

Dignity and the Foundation of Human Rights: Toward an Averroist Genealogy

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Abstract: The aim of this article is to give a new reconstruction of the conception of human dignity as a pre-associative yet legal status. Such a legal conception of human dignity carries a universal legal obligation to respect the “innate” right to independence and enables us to move beyond the impasse between moral and political views of human rights. The argument has a normative and a genealogical component. The normative component shows why a legal conception of human rights is grounded on the Kantian idea of an innate legal right to independence, as well as showing that Kant adopted a legal status concept of human dignity. The genealogical component shows that the conception of human dignity as legal status undergoes a transvaluation from its ancient aristocratic to its modern democratic meaning in Dante’s political thought, which is itself rooted in the western reception of Arabic philosophy, in particular political Averroism. By contrast to the Christian elaboration of dignity, the Averroist genealogy of dignity better describes the modern pursuit of an ideal of worldly happiness essentially linked with the collective attainment of public happiness through the unrestricted public use of reason facilitated by republican constitutions crowned by human rights.

THE HUMAN DIGNITY AND HUMAN RIGHTS DEBATES

Recent European protests in favor of solidarity with refugees and forced migrants have featured signs with the gentle imperative: “Be human.” Presumably their illocutionary force is addressed to those governments that have staked their electoral success in flaunting their disregard for the value of human dignity underlying much international human rights law. Advances in biomedical, genetic, and AI technologies that herald

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what some call a dystopian “posthuman” future have for some time now led many bioethicists to view human dignity as the “overarching principle” of their normative and regulatory discourse (Andorno 2009). The climate change and extinction crises have brought renewed attention to the demand to grant non-human nature the same legal standing and legal status previously accorded to human beings (Stone 2010). These are among the “frontiers of justice” (Nussbaum 2007) that call upon the concept of dignity to play a new and preponderant role in the theory as in the practice of human rights (Düwell et al. 2014; McCrudden 2014; Debes 2017). Dignity is closely associated with the idea of “human status” (Arendt 2006, 268–9) or “humanity,” in virtue of which equal rights are recognized to all members of the human species irrespective of their natural or cultural differences (Tasioulas 2013). But whether and how the concept of dignity can offer support to the legal claims of the “human status” against the fictional corporations of sovereign states and multinational firms, and in addition avoid speciesist or religious constructions of its meaning that would invalidate its use for establishing more egalitarian relations with other forms of non-human life, remains an open and contested question.

The recent philosophical debate offers a number of examples of sustained efforts to articulate the systematic role played by human dignity in the enterprise of giving a normative foundation to human rights (Habermas 2010, 466; Lafont 2016; Jütten 2017; Valentini 2017), as well as more explicit invitations to do away with this concept entirely (Sangiovanni 2017). The philosophy of human rights has long been divided by the dispute between the so-called “moral” views (Donnelly 1982; Simmons 2001; Tasioulas 2011) and “political” views (Pogge 2005; Sangiovanni 2008; Beitz 2009; Raz 2010) on the foundations of human rights. Due to the difficulties linked to their claimability and justifiability, the moral view gives rise to the worry that at least some human rights may be something less than legal “rights” (O’Neill 2005, 431; James 2012). Due to the boundaries that arguably define any political association, the political view gives rise to the worry that many human rights may fall short of really being “human” (i.e., may not be extended to every biological specimen of the human species) (Nagel 2005; Sangiovanni 2007). The first aim of this article is to show how a new reconstruction of the conception of human dignity as a pre-associative yet legal status that carries a universal legal obligation to respect the “innate” right to independence enables us to move beyond the impasse between moral and political views of human rights.

The dispute between moral and political views of human rights relies on an exclusive disjunction according to which human rights have to be thought of *either* as individual, natural, and moral, *or* as associative, conventional, and legal. This disjunction makes any appeal to human dignity superfluous in articulating the foundation of human rights, either because (on the moral view) human dignity is taken to refer simply and only to the intrinsic moral value of the individual which human rights are meant to protect, or because (on the political view) the bounded requirement of equal respect can dispense with reference to the “human,” and so a fortiori also with “human dignity.” Hence, if the concept of human dignity is to have a special function, then it must be reconstructed so as to overcome the above disjunction and effectively provide “a conceptual bridge between the moral idea of the equal respect for all and the legal form of human rights” (Habermas 2010, 470, n.10).

The second section of the article argues that dignity can function as such a “conceptual bridge” only if it designates a pre-associative *sui iuris* legal status that assigns all human beings moral–legal obligations to respect an individual’s independence simply in virtue of their birth. On the view proposed here, the essential and irreducible role of human dignity is to indicate that the concept of human rights expresses legal obligations that each individual acquires with respect to all other members of their species not because they happen to have the same “natural” interests in the preservation of life, liberty or well-being, nor because they have the same “metaphysical” attributes (e.g., free will), but because, in and through their birth, they come to share in one and the same indeterminate office of humanity. If humanity designates an office, then human dignity must be thought of as a legal status, rather than as an intrinsic value, characterized by a singular “innate” legal right to acquire positive rights. The idea of an “innate right” comes from Immanuel Kant and is later adopted by Hannah Arendt as a “right to have rights” and by H.L.A. Hart as a “general right” (Arendt 1973, 298, 301; Jones 1995, 81–2).¹ By arguing that human dignity is connected to human rights by way of the idea of innate right, this article diverges from recent scholarship on the relationship between dignity and human rights in Kant which argues that he holds a moral (not a juridical) view of dignity as intrinsic value, which also serves to ground a “moral” or “naturalist” conception of human rights (Bayefsky 2013).

The idea of human dignity as a legal status attached to the office of humanity that is shared by all through birth can be helpfully approximated through analogy with the acquisition of the legal status afforded by a

nationality. As the etymology of the word shows (from the Latin *natio*, “birth, origin, kind, species”), an artificial legal status like a nationality can be acquired by birth (whether through *jus soli* or *jus sanguinis*). The idea of human dignity as a legal status expresses the idea that, by birth, every human being also acquires the corporate identity of “humanity,” i.e., they become a member of the corporate body, not of the nation, but of humanity as a corporate person.² On this view, any attempt to strip the biological specimen of its “innate” corporate identity as a member of humanity is precisely what constitutes a violation of their *human* rights. This occurs every time that an individual’s life is reduced to their physical or biological endowments, or, conversely, every time humanity as corporate personhood is linked to some set of physical or biological traits as opposed to others. In both cases, the individual has been excluded from humanity through a form of “natal alienation” (Mbembe 2003; Patterson 2017). The a priori connection between the condition of natality and the legal status of human dignity can be formulated as follows: a violation of human dignity occurs whenever someone is treated in such a way that, in their judgment, it would have been better for them not to have been born (given that they were in fact born).

Any discussion of the bridging role that the concept of human dignity needs to play in the debate between moral and political views on human rights requires coming to terms with a second dispute as to what the concept means in the first place. This dispute concerns whether dignity is a moral conception of the “value beyond price” of each individual (Rosen 2012), or whether it is a juridical conception of “equal and elevated status” (Waldron 2015). This article adopts the view that analytical disputes about the meaning of legal or political concepts can be productively addressed by applying a genealogical method of intellectual history (Foucault 1999; Skinner 2001; 2009). One of the crucial axioms of this method is that the historical generation of a concept’s meaning always takes place polemically, through a conflict of interpretations that makes possible an overturning or transvaluation of the value previously linked with the concept. In this case, the method is brought to bear on the question of when and why the concept of human dignity as legal status undergoes the radical revaluation from its pre-modern and aristocratic to its modern and democratic sense. For, evidently, only the universalist and egalitarian idea of dignity as legal status can be compared and contrasted with the similarly universalist and egalitarian idea of dignity as a moral value.

The third section of this article argues that the democratization of dignity as legal status first emerges in Dante’s political thought, and it

is made possible thanks to his reception of medieval Arabic and Islamic philosophy in the form of “political Averroism” (Marenbom 2001). This Latin transmission of the Averroist lineage of human dignity offers an alternative approach to human dignity than the one found in the tradition of Christian personalism, according to which “each of us is made in the image of God and each of us bears a special dignity in virtue of that fact” (Waldron 2015, 20).³ Perhaps more significantly, this alternative genealogy suggests that human dignity first came to be linked with human rights not within a process of secularization of Christian theological concepts (Joas 2013; Moyn 2015), but rather in the context of a struggle to establish the principle that the pursuit of worldly happiness for all human beings is the sole legitimate aim of politics (Arendt 1990). This worldly happiness cannot be secured otherwise than by linking social and economical rights with political and civil ones.

The fourth and last section of this article reconstructs the medieval debate in Arabic and Jewish philosophy and its reception in Latin Averroism with regard to the pursuit of worldly happiness of the human species as a whole. This debate suggests that such pursuit is internally linked to a *historical and democratic* process through which the collective intelligence of the species is actualized. According to this alternative genealogy, Kant adopts this Averroist insight in the form of the idea of a public use of reason and of the regulative use of the idea of a cosmopolitan–republican constitution. One of the recurrent arguments against the moral or “naturalist” view of human rights is that it fails to account for the fact that human rights as legal artifices are inescapably historical. There is, indeed, something odd about the belief that human beings at all times have had a “right to leisure” or a “right to development,” as would seem to follow from the moral view of human rights.⁴ However, the implication of the political view of human rights, according to which the attribution of the human legal status to this or that group of human beings could be the object of a contingent, historical, and political decision that can be undone at any given time, is equally problematic. By situating Kant’s system of rights within this Averroistic genealogy of human dignity, the historicity of human rights can be accounted for as a function of the historical variability of the enabling conditions that the human species can acceptably require of all of its specimens in order to maximally actualize their collective capacity for thought at any given time. In this way, the conception of human dignity as a legal status of the corporate person of the human species helps to address the apparent paradox of human rights as being both universal and historical.

DIGNITY AS STATUS, CAPACITY FOR THOUGHT, AND THE INNATE RIGHT OF HUMANITY

The idea that human dignity refers to a universal, human legal status adopts Jeremy Waldron's proposal that human dignity "expresses the idea of the high and equal rank of every human person" (Waldron 2015, 3). Human dignity is therefore characterized by a dual relationality: one is a "vertical" and sortal relationality, whereas the other is "horizontal" and egalitarian. Unlike the idea of dignity found in the ancients which allows for different basic sortal statuses for human beings (e.g., freemen and slaves, men and women, adults and children), in modern times "there is basically just one kind of human person in the eye of the law.... It is more like the status of a free man than like a slave or bondsman; it is more like the status of a person who is *sui juris*... it is the status of a right-bearer" (Waldron 2015, 59). On this view, human rights appear in the modern world as legal rights expressed in declarations found in national constitutions and international treaties (Bognetti 2005; McCrudden 2008), rather than as moral rights, because they are underpinned by this juridical interpretation of human dignity that elevates all human beings to one and the same *sui juris* status, giving them all the same right to equal protection before the law (Waldron 2015, 61).

Yet, Waldron's claim that "equal dignity in law is the artifice of legal representation" (Waldron 2015, 61–2) introduces an ambiguity in the legal connection between human dignity and human rights. For it is unclear whether he understands human dignity to entail that every individual has an innate right to a global, unbounded legal representation, i.e., has an inalienable right to be treated as an equal person in law anywhere on the planet,⁵ or whether he is simply reiterating Thomas Nagel's point that "everyone may have the right to live in a just society, but we do not have an obligation to live in a just society with everyone. The right to justice is the right that the society one lives in be justly governed" (Nagel 2005, 132). On Nagel's interpretation, it would not be inconsistent with human dignity if one society treated individuals according to a binary, Roman sortal status, and another society treated them according to the modern, unitary sortal status of equal protection under the law.

If human dignity is about sharing a common legal status, then any account of this status must answer two questions: "what this basic moral status is or entails, as well as what it is about being human that makes it true we have this status?" (Debes 2018). This article answers the first question by saying that human dignity is a legal status defined by a

pre-associative yet universal legal right to be treated as a right-bearer, no matter in which society one may happen to be born or to live. Understood as a legal status, human dignity does not mean having an individual (moral) right to belong to humanity as an equal legal status. Rather, it means that the human legal status is innate to every individual in virtue of being born, and it is this human status that grants each individual a legal yet pre-associational right, an innate legal right (with consequent obligations on all others) to have positive rights under a republican constitution. This claim is supported by an interpretation of how human dignity as legal “high” rank is internally related to Kant’s conception of an innate legal right as the ground of human rights. This requires revising Waldron’s opinion that Kant holds on to a moral view of dignity as “inner absolute worth” that is opposed to the idea of dignity as legal rank (Waldron 2015, 26).

The answer to the second question, namely, what is it about being human that gives each specimen access to its human legal status, turns on the claim that a legal status of humanity requires a reference to Kant’s idea of intelligible freedom understood as the marker of the “high rank” of the corporate person of humanity. In turn, this requires revising Habermas’s opinion that Kant erred in connecting human dignity to the shared capacity for the collective intelligence of the species because this connection purportedly “loses precisely those connotations of status that only qualify it as the conceptual link between morality and human rights” (Habermas 2010, 475). Kant’s choice to ground dignity on the collective capacity for thought is defended in terms of its systematic role in grounding the universality of human rights; Kant’s choice is given an additional, genealogical support in the subsequent sections.

Kant employs the same status conception of dignity that Waldron defends. As Oliver Sensen shows, “Kant conceives of dignity as a sublimity or the elevation of something over something else. Ontologically ‘dignity’ refers to a relational property of being elevated, not to a non-relational value property” (Sensen 2009, 310; 2011). In one of the canonical passages where Kant speaks of human dignity as “absolute inner worth,” it clearly appears that he does so in the context of recognizing human dignity as a *legal* status, while linking this status to the *intelligible* character of freedom as a “fact of reason.”

[I]n the system of nature, a human being (*homo phenomenon, animal rationale*) is a being of slight importance and shares with the rest of the animals, as offspring of the earth, an ordinary value (*pretium vulgare*). Although a human being has, in his understanding, something more than they and can

set himself ends, even this gives him only an extrinsic value for his usefulness (*pretium usus*); that is to say, it gives one man a higher value than another, that is, a price as of a commodity in exchange with these animals and things.... [B]ut a human being regarded as a person, that is, as the subject of a morally practical reason, is exalted above any price; for as a person (*homo noumenon*) he is not to be valued merely as a means to the ends of others or even to his own ends, but as an end in itself, that is, he possesses a dignity (an absolute inner worth) [(*einen absoluten inner Werth*)] by which he exacts respect for himself from all other rational beings in the world [*vernunftigen Weltwesen*]. He can measure himself with every other being of this kind and value himself on a footing of equality with them (MM 6:434).

The element in each individual which is “exalted above any price” is nothing “individual” in the usual way one understands this term, that is, as a spatio-temporally determined object (Neumann 2000, 288). For Kant, every physical or mental capability of individuals, all the particularities of *homo phenomenon*, can in principle be assigned a price which quantifies the use that one individual recovers for another individual. In contrast, what in the individual cannot be priced, what is exalted into dignity, is that trans-individual subject who has the capacity to give a practical employment to the pure reason (viz., to ideas, not concepts), which Kant calls *homo noumenon*.⁶ In turn, this practical employment of pure reason by the *homo noumenon* enjoins the moral duty to each particular, flesh, and blood individual (*homo phenomenon*) to treat other human beings as ends and not just as means. To underscore the close relationship between vertical and horizontal relationality in his concept of human dignity, Kant also says in this passage that this practical–rational capacity turns the human *species* as a whole into the legal equal of other *species* of rational worldly beings [*vernunftigen Weltwesen*] and demands their equal respect.⁷

The introduction of the distinction between diverse (phenomenal) individual abilities and the unique (noumenal) capacity of a species for intelligent action makes it possible to harmonize the two senses of dignity that Waldron opposes (namely, dignity as “absolute inner worth” and dignity as “elevated rank”). The legal concept of dignity as status refers to the “elevation of something over something else.” For Kant, this vertical relationality is *not* the result of individual human beings asserting their superiority with respect to other animals, as Cicero is sometimes read, and as contemporary “dignitarians” like George Kateb have assumed.⁸ Instead, human dignity refers to the *self-elevation* of *homo phenomenon* to the

“higher” rank of *homo noumenon* in virtue of the possibility of collective action on the basis of ideas. By self-elevation is not meant an individual achievement, the result of some special effort on the part of individuals to become dignified by acting on the basis of moral law (Bayefsky 2013, 821). Rather, self-elevation refers to the incorporation of the individual into the corporate person of humanity at birth. The alternative genealogy proposed in the next sections shows that this idea of self-elevation through incorporation has a long history prior to Kant’s adoption of it. The important points for now are, first, that Kant’s conception of human dignity as a feature of the *homo noumenon* accounts for why the human status belongs to the human species as a whole, i.e., it accounts for why human rights are “human” and not merely associative. Second, that respect for human dignity does not require inter-species comparisons of relative worth, which ultimately are nothing but anthropocentric evaluations of what Kant calls the price (*pretium vulgare*, *pretium usus*) of living beings that have nothing to do with their dignity.

Kant characterizes the intelligible freedom of *homo noumenon* as the “innate dignity of a human being” [*angeborene Würde des Menschen*] (MM 6: 420). This intelligible freedom is articulated in a dual fashion, corresponding to the vertical and the horizontal relationality that characterizes human dignity. As being vertically related to the *homo noumenon*, the human dignity of every individual allows each individual to “represent its existence as an end in itself from ‘the very same rational ground’ that holds for every other (namely, *the rational nature that they all have in common*)” (Wood 1999, 131, emphasis mine). Each of us can respect everyone else as an end because, in some sense, each of us knows that we are (as *homo noumenon*) one (mind).⁹ This vertical relationality made possible by the concept of human dignity is expressed by the moral law.

But this does not mean that Kant grounds the respect of human dignity on the individual exercise of the good will, that is, on the individual’s conforming their choices to the commands of the categorical imperative. For Kant, the condition of a value to be morally good is that it should be the object of a good will, and the good will cannot be the object of a legal right because by definition it is not coercible. The good will that founds moral value is not the object of a limitation, whereas the idea of right requires the limitation of the choices of one individual as against those of another. Hence, no connection between human dignity and moral law, as such, can provide a grounding for human rights based on human dignity. The key insight is that one and the same concept of

human dignity can be given a moral articulation according to its vertical relationality and a juridical articulation according to its horizontal relationality. The necessity of giving a juridical articulation of human dignity is due to the fact that the intelligible freedom of the *homo noumenon* can be actualized only collectively, not individually. That is why Kant says that “the capacity to set oneself an end—any end whatsoever—is what characterizes humanity” (MM 6:392), and “there is also bound up with the end of humanity in our own person the rational will, and so the duty, to make ourselves worthy of humanity by culture in general, by procuring or promoting the capacity to realize all sorts of possible ends, so far as this is found in the human being himself” (MM 6:392). The realization of humanity as an end in itself is inseparable from the development of each individual’s intelligence. In this sense, it is correct to claim that for Kant “all members of the species are to be ascribed the properties of humanity” (Glasgow 2007, 304), and not just those whose will is good. For Kant, the relation between morality and rights is mediated by human dignity; there is no immediate deduction of rights from the moral law.

The horizontal relationality that characterizes the concept of human dignity is related to this idea of individual purposiveness as a marker of humanity, to which corresponds not the moral law but the idea of an innate legal right that regulates how the purposiveness of each is to be harmonized with those of all others. For Kant there is only one such innate legal right: “Freedom (independence from being constrained by another’s choice) insofar as it can coexist with the freedom of every other in accordance with a universal law, is the only original right belonging to every human being in virtue of his humanity” (MM 6:237). The main point of this definition is that innate right is internally related to the legal status of humanity—it is the only right attached to this status. The relation of human dignity to the innate right accounts for why human rights are legal “rights” that are both universal (like moral rights) and justiciable (unlike moral rights).

The above way of connecting, within the Kantian framework, the dignity of *homo noumenon* with the innate legal right to independence of every individual of the species opens up a different path to the derivation of the idea of human rights than the traditional attempt to ground these on the moral conception of the categorical imperative. Katrin Flikschuh has forcibly argued against such a moral construal of human rights on the basis that Kant’s idea of morality or the categorical imperative nowhere connects with an idea of human rights (Flikschuh 2015). For

Flikschuh, any such moral interpretation of human rights would push them into the form of Lockean “natural rights,” and for a Kantian (on her view) there are no “natural rights” in a technical sense of the term because rights do not pertain to the “nature” of individuals at all, but only regulate the relation between two or more individuals. Rights must be reciprocally recognized in order to be what they are, and this (on her view) requires common entrance into a civil or political association. At best, the categorical imperative can command that we all have the duty to enter into such mutually binding political relationships, but this is not the same as grounding human rights.

Although these considerations are sound, they do not argue against employing the idea of human dignity as a legal status in order to ground the possibility of human rights. Indeed, Flikschuh’s argument tends to minimize the role of innate right in Kant’s theory of rights. Kant’s account of an innate right is not a regression into Lockean “natural right” theory, but rather amounts to saying that human beings enjoy a pre-associative *sui iuris* status in virtue of their human dignity, that is, in virtue of sharing by birth in the legal–political office of humanity, and doing so prior to and as a condition for their entering into any particular social contract to form a particular political association.

Arthur Ripstein offers a convincing argument linking Kant’s idea of innate right to the republican idea of freedom as a *sui iuris* legal status. But since he does not work with the idea of human dignity in Kant’s text, his account does not work out how the doctrine of innate right can ground human rights. For Ripstein, the idea of innate right as a right to independence refers to the right of each individual to set their own purposes and, conversely, the right to refuse being used as a means to achieve the purposes of others:

The right to be your own master is neither a right to have things go well for you nor a right to have a wide range of options. Instead, it is explicitly contrastive and interpersonal: to be your own master is to have no other master. It is not a claim about your relation to yourself, only about your relation to others. The right to equal freedom, then, is just the right that no person be the master of another (Ripstein 2009, 36).

Independence or the enjoyment of a *sui iuris* status is relational: it can only exist if the choices of others are legally constrained. “To be your own master,” on this republican conception, is a juridico-political status; it is not a “natural” endowment. Kant argues that, unlike citizenship in

bounded associations, this status obtains at the innate level. This is only possible if such natal citizenship is the meaning of human dignity as a legal status.

There is no question that for Kant innate right is a legal right that has strict corresponding legal, viz. coercible duties. “The innate right consists in the *legal authority* to impose a duty upon all others” (MM 6:237, emphasis mine). Interest- and will-based theories of rights conceive of them as protections of something (like happiness, welfare, free will, or autonomy) that matters to the individual as such, i.e., matters to them also apart from the juridico-political relations in and through which they are pursued. By contrast, for Kant, the innate right to independence is an end in itself not a means to achieve something else, because it defines the meaning of “humanity” as a legal status, and the pursuit of individual interests is justified only within the boundaries of its jurisdiction.

The question is: what legitimates this legal yet innate authority of each person to restrict the freedom of all others in order to live independently? The legitimacy of the authority cannot rest, as in Ripstein, on the (subjectively valued) “importance of that independence,”¹⁰ because otherwise innate right becomes once again a means to protect an autonomous (moral) value (in this case, the value of independence). For a similar reason, Otfried Höffe’s answer that the legal authority underpinning innate right obtains its legitimacy as a matter of the commutative justice involved in an equal and mutual restriction of liberty (Höffe 2010, 80) cannot be correct, for the freedom to exchange is not anterior to the freedom from domination. Exchanges are only fair if the parties involved in the exchange are independent, but the restriction of freedom that leads to independence is not itself a matter of exchange or a matter of contract.

Since the legitimacy of the legal authority to restrict the freedom of all others to make possible each one’s independence cannot be contractually derived, it must be acquired at birth and must have a transindividual origin. The only legitimating ground that can fulfil both requirements is the idea that one belongs at birth to the corporate body of humanity, conceived as a legal office for humanity as a whole, i.e., as a human dignity. It is because one belongs at birth to such a human status that one has the innate right to live without masters and has the legal authority to coerce respect for this independence. In this way, human dignity is clearly distinguished from the Lockean picture of natural rights which refer to the set of individual moral rights (valid in the state of nature) that are instrumental to achieve some other ends. For Kant, only the same humanity in each of us is the

subject of the innate *sui iuris* status, not you and I individually (taken in the “state of nature” of Hobbes or Locke) or as members of a particular contractual association of human beings.

That the innate right to live independently of the choices of others is a pre-associational, yet legal right is evident from the fact that it imposes a coercible legal duty on all others, what Kant calls the duty of *honeste vive* (the duty of living honorably or of rightful honor), the first of the three pseudo-Ulpian maxims that Kant discusses in his *Doctrine of Right* in relation to innate right (Pinzani 2005). This maxim expresses an “internal duty” (i.e., a pre-institutional yet legal duty) that “consists in asserting one’s *worth as a human being in relation to others*, a duty expressed by saying do not make yourself into a mere means for others but be at the same time an end for them” (MM 6:237, emphasis mine). Kant says that this legal “internal duty” is an “obligation from *the right of humanity in our own person*” (MM 6:237, emphasis mine). Thus, the legal duty of *honeste vive* is internally related to the legal status conception of human dignity, and at the same time offers the link to the idea of human rights as legal yet pre-associative rights.

It is easy to misinterpret the meaning of this legal, coercible duty if one delinks it from the idea of dignity as a legal status. The maxim does not say that if any individual does something that is considered to be “slavish,” then they have violated the duty of rightful honor and therefore anyone else can claim rights against them that they, in turn, cannot claim (Ripstein 2009, 37). Such is the Roman reading of *honeste vive*, according to which one and the same individual could bear the person of the slave and that of the master, depending on one’s circumstances. In Roman law, the duty of *honeste vive* applies only to the bearer of the person of the master. But this is obviously not what Kant means because for him there is only one pre-associative legal status that is legitimate, namely, the human one, and it is a legal status that individuals enter at birth, and such a status excludes those of master as well as of slave. The duty of *honeste vive* is not a duty toward oneself not to be degraded (Höffe 2010, 87), something that must be individually fulfilled in order to access the elevated status afforded by human dignity. Rather it is a duty toward oneself and others not to let human beings fall below this elevated standing: one is “accountable to the humanity in its own person” (MM 6:270) as an office-holder ought to feel honor-bound to maintain the dignity of the office.

On the reading proposed here, Kant’s pre-institutional legal duty of rightful honor refers to a universal *duty to resist* any attempt by others

to strip any individual of the human status by becoming their master. The point is that the justiciability of innate right is not a function of enforcement (requiring a duly constituted public authority, a legitimate form of subjection to a sovereign) as much as a function of resistance and contestation to the imposition of any relation of mastery on anyone (and which does not presuppose a contractual association). The simple desire not to be dominated, expressed in resistance to and contestation of relations of domination, is sufficient warrant that one is the bearer of (human) rights.

DANTE, THE SELF-ELEVATION OF HUMANITY, AND THE LEGAL–POLITICAL SIGNIFICANCE OF BIRTH

In her critique of interpretations that try to show how Kant’s doctrine of right contains the bases of human rights, Flikschuh offers up a perplexing citation from Kant’s *Perpetual Peace* that addresses the “right of humanity.” Since the passage is of capital importance, it merits to be restated in full:

The exalted epithets often bestowed upon a ruler (“the divinely anointed,” “the administrator of the divine will on earth and its representatives”) have frequently been censured as gross and dizzying flattery, but it seems to me, without grounds. Far from making the ruler of a country arrogant, they should rather humble him in his soul, if he is intelligent (as must be assumed) and *considers that he has taken on an office far too demanding for any human being—namely, the most sacred office that God has on earth, that of trustee of the right of mankind [das Recht der Menschheit]—* such that he must always remain concerned about having in some ways offended against this “apple of God’s eye” (PP 8:353, emphasis mine).

According to Flikschuh, “the epithets are to be retained not because belief in the divine rule is to be retained, but because their function is to remind the ruler that, strictly speaking, the assumption of public office exceeds human capacities” (Flikschuh 2015, 667–8). This appears to be an interpretation that goes against the letter of Kant’s text. For not only does Kant cite a Biblical verse (*Zechariah 2*) in which reference to God’s “rule” is clearly stated, but, above all, his point is to reject any human monarch’s claim to be the direct representative of this divine ruler. Instead, Kant says that monarchs are trustees of what God considers the *highest office* on earth, namely, the one that gives rise to the “right of humanity” or to human rights. This is a very clear statement that, for

Kant, human dignity is to be conceived of as an office and as such is the source of the innate right of humankind. Kant's point, therefore, is not that "public office exceeds human capacities." Rather, his point is that the public office closest to God is one that can be occupied by no individual or group of individuals because it is the office whose occupancy belongs to the entire human species, and it is the office which gives human dignity an elevated legal status, just as shown above. However, on this very point, Kant is not being original at all. He is taking up, in the most literal sense, Dante's conception of universal monarchy.

In *Monarchia*, Dante conceives the need for a world monarch (what today would be called a "world government") in order "to guide mankind to temporal happiness in conformity with the teachings of philosophy."¹¹ Just like with Kant's defense of monarchic dignity as a placeholder for the dignity of humanity, so too in Dante the universal monarch is a "supra-individual representative of his species, the incumbent of a personal dignity in which the corporate and generic Dignity of Man became manifest" (Kantorowicz 1997, 460–1). Dante's text may be the first time in the western tradition that human dignity is connected with the attainment of the temporal or worldly happiness for the human species as a whole (Canning 2011, 78–80). Dante places human dignity above the aristocratic dignity of kings, and at the same time separates it from the dignity associated with accession to eternal life through faith in Jesus the Christ.¹²

Human dignity is made to rest on the capacity of the human species to attain worldly happiness by actualizing its "proper power," namely, the intellectual or philosophical virtues associated with Aristotle and pagan philosophy, as opposed to the theological virtues based on divine grace. But whereas for Aristotle such earthly blessedness is attainable only by the very few, Dante makes recourse to Averroes's arguments in favor of the unicity, separateness, and eternity of a material or potential intellect in order to ground his decisive claim that "the peculiar work of *the human species taken as a whole* is to actualize always the whole power of the potential intellect" (*Mon.* I,4,1).¹³ Dante applies the Averroist idea that the collective and collaborative enterprise of thinking is what elevates every individual into humanity as a dignity. What counts for sharing in humanity, in this alternative tradition, is not that every specimen be created by God in His image, nor that they be an "autonomous person," but merely that every specimen contribute in their own way to the capacity for thought or communication characteristic of the human group, whether this be through discursive, emotional, or somatic forms of intelligence

whose exercise requires a connection between more than one individual. As will be discussed in the next section, it is this Averroistic conception of humanity that undergirds Kant's attempts to connect the intelligible character of humanity (*homo noumenon*) with the idea of an innate legal right to have positive rights.

Irrespective of how Averroes himself understood the doctrine of the unicity of the material or potential intellect, there is widespread consensus in the literature that it is Dante, and not Averroes himself, who argues that the actualization of the one potential intellect of the human species requires the participation of a multitude of individuals to the thinking activity (*Mon.* I,iii,8).¹⁴ The idea of dignity as status is henceforth democratized because the elevation of an individual to the dignity of humanity, as opposed to other aristocratic dignities, entails the participation of all individuals to the activity characteristic of the human species. Human dignity therefore refers to the incorporation of all individual human beings into the corporate body of the human species. Dante understands humanity as a *second* "mystical body," in analogy with the "mystical body" of the Church whose "head" is Jesus Christ. But whereas, according to Christian dogma, every individual can join the mystical body of the Church in virtue of the sacrament of baptism, for Dante every individual joins the mystical body of humanity simply by birth, for this body does not begin in and through Christ but in and through Adam (and Eve). Just like for Christian dogma Christ is the head of a mystical (corporate) body composed of the faithful, so too Dante's universal monarch is the head of another corporate body composed by all members of the human species.

Whereas Christians believe that thanks to Christ's death on the Cross and His resurrection, "every believer was potentially elected... to participate in the divine nature of Christ and thereby to re-establish in himself also the original integrity of human nature" (Kantorowicz 1997, 483), Dante sees in the respect and protection of human dignity a "doctrine of a purely *human* regeneration" achieved solely "by man's own powers, by his natural reason" (Kantorowicz 1997, 484). This ideal of the secular regeneration of the human species would soon receive the appropriate name of the "Renaissance." With Dante emerges the idea that each human being is born once as a specimen of a biological species, and is "re-born" when they are treated as equal members composing the corporate body of humanity, in accordance with the rights and duties consequent upon the Dignity of Man, that is, with human rights.

According to Ernst Kantorowicz, the connection between rebirth or renaissance and the self-elevation of individuals into human dignity is

captured by a crucial scene in the *Divine Comedy* in which Dante, emerging from his journey to the underworld, is symbolically crowned with a wreath of laurels by Virgil with the words: “I crown and mitre you over yourself [*io te sovra te corono e mitrio*]” (*Purg.* 27.139–42). In the traditional formulas for the coronations of kings, all of which derive from ideas of ancient sacral kingship (Oakley 2006), human kings are elevated into their dignity by their filiation with a supra-terrestrial divinity, and in virtue of which they represent God’s dignity on earth as the King of the universe. In Dante’s coronation scene, instead, it is a human individual (represented by Dante as a new Adam) who becomes “sovereign” at the hands of another human individual (represented by Virgil, the poet of Roman liberty) in virtue of being invested with human dignity. Thus, in a first moment, the self-coronation of humanity represented by Virgil’s crowning of Dante signifies the transition from a Roman, aristocratic sense of *dignitas* as “noble bearing” (symbolized by Virgil) to a modern, democratic sense of dignity as a universal *sui iuris* status (symbolized by the mitred Dante).¹⁵ From this moment onwards, human dignity, represented by the crowned and mitred Dante, acquires “supreme jurisdiction over man qua mortal man, *regardless of position and rank*” (Kantorowicz 1997, 493). Politically speaking, this means that the worldly “kingdom” based on human dignity stands above all other theologico-political regimes. This seems to be the precursor of Kant’s development of human dignity as a function of the elevation of *homo noumenon* over *homo phenomenon* (the “crowning” of humanity over man) through the practical employment of pure reason, which finds its highest manifestation in the idea of a republican constitution.

But Dante’s coronation scene is also symbolic of a revaluation of Christian dignity. Through the Christian sacrament of baptism, every natural born human being becomes a member of the mystical body of Christ and can ascend to the dignity or rank of the “children of God” (*Romans* 8:14) or a “brother” to the Son of God (*Romans* 8:29) (Peterson 1997). Dante, by way of contrast, “achieved his ‘baptism’ into *humanitas* in a para-sacramental and para-ecclesiastical fashion, with Cato acting as sponsor, and with the prophet Vergil as his Baptist—a Baptist, though, who this time unlocked to man not the heavens, but the paradise of Man” (Kantorowicz 1997, 492). In a second moment, therefore, the coronation scene expresses the belief that individual human beings can find their salvation only by extending to the whole human species the rights and duties that define the human legal status, and that correspond to the actualization of their collective capacity for thought.

Again, it is Kant who takes up this aspect of Dante's idea of human dignity most forcefully. The *traditio* (transmission) from Virgil to Dante is symbolic of "the endlessly growing and progressing activity and culture" that for Kant characterizes the actualization of the human potential for thought. It is no coincidence that Dante places the self-elevation of the human being to the "Dignity of Man" under the aegis of Cato, "the philosopher hero who sacrificed his life... for political freedom" (Kantorowicz 1997, 485, emphasis mine) because for Kant, too, the human capacity of thought finds its "apex" in "*the product of a state constitution ordered according to the concepts of human right and, therefore, a work of men themselves*" (Kant 1957, 50, emphasis mine). In short, human dignity finds its realization in the project of constitutionalizing human rights. Only in such a cosmopolitan conception of republicanism can "humanity" (*homo noumenon*) be crowned over "man" (*homo phenomenon*), and *humanitas*, which Kantorowicz reminds us is "the medium of God-imitation" for the Romans, can become the historical destination of the species *Homo sapiens*.

POLITICAL AVERROISM AND THE HISTORICITY OF HUMAN DIGNITY

In a recent exchange over the historicity of human rights, Samuel Moyn counters John Tasioulas's claim that human rights are a type of natural right by arguing that such a "philosophical reassurance about the existence of norms—human rights in heaven, so to speak" does not "save us the trouble of understanding the relationship between *the very idea* of an individual human right and the conceptual evolution of the contents of such an entitlement and the way the world has changed in order to honor it" (Moyn 2018). Moyn's important point is that how norms get applied in different historical circumstances is not a matter of indifference for how one determines what these norms can mean. Ultimately, the reason for coupling conceptual analysis to the genealogy of concepts is to draw the sting from this historicist objection. The problem of the application of philosophical ideas to political reality was fundamental to the Arabic and Islamic reception of the Platonic discourse of natural right and its transmission to late medieval and early modern debates on worldly happiness and human dignity. By retracing the emergence of this philosophical conception of heaven in which, following Moyn's ironic expression, the idea of human rights resides, it may be possible to recover a standpoint

from which Moyn's historicist and Tasioulas's normativist perspectives on human rights are reconciled.

In Dante's advocacy of the self-crowning of humanity, just like in Kant's idea of the *homo noumenon* beyond price, the obligation to respect the humanity in every person entails the prior question of whether and how empirical individuals can elevate themselves to the unity of a unique, atemporal, and intelligible (noumenal) causality—one, timeless, and the same for all individuals. Behind this question there lies the debate in medieval Islamic and Jewish Aristotelian philosophy about whether human beings, through their intellect, have the capacity to conjoin themselves to the one active intellect associated with God and other incorporeal intelligence (Davidson 1992). This medieval debate took place between those thinkers, like Alfarabi, who seemed to claim that the human intellect was rooted in the finite, corruptible biological body like any other human faculty and, as such, could not attain the level of an incorporeal, eternally active intellect; and those thinkers, like Averroes, who claimed such a conjunction was possible for the human species. Alfarabi is said to have stated his heretical views in a now lost *Commentary* on Aristotle's *Nicomachean Ethics* (Neria 2013). In turn, Averroes refers to Alfarabi's lost *Commentary* in his own *Great Commentary* on *De anima* in order to refute its views and defend the possibility of conjunction between the unicity of the human "material" intellect capable and the intelligible forms generated by the one, eternal agent intellect.¹⁶

In his *Epistle on the Possibility of Conjunction with the Active Intellect*, in a free rendition of Aristotle's thesis on the immortality of the intellect in *Nicomachean Ethics* X, 7, Averroes states that even though each human being is mortal, they are nonetheless "worthy" or have "dignity" in so far as they know their essence to be immortal: "why should someone who is mortal despise his soul when it contains a part that has the capacity to take up the nearness of eternal existence?" (Rusd 1982; Wirmer 2008, 24). In this text, human dignity is not connected to the fulfilment of theoretical knowledge or science achieved by any given philosopher, but to the capacity possessed by the species as a whole to "conjoin" itself with the active intellect.¹⁷ Human dignity, properly speaking, is vouched for by this conjunction of material and active intellects in which consists metaphysical knowledge proper, i.e., knowledge of the *noumenon*.

Despite the large amount of scholarship dedicated to the study of this debate about the possibility of metaphysical knowledge in medieval

Arabic and Jewish philosophy, its significance for the conception of human dignity and the “right of humanity” as developed from Dante to Kant, has received much less attention. However, a few decades ago, in an article entitled “La philosophie dans l’économie du genre humain selon Averroes: Une réponse à Al-Farabi?” the scholar of medieval philosophy Shlomo Pines set out to show that Kant’s practical philosophy drew its roots from the Averroistic elaboration of the idea of a philosophical account of heaven that stood in stark contrast to the account of heaven proposed by orthodox monotheisms (Pines 1996).

In his article, Pines posits the existence of a fairly straight line leading from Averroes to Kant based on the fundamental idea that human dignity was a ranking status tied to the practical–political employment of the human species’ capacity for thought. As evidence, Pines cites Kant’s second review of Herder’s *Ideas for a Philosophy of the History of Mankind* in which he rejects Herder’s saying that “Averroistic philosophy shall not change our philosophy of history in this way” (Kant 1957, 51–2). Kant responds to Herder that:

...if by human species we understand the totality of a series of generations proceeding into infinity... and if it is admitted that this line of descent ceaselessly approaches its concurrent destination, then it is no contradiction to say that... no single member in all of these generations of the human race, but only the species, fully achieves its destination (Kant 1957, 51).

This response clearly echoes Dante’s democratization and historicization of Averroes’ doctrine of the material intellect.

The important contribution made by Pines is to have drawn attention to the feature that, according to Averroes, is responsible for elevating the rank of the human species to that of God by making possible the conjunction of their intellects.¹⁸ “This conjunction is achieved through human beings that help each other just like human beings can aid each other in the studies that deal with what Averroes calls speculative sciences” (Pines 1996, 366). Just like for Averroes, the theoretical sciences result from the collective effort of scientists, so too the actualization of the material intellect must also be the collective and historical effort of humankind. However, the latter form of collaboration is not limited to the scientists or philosophers. From this Averroistic perspective, if philosophy is to attain the level of metaphysical or “absolute” knowledge, it will do so in a form that opens the use of reason up to the multitudes and so makes this use of reason both public and historical.

The Latin reception of Averroism links the attainment of a terrestrial paradise to the possibility for every human being to lead a philosophical life. However, what this general proposition means is highly contested already in the medieval debate, where some Latin Averroists like Siger of Brabant and Jean de Jandun believed that earthly happiness could be achieved only in the form of philosophical happiness, while others like Dante and Marsilius of Padua argued that it could be achieved also in the form of political happiness (Bianchi 2015, 93–109; Mulieri 2019; Wieland 1982).

For Latin Averroists like Jean de Jandun, the idea that the material intellect can be conjoined to the active intellect through a collective endeavor meant that all or most human beings can participate in philosophy, just like all or most can participate in Christ's Church (Pines 1996, 369). That is why for these Latin Averroists the beatitude of contemplative life is open to all of humanity, and in this form of life resides humanity's dignity, its final aim, or "destination," to use Kant's term. For them, philosophical happiness is superior to political happiness. On this picture, philosophy offers a wider, if perhaps "invisible" church that rivals the claims of universality of the Roman Catholic Church. With Bacon and Galileo, this approach to philosophy becomes both public and historical in the sense that it is accessible to everyone in the form of the natural science, in the application of a scientific method, and in the resulting technological progress whose fruits can be widely enjoyed by all human beings and lead to their increased welfare (Gatti 2015).

However, this is not the only possible way to understand the realization of human dignity in this Latin Averroist tradition. Pines argues that Marsilius of Padua, in *Defensor pacis*, *Prima Diccio* I, 7 rejected the orthodox Averroist thesis of the superiority of contemplative life over political life because he may have come in contact with Alfarabi's lost *Commentary* (Pines 1996, 370–1). Since in this text Alfarabi rejected the possibility of noumenal or absolute knowledge for human beings, it follows that the highest form of earthly happiness attainable by the human species is the one afforded by a political life that would have to be guaranteed equally to all, rather than the kind of happiness that Aristotle, and Averroes, had reserved for the contemplative life (Pines 1996, 364–5, 370–1). According to Pines' hypothesis, this priority of political over philosophical happiness is adopted by Marsilius, often considered to be the first modern defender of democracy, and then by Kant, who, as stated above, placed the "Idea" of a republican constitution based on human right as the apex toward which human beings as a species need to "raise" themselves in order to live up to the standards of their innate human dignity.

Pines does not explain how these two seemingly incompatible views can coincide. On his reading of Alfarabi, philosophical happiness cannot be attained by the human species as a whole and the highest possibility for the human species is political happiness. This would mean that God's Kingdom cannot be realized on earth, and therefore religion is a human invention to control human prejudice and give it the best, less harmful political use, whilst philosophy is a pursuit that is best practiced out of the public eye. On his reading of Averroes, philosophical happiness is attainable by the human species over and above political happiness, but only on the condition that all or most of the human species participate in actualizing its capacity for thought through a form of scientific collaboration. Here God's Kingdom could be realized on earth but only if natural science is emancipated from religion, and scientists are somehow placed in charge of political power.

In my view, there is a third possibility that Pines does not countenance that would reconcile Alfarabi and Averroes and the roles of religion and of the theoretical (natural) sciences, in the historical process of realizing human dignity. On this third possibility, like with Alfarabi, Marsilius, and Kant, political happiness is the highest human goal that the human species can attain on its own and collectively. However, like with Averroes and Dante, the terrestrial paradise can only be attained if the collective capacity for thought of the human species is actualized by all in the course of time. To actualize the material intellect in history means that philosophizing must become a political, democratic endeavor. But, unlike the Latin Averroists, the democratization of philosophy does not mean that all or most human beings should become scientists. Rather, it means, with Kant, that the claims to truth on the part of all the theoretical sciences (from theology to physics) are validated if and only if they meet, in the course of time, the agreement of all based on their public use of reason.

CONCLUSION

When human rights activists remind their fellow citizens and governments to "be human" in the face of refugees and forced migrants, they are giving expression to an idea of human dignity according to which every human being comes into the world with a pre-associative legal status that assigns each individual an equal right to freedom from domination. This status is acquired by each empirical individual at birth and grants them access to rights and obligations concurrent with the office of humanity, an idea of

the human species as conforming a “natural” corporation that is both anterior and superior to the fictional corporate associations of state and business.

On the Kantian interpretation of human dignity as ranking legal status proposed in these pages, human dignity need not be understood in specie-sist terms, as if the ranking were between human and other living species. Instead, a higher and equal legal status belongs to the human species as a whole in virtue of its collective capacity for intelligent action. Such an attribution of dignity requires the human species to place itself on an equal legal standing as any other living species collectively capable of thought or intelligent action (whether these other species are natural or artificial, terrestrial or extra-terrestrial). When and in what forms human beings have already recognized, or will in the future recognize, other worldly beings as endowed with the capacity for thought is itself empirically and historically conditioned.

This article proposed a new genealogy of the concept of human dignity as a ranking legal status of humanity comporting an innate right to independence, or to freedom as a *sui iuris* status that all human beings share at birth. This genealogy shows that natality was first given its new juridical significance as a way to transvalue the aristocratic conception of human dignity into a democratic one in Dante’s political thought. Dante connected human dignity with the idea of a political and legal system whose legitimacy rested on making it possible for all human beings to pursue worldly happiness, an ideal he called “earthly paradise.” In sketching a secular space and time for human fulfilment, Dante relied on a debate on dignity found in medieval Arabic and Jewish philosophy which was received and reworked in western Christendom as “political” Averroism.

This Averroist genealogy of dignity is significant for two reasons. First, it offers an alternative connection between human dignity and human rights that does not derive from a secularization of Christian theology in the form of Thomistic personalism. This genealogy of dignity fits in better with a philosophical and civil approach to religion that is itself presupposed by efforts to understand human rights in terms of an “overlapping consensus” among different cultural and religious traditions. Second, the Averroist genealogy of human dignity suggests a different trajectory taken by the ideal of the pursuit of happiness than the one found in Charles Taylor’s influential reconstruction of modern secularism in the west. According to Taylor, at some point in the late medieval period people became convinced to cut off their aspirations to a beyond that lent their lives its “fullness” or absolute meaning in order to invest their

energies into fulfilling the immanent goals of human flourishing through a vocational approach to work, an increased disciplining of minds and bodies, and the policing of conducts in society.¹⁹ This view describes well the pursuit of private happiness essentially linked to subjective rights of private property and the gradual commodification of human beings and of nature which, in turn, is presupposed in both interest- and will-based theories of rights. The Averroist lineage, by contrast, better describes the modern pursuit of an ideal of worldly happiness essentially linked with the collective attainment of public happiness through the unrestricted public use of reason facilitated by republican constitutions crowned by human rights.

In conclusion, Moyn's mordant locution "human rights in heaven" may contain a hidden irony. If the proposed genealogy of human dignity through Dante's conception of an "earthly paradise" is correct, then one could say that the philosophical idea of "human rights in heaven" played an essential role in challenging the Thomistic appropriation of natural rights. The worldly pursuit of a philosophical idea of paradise led in modernity to the increasing gap between a secular, naturalistic interpretation of human rights and their Christian interpretation. Were it not for their coming from the "heaven" of philosophers, it is doubtful that human rights would have found a place in the world at all. The project of examining how well or ill these rights were accommodated in the world would likewise have had no object of investigation. In this sense, the struggle for human dignity was always what Rawls calls it: a "realistic utopia."

NOTES

1. Kant defines innate right as a "right that belongs to everyone by nature, independently of any act that would establish a right" (Kant 1996, 6, 237). In what follows, page citations refer to the Akademie edition of Kant's works. MM stands for *Metaphysics of Morals* and PP for *Perpetual Peace*.

2. The analogous idea of the state as corporate person has received renewed attention in Skinner (2018), but similar considerations have not been extended to humanity as corporate person.

3. See also Tierney (1997); Gillespie (2008); Maritain (2011); Welz (2016); Waldron (2017).

4. On the debate on the historicity of human rights, see Tasioulas (2011); Patton (2012).

5. A position that is close to Arendt's attempt to root the "right to have rights" in the idea of "natality," see Birmingham (2006); Menke (2014); Gundogdu (2015).

6. See the helpful discussion of this technical term in Sandberg (1984).

7. Kant often opposes "humanity" to "animality," but the latter includes the *homo phenomenon*. It is well known that Kant did not exclude the possibility that the human species could one day encounter another rational species living in some far away location of the infinite universe (Fenves 2003). Scientific advances in the understanding of non-human forms of intelligent life are bringing us closer to the realization that we do not need to look that far to find these other species; we may have been surrounded by them from the beginning of our species. For arguments along this line, see Derrida (2006); Waal (2017).

8. See Kateb (2014) and for a critique on the ground of speciesism, see now Kymlicka (2017); Rossello (2017).

9. The “rational nature that they all have in common” can be taken to refer to the Averroist thesis of the unicity of potential intellect, a claim whose importance is discussed in the last section. In a recent article, Marco Sgarbi has identified “traces of Averroistic thought” in the formulation of the moral law in terms of humanity as an end in itself: “Kant’s famous practical imperative—to use humanity always as an end, never as a means—revolves around this notion of humanity as the embodiment of universal reason” (Sgarbi 2013, 267).

10. “Each person’s entitlement to be independent of the choice of others constrains the conduct of others because of the importance of that independence” (Ripstein 2009, 34). This, I take it, is the objection directed to Ripstein in Sangiovanni (2012).

11. Alighieri Dante (1996: III,xvi,11). In this essay *Mon.* refers to this edition of *Monarchy*, with book, chapter, and verse numbers.

12. As Kantorowicz shows, “in order to prove that his universal monarch was free from papal jurisdiction, Dante had to build up a whole sector of the world which was independent not only of the pope, but also of the Church and, virtually, even of the Christian religion... the ‘terrestrial paradise’” (Kantorowicz 1997, 457).

13. See Marenbom (2001, 358ff) for a discussion of this passage as evidence that Dante is referring to Averroes’s doctrine of the potential intellect.

14. On Averroes’s doctrine on the unicity of the material intellect see Libera (1998). On Averroes’s discussion of the compatibility of philosophy and religion, and the limits assigned to philosophical speculation, see Libera (2000) and Fraenkel (2012). Some interpreters, though, believe that Dante’s reliance on the multitude amounts to a radical departure from Averroes and, even, an acceptance of Thomistic personalism. See here the discussion in Silvestrini (2013). I thank Alessandro Mulieri for this indication.

15. Compare with the reading of this passage found in Kahn (2014).

16. The crucial passage is found in *Great Commentary* 5 (429a21–24). In what follows the critical editions of Libera (1998) and Wirmer (2008) are employed.

17. In *Great Commentary* 36, “Averroes distinguishes the completion of theoretical sciences from the condition through which our completely actualized intellect is elevated to the status of a separate intelligible substance” (Wirmer 2008, 22, translation mine).

18. According to what Averroes writes in the *Great Commentary* 36: “Man in this way becomes like God, as Themistius says, because he is all things in a certain way and knows all things in a certain way, because beings are nothing other than his knowledge and the cause of beings is nothing other than his knowledge. How wonderful is this rank, and how extraordinary is this way of being” (Wirmer 2008, 281).

19. Taylor (2007, 15–19) and Taylor (2004).

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