public law’s conformity with right” has to do with issues of transparency and non-deception. The principles on which the polity operates are to be public; nothing about the operation of the polity is to depend on citizens generally or any group of citizens being deceived or being under a misapprehension about how it works. Again, the social contract idea gives us a useful image for expressing this: the publicness of legal and constitutional arrangements must be such that everyone has access to the knowledge about their operation that she would have if she had been one of the people who set the arrangements and to whose care its continuing operation was committed.

47 See also John Rawls, A Theory of Justice (Oxford University Press, 1999), 12, for an acknowledgment of this.
48 Kant, TP, 296-7 (8:297).
The image is mythic and no doubt in the real world, knowledge and understanding of legal and constitutional arrangements will be different from person to person. Statesmanship may require difficult calculations barely intelligible to the ordinary citizen and there may be very specific things that have to be kept secret from time to time. But the general principle, underpinned by elemental respect for the dignity of citizenship, is that everything is to be open for scrutiny and discussion so that the citizenry can form their own view of it, as though the polity and all political decisions being made in it were theirs. If there is a need for secrecy in any matter, then that need should be capable of being explained; if there are differences in citizens’ understanding of political issues, then they should be left to take advantage of each other’s expertise in open discussion rather than have the matter managed for them. Anything less than this is insulting—not necessarily to the intelligence of ordinary people, but to their dignity and entitlement as citizens.

I say this because one sometimes hears among political élites resonances of what Bernard Williams used to call “government house utilitarianism”: we who know the truth (about climate change, for example) have the responsibility of packaging information and manipulating public opinion to bring about political outcomes that we calculate will yield the best results; it would be irresponsible, the argument goes, to just put the information out there without seeking to control the processes by which the population assimilates it. Such an approach might be efficient and responsible in consequentialist terms, but it is incompatible with the dignity of the citizenship. It is like the board of a corporation manipulating its

Footnotes:

shareholders or a university dean manipulating her faculty. The status of those whose polity it is imposes constraints on the way in which information may be restricted or packaged to best effect. Their dignity trumps the value of any consequences that may accrue from by-passing their participation in open and informed discussion.51

51 I am grateful to Robert Keohane for some discussion of these matters.