

# LA DIGNIDAD HUMANA: SU SIGNIFICADO Y SU RELEVANCIA EN LOS ESTADOS UNIDOS

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RESUMEN: «Dignidad humana» es un término que se ha usado después de la II Guerra Mundial para proteger a los seres humanos de todo tratamiento injusto. En los Estados Unidos, fue introducido para proteger a quienes eran incapaces de otorgar o negar su consentimiento para ser sometidos a procedimientos biomédicos. El término ha sido duramente criticado tanto por filósofos materialistas, como Steven Pinker, como por filósofos tomistas, como Alasdair MacIntyre. Ambos sostienen que el concepto es inútil y aun perjudicial. La principal crítica de Pinker es que, pues el término tiene muy diversos significados, es turbio e inaplicable. Este artículo se propone mostrar, primero, algunas respuestas que se han formulado contra la crítica de Pinker, y luego elaborar una nueva respuesta: aunque el término es efectivamente polisémico, posee un significado central, probado y encontrado indispensable en la tradición central Occidental por más de dos milenios. Quedará así demostrado que el alegato de su inutilidad carece de fundamento.

PALABRAS CLAVE: dignidad humana; concepto de persona; tradición occidental; bioética; Steven Pinker.

## *Human Dignity: Its Meaning and Relevance in the United States*

ABSTRACT: «Human dignity» is a term that has been used after World War II to defend human beings from unjust treatment. In the United States, it was introduced to protect those who are unable to give or withhold consent for biomedical procedures. The term has been sharply criticized, however, by materialist philosophers such as Steven Pinker as well as by Thomist philosophers such as Alasdair MacIntyre. Both hold that the concept is useless and even harmful. Pinker's main criticism is that since the term has so many meanings, it is rendered muddy and inapplicable. This paper will first show earlier responses to Pinker and then weave a new response by demonstrating that, although the term is really polysemic, it has a central meaning which has been tried and found indispensable by the central Western philosophical and juridical tradition for more than two millennia. It will be proved, thus, that the claim about its uselessness lacks ground.

KEY WORDS: Human dignity; Concept of person; Western tradition; Bioethics; Steven Pinker.

In a lecture during the Fall of 2021, Alasdair MacIntyre started an interesting controversy regarding the concept of «human dignity». According to him, if you embrace the classical, Aristotelian or Thomistic viewpoint concerning justice, that concept would be useless or even harmful. Over a decade earlier, in 2008, a similar debate had raged in bioethical circles. Steven Pinker had defended that the concept of «human dignity» is too ambiguous and muddy to become a keystone in bioethical debates. It is actually useless. The notion of «respect for the person» would be sufficient. Thus, these two very different thinkers seemed to agree in their critique of the same concept, human dignity. Here I will demonstrate that the concept has been used in the central Western tradition for more than two thousand years, so that it is absolutely implausible to claim that the concept is useless due to being too polysemic.

In order to adequately place Pinker's critique in context, we must return to the volume that provoked his reaction, the 2008 volume of *Human Dignity and*

*Bioethics*, commissioned by the President's Council on Bioethics. It is possible that it is there where the meanings and relevance of the expression «human dignity» have been expressed in the clearest way to date in the United States. In this introduction, I will focus on F. Daniel Davis' contribution because it sets the stage for our current task.

Davis' paper laid out the historical context of the bioethical controversy. The horror caused by several cases in which human beings were used as subjects of scientific research without informed consent, either because critical information was withheld from them (like in the Tuskegee research program on syphilis) or because they were legally incapable of giving consent (like the case of the Willowbrook State School for mentally defective persons and the hepatitis research), provoked a strong reaction. It led to the launching of an initiative in Congress, the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, that culminated in the *Belmont Report*. Based on this report, the normative principles for bioethics were established: beneficence, justice and respect for persons.

The third concept (respect for persons) attempted to fill a possible gap discovered in the Nuremberg Code that was issued as a response to the heinous crimes committed by medical doctors and researchers during the Nazi tyranny. According to the *Belmont Report*, «[...] the general and specific rules set forth in these codes [the Nuremberg Code and some others] often prove to be inadequate in the complicated circumstances of human subjects research—for example, when subjects are incapable of providing voluntary consent». So, the Report judged as necessary the establishment of broader ethical principles that «will provide a basis on which specific rules may be formulated, criticized, and interpreted»<sup>1</sup>.

For the said reason, the principle of «respect for persons» embraced «two «ethical convictions» [...]. One of the two [...] is that «individuals should be treated as autonomous agents [...]». The other conviction is that «persons with diminished autonomy are entitled to protection»<sup>2</sup>.

Despite its origin in the *Belmont Report*, after 1979 American society and culture slowly reduced the principle of «respect for persons» to only one of the two ethical convictions, respect for autonomy. With this resignification, only two considerations carry weight when trying to justify a biomedical intervention over human nature: (a) «the calculated good of the many» and (b) «the primacy of individual autonomy». But Davis finds here «the mark of an impoverished bioethics»<sup>3</sup>.

As a result, the members of the President's Council on Bioethics felt the need to introduce the concept of human dignity into the landscape of the United States' bioethical debates. There is a «growing sense that the prevalence of

<sup>1</sup> DAVIS, F. D., «Human Dignity and Respect for Persons», in: *Human Dignity and Bioethics*, President's Council on Bioethics, Washington DC, 2008, pp. 19-34.

<sup>2</sup> DAVIS, F. D., *o. c.*, p. 24.

<sup>3</sup> DAVIS, F. D., *o. c.*, p. 32.

autonomy in bioethics and beyond [...] reflects an incomplete and inadequate—even *distorted*—grasp of humanity and thus of what is at stake in many of the controversies provoked by the advance of biomedicine and biotechnology»<sup>4</sup>.

However, many researchers and bioethicists resist the introduction of the new concept of «dignity» because, they believe, it would constrain their ability to develop important research. Among the critics of the concept, Davis mentioned especially Ruth Macklin, who asserted that «dignity is a useless concept in medical ethics and can be eliminated without any loss of content». According to her, respect for persons is sufficient.

This is the knot of the bioethical controversy which will be loosened in the following pages. But, in order to do it well, we must (1) outline in more precise terms the critique of the concept of «human dignity» by Steven Pinker; (2) briefly present the response that arguments like his have encountered; (3) demonstrate the need for clarification of the subject in the light of the classical foundations of the philosophy of justice and Right, and the reception of the concept by Roman Law, scholastic philosophy and Western legal systems; (4) dispel the cause of the remaining confusion which lies, I think, in the ancient polysemic character of the term «human dignity»; and, (5) draw the necessary conclusions.

## 1. PINKER'S CRITIQUE OF THE CONCEPT OF «DIGNITY»

F. Daniel Davis' genealogy of the term «human dignity» provides solid ground for its reasonable use in the critique of many bio-medical interventions. However, as we shall see, it is not sufficient to satisfactorily respond to the critique to which the concept has been subjected. So, let us examine in the first place such critique.

We will focus on Pinker's first argument, which is the strongest, and seems to reduce to ridicule the concept of «human dignity». The answer to it will open the way for a deeper understanding of the concept and, therefore, will lay the ground to a future reply to other critiques.

According to Pinker, the term «human dignity» as it appears in the 2008 volume (he cites mainly Leon Cass) has so many meanings that to try to use it to clarify any debate in bioethics is entirely hopeless:

We read that slavery and degradation are morally wrong because they take someone's dignity away<sup>5</sup>. But we also read that nothing you can do to a person, including enslaving or degrading him, can take his dignity away<sup>6</sup>. We read that

<sup>4</sup> DAVIS, F. D., *o. c.*, p. 27.

<sup>5</sup> See KASS, L., «Defending Human Dignity», 298-9, 302, in *Human Dignity and Bioethics* (cit.), pp. 297-331 (Kass feels that transhumanism threatens human dignity. So, it seems that in this context he fears that human dignity can be lost).

<sup>6</sup> See KASS, L., *o. c.*, 298. The apparent contradictions are excluded by Kass' distinction between basic dignity and full dignity. See *ibidem*, p. 299.

dignity reflects excellence, striving, and conscience, so that only some people achieve it by dint of effort and character<sup>7</sup>. We also read that everyone, no matter how lazy, evil, or mentally impaired, has dignity in full measure<sup>8</sup>. Several essayists<sup>9</sup> play the genocide card and claim that the horrors of the twentieth century are what you get when you fail to hold dignity sacrosanct<sup>10</sup>.

Actually, there is no need to invoke the muddy concept of «human dignity», adds Pinker, in order to understand «why it's wrong to gas six million Jews or to send Russian dissidents to the gulag»<sup>11</sup>. It is mostly here where Steven Pinker and Alasdair MacIntyre are in a strange agreement. According to the Thomist philosopher, the idea of human dignity is not found in the Bible, nor in the Greeks or Scholastics. Therefore, thinks he, one can have a theory of justice (since the Hebrews, the Greeks and the scholastics had it) without the concept of human dignity<sup>12</sup>.

Now we will examine some previous responses to Pinker's argument, and then we will develop our own response.

## 2. SOME RESPONSES TO THE OBJECTIONS AGAINST THE CONCEPT OF HUMAN DIGNITY

Steven Pinker's attack on human dignity was written after the 2008 volume *Human Dignity and Bioethics*. However, his main thesis is similar to Ruth Macklin's and, for this reason, there are some good responses to his thesis in that volume. We will examine them briefly and point out how these responses could be complemented.

In many of the essays, for example that of Schulman, there is awareness of the great confusion caused by the polysemic character of the word «dignity». This awareness prompts an exploration of the sources of human dignity and these

<sup>7</sup> See KASS, L., *o. c.*, pp. 302, 306-11.

<sup>8</sup> See LEE, P. and GEORGE, R., «The Nature and Basis of Human Dignity», 411-413, in *Human Dignity and Bioethics* (cit.), pp. 409-433.

<sup>9</sup> See, for example, PELLEGRINO, E., «The Lived Experience of Human Dignity» p. 515, in *Human Dignity and Bioethics*, pp. 513-37.

<sup>10</sup> See PINKER, S., «The Stupidity of Dignity», p. 30, in *The New Republic* (May 28, 2008): pp. 28-31.

<sup>11</sup> See PINKER, S., *o. c.*, p. 30.

<sup>12</sup> Lecture delivered at Notre Dame, at the Conference *Human Dignity in a Secular World*, organized by the Nicola Center for Ethics and Culture on November 12 2021. Available here: <https://www.youtube.com/watch?app=desktop&v=V727AcOoogQ>. MacIntyre's recorded lecture has had a strong impact, especially in the Catholic world, even though it has not been published in written form. Edward Feser and Christopher McCrudden offer good sketches here: FESER, E., «Alasdair MacIntyre on human dignity: Summary, analysis, and comments», in *Catholic World Report*, (November 26 2021), available here: <https://www.catholicworldreport.com/2021/11/26/aldasair-macintyre-on-human-dignity-summary-analysis-and-comments/>; and here: McCRUDDEN, C., «Alasdair MacIntyre's Critique of Human Dignity: A Response», in *Law and Justice: The Christian Law Review* (2022) 189, pp. 110-125.

are often seen as cultural movements (the Greeks —supposedly incompatible with the notion of universal human dignity—, the Stoics, biblical Revelation, Kant, the 20<sup>th</sup> century constitutions and declarations of rights). But few of the essays are aware of the classical-metaphysical root of the notion of universal human dignity<sup>13</sup>.

Gilbert Meilaender clearly distinguishes a variety of meanings of «dignity». In particular spheres of human life, «excellence» and «merit» are very much connected to one meaning of «dignity», yet, there is another meaning, the fundamental one, in which all human beings are equal<sup>14</sup>. This second meaning, Meilaender claims, has nothing to do with the classics since it derives from the profound transformation of culture that the crucified God-man brought about. The fundamental meaning of «dignity», is exclusively tied to its religious origin in Revelation, Jewish and Christian, but especially Christian: we are equidistant to God:

[...] the truth is, as Oliver O'Donovan has assertively put it, that this belief «is, and can only be, a theological assertion». We are equal to each other, whatever our distinctions in excellence of various sorts, precisely because none of us is the «maker» of another one of us. We have all received our life —equally— as a gift from the Creator.

Yet Meilaender immediately asserts that despite the origin of our notion of fundamental dignity, non-religious people can affirm it without fully understanding its theological ground<sup>15</sup>.

Meilaender's exposition is rich and deep. He makes an important distinction in the meanings of «dignity» whose origin lies in Aristotle, as we shall see. However, he does not know the classical-metaphysical roots of the notion of human dignity and for this reason he reduces such roots to Revelation alone. He overlooks the presence of the concept of dignity in the central philosophical and juridical tradition of the West.

The contribution by Patrick Lee and Robert P. George to the volume *Human Dignity and Bioethics*, «The Nature and Basis of Human Dignity», contains a very surprising turn because these authors defend the notion of human dignity with philosophical arguments of Thomistic and Aristotelian provenance. Prompted perhaps by Peter Singer's sharp argumentation in favor of excluding some human beings from the notion of «persons» and including in it some non-human beings, these two authors have refined very much the precision and depth of the terms they use.

<sup>13</sup> See SCHULMAN, A., «Bioethics and the Question of Human Dignity», in *Human Dignity and Bioethics* (cit.), pp. 3-17.

<sup>14</sup> This distinction is held by many authors, among which, for example, LONG, S., «Fundamental Errors of the New Natural Law Theory», p. 118, in *The National Catholic Bioethics Quarterly* (Spring 2013), pp. 105-131; Feser, E., *o. c.*, 2021.

<sup>15</sup> MEILAENDER, G., «Human Dignity: The Council's Vision», 255-266, in *Human Dignity and Bioethics* (cit.), pp. 252-77.

They start by clarifying what entails the notion of «dignity» that they use: «(1) the obligation all of us have not to kill them [the subjects of dignity], (2) the obligation to take their well-being into account when we act, and (3) even the obligation to treat them as we would have them treat us»<sup>16</sup>. Moreover, all human beings possess this dignity and, therefore, are equal in fundamental dignity. This is so because they are *persons*, and the status of *person* derives from the kind of substantial entity one is, «a substantial entity whose nature is a *rational* nature». Here they correctly cite Boethius and Aquinas as holding this notion of «person» and what derives from it, although they do not cite any text that explicitly demonstrates the connection between the notion of «person» and the notion of «dignity» as they understand it. They do explicitly hold that the notion of «person» is connected to (or may be predicated only of) a rational and *morally responsible* subject<sup>17</sup>.

I will not enter here into a discussion of Peter Singer's understanding of the term «person»<sup>18</sup>, that excludes some human beings from it. I will simply point out that it has prompted an interesting reflection on the connection between the metaphysical status of human beings, on the one hand, and the possibility of committing injustice against them and therefore deserving punishment, on the other.

Lee and George's way of understanding «dignity» and the connection of this meaning to all human beings because they are «persons», brings these two authors very close indeed to the classical-metaphysical and Roman-legal understanding that will be examined in the next section of this paper. One could argue that Lee and George's thesis equates to conceiving all human beings as «persons» and all persons as entities that, due to their intrinsic dignity, are susceptible of being the subjects of rights and obligations.

One point is missing from Lee and George's account of «dignity» in order to demonstrate the weakness of Pinker's attack on the concept of human dignity. To fill this gap, we must proceed now to examine the classical and scholastic view on this matter.

### 3. THE CLASSICAL-METAPHYSICAL AND SCHOLASTIC VIEW ON THE SUBJECT OF HUMAN DIGNITY AND ITS RECEPTION BY MODERN STATES

All the parts and threads of the discourse I am about to weave are well known, yet the resulting fabric is not. I will start with a handful of citations of Aquinas' works that will give us an idea of the goal towards which we will be walking and then will analyze them into their metaphysical and moral components, which proceed from classical metaphysics. Later, the influence of these elements on

<sup>16</sup> LEE, P., and R. P. GEORGE, *o. c.*, p. 409.

<sup>17</sup> See LEE, P., and R. P. GEORGE, *o. c.*, pp. 409-10 and 412.

<sup>18</sup> Especially sharp is the entry «Abortion», in *The Oxford Companion to Philosophy*, Oxford University Press, Oxford, 1995, pp. 2-3.

Roman Law and the joining of this ancient philosophical current with the other ancient current of Revelation will be demonstrated. At this point it will be realized that the concept of human dignity was an important part of the moral and juridical disciplines in the Western central tradition for more than two thousand years. After doing this, the response to Pinker's critique of the notion of human dignity will be evident.

Aquinas uses two main definitions of «persons». The first one is well known and comes from Boethius, «individua substantia rationalis naturae». Patrick Lee and Robert P. George use it in their reply to Peter Singer<sup>19</sup>. The second one is not so well known and comes from «the Masters»: «persona est hypostasis proprietate distincta ad dignitatem pertinente»<sup>20</sup>. In *Super Sent.*, lib. 3 d. 10 q. 1 pr., Aquinas even talks about the «natural dignity of the human nature, its personality». There is, therefore, a natural dignity of which all human beings partake. The cause of this dignity is «to subsist in a rational nature»<sup>21</sup>. The origin of the word *persona* was that thus was called the mask that the actors used in the Latin theater. Aquinas explains this etymology pointing out that only those beings that have dignity in their individuality are worth of being characterized in either a literary or a historical work: «from this fact resulted that it became customary to call “person” any individual human being about whom such kind of story can be made»<sup>22</sup>.

<sup>19</sup> I have studied in depth this definition in previous discussions, one with the realist phenomenological school (see CASANOVA, C. A., «¿Ha superado la noción de persona que postula la fenomenología realista la noción clásica, boeciana de persona?», in *Synesis* (2013) 5/2, pp. 12-26) and the other with Peter Singer (see CASANOVA, C. A., «La noción clásica de persona frente a la crítica empirista-utilitarista (por qué todo ser humano es persona y ningún otro ser visible lo es)», in *Derechos humanos: perspectivas de juristas jusnaturalistas*, Agustín Herrera Frago (editor), Tirant Lo Blanch, México, 2022, Volume 1, pp. 281-309).

<sup>20</sup> AQUINAS, T., *Super Sent.*, Universidad de Navarra, Pamplona, 2000 (available here: [www.corpusthomisticum.org](http://www.corpusthomisticum.org)), lib. 1 d. 25 q. 1 a. 1 ad 8; d. 26 q. 1 a. 1 arg. 6; a. 2, arg. 3; q. 2, a. 3, c.; lib. 2 d. 3 q. 1 a. 2 s.c. 1; *Summa theologiae*, Universidad de Navarra, Pamplona, 2000 (available here: [www.corpusthomisticum.org](http://www.corpusthomisticum.org)), I, q. 29 a. 3 ad 2; q. 40 a. 3 arg. 1; III, q. 2 a. 3 co.; *De potentia*, Universidad de Navarra, Pamplona, 2000 (available here: [www.corpusthomisticum.org](http://www.corpusthomisticum.org)), q. 8 a. 4 ad 5m; q. 10 a. 1 arg. 7; *De unione Verbi*, Universidad de Navarra, Pamplona, 2000 (available here: [www.corpusthomisticum.org](http://www.corpusthomisticum.org)), a. 1 ad 17; *Contra errores Graecorum*, Universidad de Navarra, Pamplona, 2000 (available here: [www.corpusthomisticum.org](http://www.corpusthomisticum.org)), pars 1 cap. 2 co Please, notice that here the ground for dignity is known metaphysically, in natural theology, if you like. See, for example, «nomen personae specialem includit distinctionis rationem quae ad dignitatem pertinet, prout dicit quid subsistens in natura nobili, scilicet intellectuali». (*Super Sent.*, lib. 1 d. 26 q. 1 a. 1 co.) However, Aquinas adds another kind of dignity connected to Meilaender's insights: «in natura humana est capacitas [obedientialis] hujus dignitatis, ut in unitatem divinae personae assumatur». (*Super Sent.*, lib. 3 d. 1 q. 1 a. 3 ad 4.)

<sup>21</sup> AQUINAS, T., *Summa theologiae*, I q. 29, a. 3, ad 2m. See *Super Sent.*, lib. 1 d. 26 q. 1 a. 1 arg. 6.

<sup>22</sup> See AQUINAS, T., *Super Sent.*, lib. 1 d. 23 q. 1 a. 1 c. Peter Singer cites an author that pays attention mainly to this aspect of personality, Gary Varner. See Singer, P., *Practical Ethics*, Cambridge University Press, New York, 2011, p. 103.

Certainly, as we shall see later, Aquinas uses «dignity» with a different meaning as well, approaching the distinction pointed out *supra* by Meilaender and others<sup>23</sup>. We will clarify this when we examine the classical conception of human dignity. Here, let us analyze these definitions into their metaphysical elements.

«*Individua substantia*» is clearly an Aristotelian term<sup>24</sup>. «Rationalis» is so, too, as is «*naturae*». «Hypostasis» also comes from Aristotelian metaphysics, although he did not use this precise word (he spoke about the *hypokeímenon*, subjectum, and about the *ousía*, substance), but the meaning is Aristotelian. That property which distinguishes *persons* is their intellectual nature. And that is what gives «dignity» to them<sup>25</sup>. One could doubt whether this latter term is found in Aristotle or not; however, *the concept* is, indeed, found in Aristotle and in Plato, albeit not *the word*.

In his *Nicomachean Ethics*, books 5<sup>26</sup> and 8<sup>27</sup>, Aristotle teaches that only those *ousíai* that have intellect, *noús*, can become the subject of a relationship of «justice» or «friendship». Only men and gods (incorporeal intellectual substances) are candidates to be subjects of such relationships. The gods are, in the end, discarded as subjects of justice because goods of fortune (wealth, honor, power) are the object of human justice and the gods do not need goods of fortune. One of the clearest texts is the following:

There is neither friendship nor justice towards inanimate things. Neither towards a horse nor an ox, nor toward a slave *qua* slave. Because there is nothing in common, since the slave is an animate instrument, and the inanimate instrument is a slave. *Qua* slave, therefore, there is no friendship toward him, but *qua* human being [there is]. Because every human being seems to have some type of the just towards everything that can partake of the law and

<sup>23</sup> See, for example, AQUINAS, T., *Summa theologiae*, II-II, q. 61 a. 2 arg. 3. «Praeterea, in iustitia distributiva accipitur medium attendendo diversam dignitatem personarum. Sed dignitas personarum attenditur etiam in commutativa iustitia, sicut in punitionibus, plus enim punitur qui percussit principem quam qui percussit privatam personam. Ergo eodem modo accipitur medium in utraque iustitia». Texts on distributive justice are abundant in the use of this meaning of «dignity».

<sup>24</sup> In ARISTOTLE, *Metaphysica*, Teubner Verlag, Leipzig, 1895, Z «substance» [*ousía*] is the center of consideration. From chapter 6 on Aristotle points out that it is different from the essence (*tò tí ên eínai*) and that in the instance of material substances it is the concrete subject, *hypokeímenon*, with concrete matter and concrete form.

<sup>25</sup> See *Super Sent.*, lib. 1 d. 23 q. 1 a. 1 co., hoc nomen persona significat substantiam particularem, prout subijcitur proprietati quae sonat dignitatem, et similiter apud Graecos; ideo persona non est nisi in natura intellectuali.

<sup>26</sup> ARISTOTLE, *Ethica Nicomachea*, Oxford University Press, Oxford, 1962, book 5, chapter 9, 1137a26-30.

<sup>27</sup> ARISTOTLE, *Ethica Nicomachea*, book 8, chapters 2, 1155b26-32; 11, 1161b1-8; 12, 1162a4-5; 14, 1163b15-19.

of contract; and [there seems to be] some kind of friendship as well [with every human being, including the slave], *qua* human<sup>28</sup>.

So, although Aristotle did not use the term «person», he realized that those substances gifted with *noûs* or intellect were different from others and only they could be subjects of relations of justice or friendship<sup>29</sup>. In *Politics* I 13, 1259b22-28 Aristotle progresses in this line, and first asks whether slaves can have ethical virtues. The difficulty is that if they do, then it would seem that there is no difference between them and the free human beings. Then he answers that it would be strange if they did not, since they are «human beings who participate in reason [*lógon*]». So, some lines ahead he definitely responds that all the members of the household must have their own dianoetical and ethical virtues, some as commanding and others, including the slaves, as obeying<sup>30</sup>. But Aristotle clarifies that there is a slavery according to nature (when the lord has a better power of deliberation) and there is also a slavery contrary to nature, existing by convention or violence. Lord and slave can be friends when the slavery is natural, but not when it is not<sup>31</sup>.

He did not grasp, however, all the moral consequences that follow from this realization of human worth and of its source. He consistently denied the status as a subject of right (the just, *dikaion, ius*) to infants with defects<sup>32</sup>; he consistently held that slaves are ruled for the sake of the lord<sup>33</sup>; and he

<sup>28</sup> ARISTOTLE, *Ethica Nicomachea*, book 8, chapter 11, 1161b1-8. My translation. *Qua* human means *qua* having intellect, since man is, precisely, *dsóon noûn échon*. Regarding women, Aristotle sees women better than is often said. There is certain equality between men and women, and therefore there is justice and friendship (see, for example, *Ethica Nicomachea*, book 5, chapter 6, 1134b15-17; and book 8, chapter 10, 1160b31-1161a3). Women can be virtuous, moreover. The classical view is much more egalitarian than the view of most barbaric cultures. The difficulty of many of these peoples to convert to Christianity and their preference for Islam comes in a big part from here. The mapuches told the missionaries that they did not baptize because then they would have to dismiss their «she slaves» (their «criadas») away, and they could not bring themselves to do that (see Guarda, G., *La Edad Media de Chile*, Ediciones UC, Santiago, p. 48). The same happened, I think, with the Turks and the Tartars, but these found Islam in their way, so they became Muslim instead of Christian. Plato proposed monogamy in *Laws*, book 8, 838-841, in *Platonis Opera*, Oxford University Press, Oxford, 1907, Vol. 5, pp. 624-969, in a big part thinking on the good of women, the love of men for their women; and thinking also on the virtue of both, men and women. But I cannot develop this line in the present paper.

<sup>29</sup> It is true that Aristotle states that friendships based on equality cannot endure the exalting of one of the friends if he is exalted too high, such as by becoming a god (See *Ethica Nicomachea*, book 8, 7, 1159a5). But he also states that there can be a kind of friendship between unequal «persons»: to the gods as to our parents we can only show piety and thankfulness, knowing that they are superior and that we can never repay what we have received from them. See *Ethica Nicomachea*, book 8, chapters 12, 1162a4-5; and 14, 1163b15-21.

<sup>30</sup> See Aristotle, *Politica*, Teubner Verlag, Leipzig, 1894, book 1, chapter 13, 1260a14-24.

<sup>31</sup> See Aristotle, *Politica*, book 1, chapters 5-6, 1254b15-1255a11, 7 1255b9-15.

<sup>32</sup> See Aristotle, *Politica*, book 7, chapter 16, 1335b20-23.

<sup>33</sup> See ARISTOTLE, *Politica*, book 1, chapter 7, 1255b9-15, although for the good of both as if the slave were a part of his owner's body. Nobody acting wisely treats ill his own body.

consistently argued that human hunts to reduce very barbaric people to slavery was a legitimate activity<sup>34</sup>.

Plato, instead, did not achieve such a highly sophisticated conceptual apparatus as to ground the future definition of *persons*, but he did apply the realization of the very unique worth that the *intellect* bestowed on human beings so as to (1) end up forbidding all [direct] killing of innocents (including defective infants)<sup>35</sup>, (2) stating that all the ruled people, including slaves, must be ruled for their own sake and good<sup>36</sup>, and (3) not defend human hunts. In one point Aristotle surpassed Plato in this regard: Aristotle held that the lord should give advice and give explanations to the slave, unlike Plato<sup>37</sup>.

As is well known and very relevant in the tradition of medical ethics, another important Greek author who came to conclusions similar to these of Plato's was Hippocrates. His school taught all doctors for more than two millennia to never give mortal poison to the sick, not even when asked; not to cause an abortion; to heal those entrusted to them, to never mistreat and never abuse the body of man or woman, free or slave; and to keep the professional secret<sup>38</sup>. The reason for this was piety towards the gods, especially Apollo, and the nobility of this art. In turn, the nobility of the art derives from the nobility of all human beings: «For where there is love of man, there is also love of the art». Based on this love, the school calls to serve the stranger and poor, even for free<sup>39</sup>. So, the Hippocratic tradition is aware of the worth of human beings, although the reason for such worth is not clearly formulated by it.

<sup>34</sup> See ARISTOTLE, *Politica*, book 1, chapters 7, 1255b37-39; and 8, 1256b 23-26.

<sup>35</sup> See PLATO, *Laws*, book 8, 838-841. In Plato, *Republic* (in *Platonis Opera*, Oxford University Press, Oxford, 1978, Vol. 4, pp. 327-621), book 5 he had accepted infanticide according to the dominant culture, but he retracted this opinion later.

<sup>36</sup> See PLATO, *Laws*, book 6, 776b-778a. In *Republic*, Plato excludes slavery from the perfect city, but in *Laws* he reintroduces it. It is true that in *Republic*, book 1, Plato states that all crafts and rules tend to the good of their object, including the shepherd who looks for the good of the sheep. But I would argue that this discussion with Thrasymachus has a touch of sophistry in it, and that certainly Plato did not consider any beings deprived of *noûs* as subjects of justice or friendship.

<sup>37</sup> See ARISTOTLE, *Politica*, book 1, chapter 13, 1260b3-7; and PLATO, *Laws*, 773e. However, perhaps Plato was not trying here to give a direction for action, but just an abstract characterization of the condition of slavery. Vlastos sharply criticizes Plato's views on slavery judging them from the viewpoint of «democracy» and the «contractarian view of the state» (which he considers «scientific» and «empirical»). In doing so, he misrepresents Plato's cosmology and misses the main point: the law does not receive its force and justification from the «consent of those subject to it» (which is a fiction) but from its conformity to reason and its order to the common good. See «Slavery in Plato's Thought», in *The Philosophical Review* (1941) 50/3, pp. 289-304.

<sup>38</sup> See the *Oath*, in *Hippocrates' Works*, Harvard University Press, Cambridge (Mass.), 1984, Vol. 1, pp. 291-301.

<sup>39</sup> See *Precept VI*, Hippocrates, in *Hippocrates' Works*, Harvard University Press, Cambridge (Mass.), 1984, Vol. 1, p. 319.

Cicero was, in this regard as in others, the bridge between Greek philosophy and Roman Right (*ius*)<sup>40</sup>. He made it very clear that the fact that we are inclined by nature to love man is the foundation of Right<sup>41</sup>. Let us now examine some of the central traces of Roman Right and of the Western juridical tradition.

Perhaps due to the influence of Greek philosophy, perhaps simply due to the natural grasp of human dignity, already in Quintilian's *Institutions*<sup>42</sup> *persons* and *things* were distinguished. But it is in Gaius' *Institutiones*<sup>43</sup>, during the second century, where Roman Law is organized so that its main parts are *persons*, *things*, *obligations*, *delicts*, *contracts*, *successions* and *actions*. A reflection on what *persons* are reveals that they are precisely those entities susceptible of being the subject of obligations and of credits or [subjective] rights. This is not explicitly stated in the *Institutiones*, but it is clearly derived from them. Savigny, for example, in the light of Roman Law, stated that «every individual man and only the individual man is juridically capable», that is to say, a person<sup>44</sup>.

Of course, Gaius divided the persons in *sui iuris* and *alieni iuris*. Among the second category he had the slaves. According to ancient Roman Law, the slave was the property of his lord who had over him power of life and death. However, very interestingly, concerning them, the *Institutiones* 1, paragraph 53, teach:

[...] at this time it is licit neither for Roman citizens nor for any other men to use violence without measure and without cause against their slaves. Already by an order established by the most sacred emperor Antonino, whoever should kill his own slave must be subject to at least the same punishment owed to the person who kills another person's slave. But the great roughness of the lords is restricted by the same Prince as well. Indeed, asked by the Presidents of the Provinces concerning the slave who flee to the temples of the gods or to the statutes of the princes, the Emperor commanded that, if it appears that there is intolerable violence, the owners be forced to sell their slaves. And both things were established justly, because we must not use our

<sup>40</sup> Thanks to his influence, Roman jurisprudence ceased to be a «practice» and became an «art», a discipline. See VIEHWEG, T., *Tópica y jurisprudencia*, Civitas-Thomson, Pamplona, 2007, pp. 46-53, 84-5.

<sup>41</sup> CICERO, M. T., *On the Republic*, [and] *On the Laws*, Cornell University Press, Ithaca, 2014, p. 344. (*De legibus* I 43.)

<sup>42</sup> See *Institutions*, Harvard University Press, Cambridge, Mass., 1996, for example, book III, V, 7-11. It must be read in Latin to perceive the contrast *personae-res*. In English, *res* is translated as *fact*, which is confusing.

<sup>43</sup> *Institutiones*, Imprenta de la Sociedad Literaria y Tipográfica, Madrid, 1845. This is a bilingual edition, Latin-Spanish.

<sup>44</sup> See SAVIGNY, F. C., *Jural Relations or The Roman Law of Persons as Subjects of Human Relations*, Hyperion Press, Westport, Connecticut, 1979, p. 2. This book was first published in 1884. Savigny often re-interprets Roman Law, but in the cited phrase I think he is just abstracting a principle contained in the materials of Roman Law.

right (or power) badly, which is the reason why the prodigal persons are debarred from administering their own goods<sup>45</sup>.

Thus, one can perceive that even the rough Romans, by the influence of Greek philosophy (stoicism) and of Christianity (according to Vinogradoff)<sup>46</sup>, acknowledged the worth of all human beings, including the slaves. These were not *things*, but *persons* and, therefore, it was an abuse of right to use excessive violence against them and a crime to kill them.

In the evolution of slavery, then, Christianity played a role. This means that two currents were joining their waters to form a powerful river that would explicitly recognize the dignity of every person and would explicitly include every human being in the category of persons<sup>47</sup>. However, since the Gospel is not revolutionary, the Apostles taught the slaves to obey their masters. Yet, at the same time, they taught their masters that the slaves were their brothers, that the Judge will punish any lack of justice or charity, and that God is not «acceptor of persons»<sup>48</sup>. This led to an immediate internal transformation of the relations between masters and slaves, introduced a ferment that seeped into the institution changing its spirit (as we have seen in Gaius' *Institutiones*) and ended up producing the virtual disappearance of slavery in the Latin Christendom in the 12<sup>th</sup> century<sup>49</sup>.

This current dominated Western thought for many centuries, but not without opposition. In England, for example, and in the 12<sup>th</sup> century, the Legist party, with the opposition of the clergy, tried to reduce the former villains into

<sup>45</sup> The translation is mine. I copy here the Latin text for contrast: «53. Sed hoc tempore neque ciuibus Romanis, nec ullis aliis hominibus, qui sub imperio populi Romani sunt, licet supra modum et sine causa in seruos suos saeuire. Iam ex constitutione *sacratissimi* Imperatoris Antonini qui sine causa seruuum suum occiderit, non minus teneri iubetur, quam qui alienum seruuum occiderit. Sed et maior quoque asperitas dominorum per eiusdem Principis constitutionem coeretur nam consultus a quibusdam Praesidibus prouinciarum de his seruis, qui ad fana Deorum uel ad statuas Principum confugiunt, praecepit, ut si intolerabilis uideatur dominorum saeuitia, cogantur seruos suos uendere. Et utrumque recte fit; male enim nostro iure uti non debemus : qua ratione et prodigis interdicitur bonorum suorum administratio».

<sup>46</sup> See VINOGRADOFF, P., *Roman Law in Medieval Europe*, Harper and Brothers, New York, 1909, p. 99.

<sup>47</sup> Biblical revelation led Old Testament Hebrews and New Testament Christians to understand the distinctive mark of persons, the intellect and the will, rational nature, as the «image and semblance of God» in human beings. In this way they connected with Plato and Aristotle who saw the intellect (*noûs*) as something divine in the human soul. See, for example, PLATO, *Republic*, book 9, 589c-d and 590c-d; Aristotle, *Nicomachean Ethics*, book 10, chapter 7, 1177b26-1178a4. This power of the soul is able to act without corporeal organ and, therefore, it is a sign that the soul can subsist after death.

<sup>48</sup> See, especially, Ephesians 6:5-9; Colossians 3:22-4:1; Philemon; 1 Peter 2:18-25. See also the phrase «God is not acceptor of persons» in Acts. 10:34, and Aquinas, *Commentary on Romans* (<https://aquinas.cc/la/en/~Rom>), cap. 2, l. 2.

<sup>49</sup> See GIMPEL, J., *The Medieval Machine: The Industrial Revolution of the Middle Ages*, Penguin Books, New York, 1977, pp. 10 and 56.

slavery<sup>50</sup>; later, Locke would produce a terrible set back with his doctrines on slavery, applied in Carolina. They implied the return of the ancient Roman law conception of the slave as property<sup>51</sup>. More recently the biologism of the Nazis and Peter Singer's hedonism have denied the condition of persons to certain human beings as well, thus violating their immense worth or dignity.

MacIntyre thought that the concept of «dignity» was not used in classical and scholastic philosophy. It is understandable because it has been embedded in the concept of «person». «Person» is the subject susceptible of having rights and obligations, or duties or liability. And this concept encompassed all human beings *qua* human beings<sup>52</sup>. This was admirably expressed in some modern legislation such as Andrés Bello's Chilean Civil Code (1855): «Every individual of the human species is a person, with no regard to its age, sex, lineage or walk of life». (Art. 55)

Of course, this fundamental structure of Roman Law, the distinction between *personae* (persons) and *res* (things) was received in English Law as well and, through it, came into the Law of the United States. John Finnis explains this point very well in his piece *Abortion is Unconstitutional*<sup>53</sup>. One of the connecting links is the reception of William Blackstone's *Commentaries*. There, in the First Book, he states: «rights are however liable to another subdivision; being either, first, those which concern, and are annexed to the persons of men, and are then called *Jura personarum* or the *rights of persons*; or they are, secondly, such as a man may acquire over external objects, or things unconnected with his person, which are styled *jura rerum* or the *rights of things*». Later, he adds: «Persons also are divided by the law into either natural persons, or artificial. Natural persons are such as the God of nature formed us: artificial are such as created and divided by human laws for the purposes of society and government, which are

<sup>50</sup> See VINOGRADOFF, P., *o. c.*, 85 and 97-101. Vinogradoff, characteristically, attributes to their will to power the opposition of the clergy to the introduction of Roman Law in England. However, he ends up stating on this aspect of the Law of persons: «[...] the infusion of Roman doctrine made the legal treatment of villeinage harder than might have been the case otherwise, while the partial reservations introduced by the Emperor and admitted by Bracton did not carry much weight in practice». That is to say, not even the restrictions to the right of owners over slaves were respected in England after the application of ancient Roman Law to the situation of the villeinage.

<sup>51</sup> John Locke declared in the *Second Treatise on Government* (in *Two Treatises of Government*, Cambridge University Press, 1980, pp. 285-446), chap. IV, sec. 23-24; and VII, sec. 85, that the owners of slaves had over them an absolute power, of life and death; and in *The Fundamental Constitutions of Carolina* (The Avalon Project, Yale Law School, Lillian Goldman Law Library, 1669, [http://avalon.law.yale.edu/17th\\_century/nc05.asp](http://avalon.law.yale.edu/17th_century/nc05.asp)), art. 110, he established that «every freeman of Carolina shall have absolute power and authority over his negro slaves, of what opinion or religion soever».

<sup>52</sup> On this point McCrudden is right: see *o. c.*, pp. 112-13.

<sup>53</sup> FINNIS, J., «Abortion Is Unconstitutional», in *First Things* (April 2021), available in <https://www.firstthings.com/article/2021/04/abortion-is-unconstitutional>

called corporations or bodies politic, etc»<sup>54</sup>. So, all human beings are «natural persons». I will leave aside right now the issue of «artificial» or «juridical» persons, as they are called in the Spanish-speaking world.

According to John Finnis, both Blackstone and James F. Wilson, Chairman of the House Judiciary Committee sponsor of the Civil Rights Act of 1866, held doctrines whose underlying logic was the following:

Persons, «individuals», people, have absolute or natural rights. In England and America alike, the law gives these effect—«establishes» them—as legal «rights of the person». Where the law's establishment of personal rights is for any reason defective, individuals have a claim in justice to that law's replacement or supplementation<sup>55</sup>.

And this logic is what gave its ground to the 14<sup>th</sup> Amendment, since its main drafter, John Bingham, stated:

[... It] represented my conviction of the fundamental, eternal rights of *humanity*, rights that had been denied to the negroes. It surged from my understanding of the Divine Plan for *people*. These are the precious rights of life, liberty and the pursuit of happiness. I had thought of substituting property for pursuit of happiness. By property I meant that [belonging to] *human beings*. By persons I did not mean corporations<sup>56</sup>.

Thus, the metaphysical findings of Plato and Aristotle, directly or through the Stoics and Cicero, influenced Roman Law and gave rise to the concept of «person», which includes in its meaning the notion of «human dignity». Christianity also had an impact on Roman Law. This Law was transmitted to the Latin Christendom and, through it, had an influence on the Modern national systems of Law, down to the Constitutional system of the United States. It is hard to hold, as Pinker does, that such notion is «muddy» and incapable of inspiring a system of Law and morality.

The dignity embedded in the concept of «person» meant not that human persons are «ends in themselves», because, as Charles de Koninck has proved, the dignity of persons lies precisely in being open to the common good as their end<sup>57</sup>. Yet it did mean, as Richard Stith expressed admirably, that in deliberation all persons are a «principle», in the sense that when trying to determine the best course of action for the common good, no persons may be excluded. The

<sup>54</sup> BLACKSTONE, W., *Commentaries on the Laws of England*, John Exshaw, Henry Saunders, Samuel Watson and James Williams, Dublin, 1776, pp. 118 and 119 (Book First, Chapter 1).

<sup>55</sup> FINNIS, J., *o. c.*

<sup>56</sup> Cited by FINNIS, J., *o. c.*

<sup>57</sup> See DE KONINCK, C., *The Primacy of the Common Good Against the Personalists*, pp. 78 y 87-8, in *The Writings of Charles de Koninck*, University of Notre Dame Press, Notre Dame, 2009, Vol. 2, pp. 64-108; and «El bien común y la primacía», pp. 30-1, in *Cuadernos Hispanoamericanos*, 28 (April 1952), pp. 21-31. He even states that to deny «the primacy of the common good proceeds, at bottom, from the distrust and scorn of persons». DE KONINCK, C., *The Primacy of the Common Good* (cit.), p. 80; see, as well, «El bien común y la primacía» (cit.), p. 25.

common good must be also *their good*. He is arguing, against the utilitarians, in defense of the principle according to which it is illicit to kill directly any innocent human being. In that context he wrote this memorable passage:

Our judgments of usefulness begin with the givenness of the members of our community. The inherent dignity and inviolability of each human person functions as the principle or starting point in deciding, in solidarity, what is useful (and just) for the human community. If persons are to go on existing only when shown to be useful, we have lost the very measure of usefulness. None may now qualify as useful, for every argument that someone is useful to another can be countered with «But what is the use of that other?» Unless existing humans need not be justified, all we are or do loses justification. Without the principle of inherent human dignity, neither Grandmother's nor anyone else's life may have meaning<sup>58</sup>.

Subjects with rational or intellectual natures are persons, and only they can be subjects of friendship and of just relations. This means that only persons can be loved for themselves, with love of friendship. This is a *given* that does not have to be demonstrated. In this sense are right those authors who state that human dignity is a «primitive given», even if we do not know how it is derived or even if we can't derive it from any previous principle<sup>59</sup>.

#### 4. THE SECOND MAIN MEANING OF DIGNITY IN CLASSICAL AND SCHOLASTIC PHILOSOPHY

Yet, as announced above, there is another meaning of «dignity». Actually, Aristotle used the word «dignity», «*axía*» only in this second sense. It appears notably in *Nicomachean Ethics* 5, chapter 3, where Aristotle deals with the first meaning of «justice as particular», that is to say, with distributive justice.

In these passages, we confirm that in Aristotle's works human beings appear as the only subjects of just relations. He states that distributive justice has at least four elements, two things (*prágmata*) that must be «equal» and two persons<sup>60</sup> (*hoís díkaion tygchánei*) for whom such things are. This «equality» is just proportional, unlike the equality of commutative or corrective justice (the justice of the courts). The proportion depends on the «dignity» of the parties involved (it is *kat' axían*). And the «dignity» can be of many kinds, «acquired»<sup>61</sup> (including «merit»), «inherited», intrinsic, due to the position in society or to the kind of activity performed. Moreover, its valuation changes if the regime changes. Aristotle was aware that there were many regimes (more or less

<sup>58</sup> STITH, R., «Her Choice, Her Problem: How Having a Choice Can Diminish Family Solidarity», in *International Journal of the Jurisprudence of the Family* (2011) 2.

<sup>59</sup> See RASMUSSEN, J. & BAILEY, A., «How Valuable Could a Person Be?», pp. 275-276, in *Philosophy and Phenomenological Research* (2020) 103/2, pp. 264-277.

<sup>60</sup> Aristotle did not use this word, but the concept is there: two human beings, two rational substances.

<sup>61</sup> This is the one pointed out by Steve Long.

just), and in each of them distributions must be just, that is, proportional to the respective «dignity» as it must be valued in each regime<sup>62</sup>. The things distributed are either external goods that society acquires through the common toil of its members, or burdens that must be suffered by society's members: wealth, honors, power, punishments, taxes, services, and so on. «Whence come the arguments and quarrels? Either when those that are equal have and receive what is not equal, or when those that are not equal [have and receive] what is equal»<sup>63</sup>.

It is not my purpose now to explain how distributive justice works, but just to point out that this kind of justice implies in the classics and scholastics a different use of the word «dignity». In Aquinas the word appears in this sense much more frequently than in the fundamental sense commented on above. Both senses are connected to the common good but in different ways. «Persons» are those beings that, because of their rational or intellectual nature, are destined to consciously achieve the common good of the universe and of political society as their own good. That is their fundamental dignity, according to Charles de Koninck, as we have pointed out. For this reason, persons are the subjects of just relationships. They are the beings that, due to their fundamental dignity, may enter into the distributions of the first kind of particular justice. And, in these distributions they must be treated «equally» in proportion to their respective «dignity», understood in the secondary sense.

The cause of confusion is that in this second sense of «dignity» we are not equal. Also, just punishments for certain crimes may include death<sup>64</sup>. Here the common good and justice require that we make just distinctions, not «respect of persons», but weighing of the relevant differences in dignity or worth:

Respect of persons is opposed to distributive justice, through which one distributes to each according to the person's worth; therefore, there is respect of persons, when more is given or less is given without regard to worth [*dignitatem*]. This happens when the person rather than his qualifications [*dignitatem*] is accepted as a cause. In this case there is a cause, i.e., a rule of action, but the person is taken as the cause of doing something. Thus, if one gives more inheritance to another on account of a blood relationship, it is not respect of persons, because this relationship is a fitting cause why he should receive such benefits. But if a prelate gives more ecclesiastical goods to someone on account of a blood relationship, it would be respect of persons, if some other qualification were not present. For blood relationship is not a suitable reason for receiving spiritual goods<sup>65</sup>.

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<sup>62</sup> According to Aristotle, democracies value freedom; oligarchies, riches or birth; aristocracies, virtue.

<sup>63</sup> See *Nicomachean Ethics*, book 5, chapter 3, 1131a15-1131b24.

<sup>64</sup> As was noted already by Plato in the *Republic*, penalties and punishments seek, besides the just retribution, the rectification of the soul, a chance to partake in justice again. Thus, the death penalty seeks (or should seek) the common good and invites (or should invite) the criminal to turn his will towards the common good.

<sup>65</sup> AQUINAS, T., *Commentary on Romans*, chapter 2, lecture 2, n. 205.

## CONCLUSION

In light of the preceding pages, one can safely conclude that the edifice of classical and scholastic ethics and Right is built upon the foundation of considering «human beings» as «persons». That is to say, (1) entities endowed with dignity due to their rational nature; and (2) entities susceptible of being loved for themselves (with love of friendship) and of being the subjects of rights, obligations, duties, and so on. This is the reason why, for example, directly killing an innocent person or using her as an object of experimentation without proportionate cause and/or without her consent, are wrong actions. We must observe the requirements of love and justice regarding all persons.

We can now turn to each of Pinker's objections opposed to this conclusion.

First, it is true that «dignity» has many meanings, but there is a fundamental meaning that we have isolated. Mailaender, Lee and George and many others made this very distinction, but we have demonstrated that the central meaning has inspired the disciplines of ethics and Law for over two thousand years in the central Western tradition.

Second, in light of the use of this concept in the central Western tradition, it is totally implausible to claim, as Pinker does, that such concept is hopelessly obscure and therefore unable to serve as part of the ground for a system of ethics or Law.

Third, it also is mistaken to claim, as Meilaender has done, that our knowledge of fundamental human dignity is based exclusively on Revelation. We have proved above that there is a metaphysical foundation laid by Greek, gentile philosophers, and by Roman, gentile jurists.

Lastly, respect for the persons, that according to Pinker would suffice for ethics, is precisely respect for the dignity of persons. It demands from us to avoid treating any human being (even those unable to give or withhold consent) as if he or she were an object, instead of a subject of just relations. It has been clearly demonstrated, therefore, that the use of the term «human dignity» in bioethics and in the sense employed by Patrick Lee and Robert P. George is justified. This is so, especially, because the term «respect for persons» has been contracted to mean simply «respect for autonomy» and, therefore, no longer protects those human beings incapable of giving or withholding consent.

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<sup>66</sup> It comes with this note: The English translation of this commentary was prepared by Fr. Fabian R. Larcher, OP, who left it in draft form at the time of his death in 1991. The manuscript came into the hands of Matthew Levering, who had the permission of Fr. Larcher's superiors to utilize the translation for scholarly purposes. Dr. Levering's colleague, Dr. Jeremy Holmes, spearheaded a team of graduate students at Ave Maria University who transcribed the entire document. A thorough correction of the text has been made by the editorial team at The Aquinas Institute. The author of this paper contrasted the translation with the Latin text of the *Corpus Thomisticum*.

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