

Dignity Beyond Rights: Human Development in the Context of the Capabilities Approach and Catholic Social Teaching

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Abstract: *This article considers recent debates and conflicts between the Holy See and secular voices at the United Nations with regard to sexual and reproductive health and rights, and the language of gender. While recognising that Pope Francis has ushered in a more conciliatory and open approach to such issues, deep differences still remain over the nature and extent of rights in relation to issues of sexuality, procreation and gender. The author asks if the language of dignity rather than rights might afford a better perspective from which to approach these issues. Focusing in particular on the maternal capacity of the female body, the author explores the concept of dignity in Catholic social teaching, in engagement with Martha Nussbaum's feminist interpretation of Amartya Sen's capabilities approach. The author argues that the shared Aristotelian perspectives of Nussbaum and Catholic social teaching contribute to a rich dialogue between the two, but ultimately the Catholic understanding of dignity surpasses that of any secular theory of human rights or dignity, including that of Nussbaum, because it makes human dignity ontological and not dependent on either citizenship or rights.*

Key words: Holy See; United Nations; gender; sexual and reproductive health and rights; Catholic social teaching; human dignity; women's rights; Martha Nussbaum; Pope Francis; capabilities approach; maternal mortality.

CONTESTING RIGHTS

For several years I have been researching questions of women's rights and Catholic social teaching.¹ I have also taught courses on religion and human rights for many years. I remain convinced that the language of rights is indispensable for all who care about justice in our modern world, but I am troubled by the fact that all ethical debate today risks being reduced to questions of rights.

¹ See Tina Beattie, "Justice enacted not these human laws' (Antigone): Religion, Natural Law and Women's Rights", *Religion and Human Rights* 3/3 (2008): 249–267; "The End of Woman: Gender, God and Rights Beyond Modernity" in Patrick Claffey and Joseph Egan (eds), *Movement or Moment?: Assessing Liberation Theology Forty Years after Medellín* (Oxford, Bern, Berlin, Bruxelles, Frankfurt am Main, New York, Wien: Peter Lang, 2009); "Catholicism, Choice and Consciousness: A Feminist Theological Perspective on Abortion", *International Journal of Public Theology*, 4/1 (2010): 51–75; "The End of 'Woman' and the Ends of Women: A Reflection on Women's Rights in the Context of Catholicism and the Abortion Debate" in Niamh Reilly and Stacey Scriver (eds) *Religion, Gender, and the Public Sphere*, Routledge Studies in Religion series (London and New York: Routledge, 2013).

There are areas of human activity and desire—particularly with regard to intimate personal relationships (friendship, sexuality, marriage and parenthood)—which are too complex to be adequately addressed in the language of rights. This is of added concern because, in the last two decades, debates about population and development at the United Nations have become mired in arguments between religious and cultural traditionalists on the one hand and liberal democracies and sexual rights campaigners on the other, in the face of a proliferating discourse on sexual and reproductive rights framed in the context of gender equality. As a result, wider issues of economic and social justice have sometimes been marginalised by a disproportionate focus on issues such as abortion, homosexuality, and the nature of marriage and the family.

There are also ongoing debates as to whether or not it makes sense to speak of rights except as these are defined and protected under law, in which case rights language has meaning only in the context of citizenship. When we look at the plight of people who lack the rights that come with citizenship—refugees and asylum seekers, those who are too poor or incapacitated to lay claim to such rights, and women who are still in many countries excluded from full and active citizenship—it is hard not to conclude that rights are the prerogative only of those who have the power to claim them and to impose upon others (individuals but more usually institutions) the duty to fulfil them.

On the other hand, if we did not have the language of universal human rights, would we have any common language that might have at least some purchase across religious, political and cultural boundaries, to seek consensus as to what must be done for humans in all circumstances, and what must never be done to humans in any circumstances? Between these two poles of the must and the must not, there is a vast spectrum of possibilities for different cultural and ethical values, but at least we can put down certain markers and establish certain fundamental principles.

While defending the use of rights language in appropriate contexts, I ask in this essay if there is scope for broadening the language we use and the concepts we appeal to in our quest for promoting human well-being through the processes and policies of international development. Can we weave a thicker, richer linguistic tapestry around our understanding of what it means to be human than rights language alone can provide?

I am setting aside important questions with regard to the philosophical foundations of the concept of universal human rights and its religious and political precedents, and the debate between secular and theological concepts of human rights.² I restrict myself here to asking if the quest for justice might be better served by prioritising the language of human

² There is ongoing debate about the relationship between religion and human rights. See Elizabeth M. Bucar and Barbra Barnett (eds), *Does Human Rights Need God?* (Grand Rapids MI and Cambridge UK: Wm. B. Eerdmans, 2005); Jack Donnelly, *Universal Human Rights in Theory and Practice*, 2nd ed. (Ithaca NY and London: Cornell University, 2003); Michael Freeman, "The Problem of Secularism in Human Rights Theory", *Human Rights Quarterly* 26 (2004): 375–400; Nazila Ghanea-Hercock and Alan Stephens (eds), *Does God Believe in Human Rights?: Essays on Religion and Human Rights*, Studies in Religion, Secular Beliefs and Human Rights, Volume 5 (Leiden and Boston Brill Academic, 2007); Natan Lerner, *Religion, Secular Beliefs and Human Rights 25 Years after the 1981 Declaration* (Leiden and Boston: Martinus Nijhoff, 2006); Martin E. Marty, "Religious Dimensions of Human Rights" in John F. Witte and Johan D. van der Vyver (eds), *Religious Human Rights in Global Perspective: Religious Perspectives* (The Hague and London: Martinus Nijhoff, 1996) 1–16. For an influential attempt to introduce a more pragmatic account which avoids such issues, see Richard Rorty, For a theological critique of this approach, see Michael J. Perry, *The Idea of Human Rights: Four Inquiries* (New York and Oxford: Oxford University, 1998).

dignity over that of rights. In other words, as I shall show later, while human rights advocates tend to represent dignity as resulting from rights, I ask if the privileging of dignity over rights as found in some forms of theological discourse might offer a more fruitful way of deciding when rights language is appropriate and when we must seek an alternative form of ethical discourse. I ask this in engagement with Martha Nussbaum's critical adaptation of Amartya Sen's capabilities approach, in the context of women's development.³ Would the language of capabilities, interpreted from the perspective of human dignity, prove less incendiary and more effective than rights when it comes to questions of sexual and reproductive well-being, so that it might provide a language of dialogue and mediation between religious and secular participants in the international community?

I ask this in the context of women's maternal capabilities, because it is here that the "givenness" of the biologically sexed body challenges the abstractions of some more radical theories of gender, while also calling into question the romanticisation of procreation and motherhood found in recent Catholic teaching. While postmodern intellectual elites seek to outperform each other in their metropolitan parodies of gender, and representatives of the Catholic hierarchy wax lyrical in their celebration of heterosexual marriage and the family, more than eight hundred of the world's poorest women die every day and hundreds more suffer devastating long-term injuries through the basic biological realities of being pregnant and giving birth.⁴ To focus on the meaning of human rights, well-being and dignity in such contexts brings into view a host of other questions to do with identity, relationality, responsibility and care, in a way which effectively exposes both the importance and the limitations of rights language. To set this discussion in context, I begin with a brief overview of recent divisive conflicts between religious conservatives and secular liberals in international discourse about human rights.

THE HOLY SEE, THE UNITED NATIONS AND SEXUAL AND REPRODUCTIVE RIGHTS

The Holy See occupies a unique position in the UN, being the only religious entity to be included as a non-member state. While its Permanent Observer mission does not include the range of voting rights attributed to full member states, it enables it to play a pivotal role in debates about gender, sexual rights and the family—a role which many liberal states, women's organisations and some Catholic campaigning groups see as highly obstructive.⁵ The Holy See is a distinctive political entity that is not to be confused with the Vatican nor with the Catholic Church more generally, but it is widely perceived to be the official voice of the Catholic Church in international affairs.⁶

³ See Martha C. Nussbaum, *Women and Human Development: The Capabilities Approach* (Cambridge: Cambridge University, 2001 [2000]). See also Nussbaum, "Women's Capabilities and Social Justice", *Journal of Human Development*, 1/2 (2000): 219–47, which offers a summary of the key arguments of *Women and Human Development*.

⁴ World Health Organization, *Maternal Mortality*, Fact sheet No. 348, updated November 2015, at <http://www.who.int/mediacentre/factsheets/fs348/en/> [accessed 16 November 2015].

⁵ See Center for Reproductive Rights Briefing Paper, "The Holy See at the United Nations: An Obstacle to Women's Reproductive Health and Rights", August 2000, at <http://reproductiverights.org/en/document/the-holy-see-at-the-united-nations> [accessed 16 May, 2014]. See also "The 'See Change' Campaign" organized by Catholics for Choice to have the UN status of the Holy See changed from a state to a religion: <http://www.catholicsforchoice.org/campaigns/SeeChangeCampaign.asp> [accessed 16 May, 2014].

⁶ See Thomas J. Reese, *Inside the Vatican: The Politics and Organization of the Catholic Church* (Cambridge MA: Harvard University, 1996). Also Ivor Roberts, "Ways and means", *The Tablet* (13 February, 2014) 12–13.

From the early 1960s to the early 1990s, the Catholic Church was an influential advocate of human rights, at least as far as economic and social rights are concerned. Pope John XXIII's 1963 encyclical, *Pacem in Terris*,⁷ is in my view one of the most coherent and persuasive texts in existence on the idea of universal human rights, and it has continuing relevance today. The Catholic Bishops of England and Wales reinforced the close relationship between Catholic social teaching and human rights in their 1998 document, "Human Rights and the Catholic Church",⁸ published to mark the fiftieth anniversary of the Universal Declaration of Human Rights (UDHR). The bishops say that "the promotion and safeguarding of human rights is a religious obligation on all Catholics and a special calling for some—those with a vocation to the 'apostolate of human rights'."

The gradual cooling of Catholic enthusiasm for human rights can be attributed to the rise in campaigns for sexual and reproductive rights, particularly in various UN conferences beginning with the 1992 UN Conference on Environment and Development in Rio de Janeiro, and gaining momentum in subsequent conferences such as the 1994 UN International Conference on Population and Development (ICPD) in Cairo, the 1995 UN World Conference on Women in Beijing, the 1999 Cairo +5 conference which met to draft a document on population and development for the UN General Assembly, and the Commission on Population and Development which met in New York in April 2014 to agree upon a new set of development policies to replace the twenty year programme of action adopted at the Cairo conference. In a statement on the draft of the outcome document prepared for the 2014 Commission, the delegation of the Holy See expresses "grave concern over a very proscriptive approach" which "seems to treat fertility and pregnancy as a disease which must either be prevented or managed via government or outside assistance."⁹ It goes on to propose that "a more sensible approach should focus less on reducing fertility and more on programs and values which support integral human development, namely: personal, social, and spiritual development." The statement criticises "an insistent promotion of so-called sexual and reproductive 'rights', almost to the exclusion of any other issue", and claims that this is aimed at the promotion of legal abortion.

Much of this rhetoric can be traced back to the influence on the Vatican of the American Christian Right during the last two papacies on matters of sexual ethics (though not on economics and war).¹⁰ Doris Buss and Didi Herman, in their book *Globalizing Family Values*, argue that the Holy See has acted as a vehicle for the American Christian Right to promote its highly politicised agenda through the UN, as a result of which the Holy See became "one of the most important international conservative voices in the area of

⁷ Pope John Paul XXIII, *Pacem in Terris*, Encyclical on Establishing Universal Peace in Truth, Justice, Charity, and Liberty, April 11, 1963 at http://www.vatican.va/holy_father/john_xxiii/encyclicals/documents/hf_j-xxiii_enc_11041963_pacem_en.html.

⁸ Catholic Bishops' Conference of England and Wales, Department of International Affairs, "Human Rights and the Catholic Church: Reflections on the Jubilee of the Universal Declaration of Human Rights" 1998, downloadable from the website of the Bishops Conference: [http://www.catholic-ew.org.uk/Home/News/Benchmark/\(offset\)/40](http://www.catholic-ew.org.uk/Home/News/Benchmark/(offset)/40).

⁹ Statement by Permanent Observer Mission of the Holy See to the United Nations, Commission on Population and Development, 47th Session, United Nations Headquarters, New York, 10 April 2014, at <http://www.holyseemission.org/pdf/Holy%20See%20intervention%20-%2047th%20Session%20CPD%20FOR%20DISTRIBUTION.pdf> [accessed 19 June, 2014].

¹⁰ See Tina Beattie, "Whose Rights, Which Rights?—The United Nations, the Vatican, Gender and Sexual and Reproductive Rights", *Heythrop Journal*, 55/6 (2014): 979-1112

gender, sexuality, and the family.”¹¹ However, Pope Francis’s promotion of social and economic justice has gone hand in hand with an ongoing reform of Church institutions and structures, and this has diminished the influence of previously powerful conservative American players on the global Catholic scene.¹²

Since Francis’s election to the papacy in April 2013 there has been a transformation in the Catholic Church’s engagement with issues of international development, informed both by his more pastoral and dialogical approach to contested issues than that of his predecessors Pope John Paul II and Pope Benedict XVI, and by his insistence that justice for the world’s poorest people and concern for the environment must be at the top of the development agenda.¹³ Although it remains to be seen how much he is able or willing to change church teaching on issues of sexuality, he has expressed dismay over the Church’s “obsession” with abortion, contraception and gay marriage.¹⁴ He has also spoken out repeatedly against the deadly effects of the present global economic order, describing it as a “tyranny ... which unilaterally and relentlessly imposes its own laws and rules.”¹⁵ This is a system which, he says, “tends to devour everything which stands in the way of increased profits” in the context of a “deified market.”¹⁶

It is too soon to anticipate the long term impact of these changes with regard to the Catholic Church’s role in international development, but there is some evidence that the Holy See is adopting a more conciliatory approach at the UN.¹⁷ In an address to the UN General Assembly in September 2015, Pope Francis gave fresh impetus to the Catholic Church’s support for the UN, and he also introduced a radical new perspective to the Church’s understanding of rights when he referred to “a true ‘right of the environment’.”¹⁸

Nevertheless, there remains considerable tension in international discourse as a result of the conflicting interests of religiously conservative voices on the one hand, and those of sexual rights advocates and gender theorists on the other. The ill-defined

¹¹ Doris Buss and Didi Herman, *Globalizing Family Values: The Christian Right in International Politics* (Minneapolis and London: University of Minnesota, 2003) xxx.

¹² See Mark Binelli, “Inside the Pope’s Fight with U.S. Conservatives”, *Rolling Stone* (September 10, 2015), at <http://www.rollingstone.com/politics/news/pope-francis-american-crusade-20150910>; Patricia Miller, “The Pope Francis revolution: Inside the catastrophic collapse of the Catholic right”, *Salon* (Sunday, January 18, 2015), at http://www.salon.com/2015/01/18/the_pope_francis_revolution_inside_the_catastrophic_collapse_of_the_catholic_right/.

¹³ See Pope Francis, *Laudato Si’*, encyclical letter on care for our common home, 24 May, 2015, at http://w2.vatican.va/content/francesco/en/encyclicals/documents/papa-francesco_20150524_enciclica-laudato-si.html.

¹⁴ See Antonio Spadaro, S.J., “A Big Heart Open to God” in *America*, 30 September, 2013 (<http://www.americamagazine.org/pope-interview>) accessed 20 January, 2014.

¹⁵ Pope Francis, *Evangelii Gaudium*, Apostolic Exhortation, 24 November, 2013, n.56 (http://www.vatican.va/holy_father/francesco/apost_exhortations/documents/papa-francesco_esortazione-ap_20131124_evangelii-gaudium_en.html) [accessed 5 June 2014].

¹⁶ *Ibid.*

¹⁷ See Position Statement of the Holy See, “On the Outcome Document of the United Nations Summit for the Adoption of the Post-2015 Development Agenda, “Transforming Our World: The 2030 Agenda for Sustainable Development”, New York, 1 September 2015, at <http://www.holyseemission.org/contents%5C/statements/statements-55e60e559a5749.94098476.php>.

¹⁸ His Holiness Pope Francis, “Address to the General Assembly of the United Nations”, New York, 25 September, 2015, at <http://www.holyseemission.org/contents%5C/statements/statements-56054736193b87.20279259.php>.

language of gender has become embroiled in these confrontations, as the concept of human rights has expanded to accommodate a growing number of sexual and reproductive rights rooted in Butler-esque notions of gender.¹⁹ Catholic rejection of so-called “gender ideology” has been a consistent feature of the Church’s teaching documents since the term “gender” first acquired popular usage at the Beijing conference, and Pope Francis clearly views the language of gender with the same suspicion as his predecessors.²⁰

While much papal rhetoric against “gender ideology” displays a failure to understand and engage with gender theory at any serious intellectual level, there is some justification for seeing the promotion of a gender agenda as eclipsing more urgent issues to do with social and economic rights. The liberalisation of sexual and reproductive rights does not necessarily benefit the world’s poorest people. The language of human rights is becoming mired in ever more refined, individualistic and esoteric claims to sexual entitlements and freedoms, in a way which dilutes the power of rights language to challenge endemic structural injustices in global economic and policy-making institutions. For example, some theorists now refer to “sexual citizens”,²¹ while others refer to the right not only to sexual autonomy but also to sexual pleasure, which they refer to as “erotic justice.”²² On the fringes of this global republic of rights are those who occupy the status of the *homo sacer* as understood by Giorgio Agamben, existing in a state of bare life outside

¹⁹ See G. Rubin, “Thinking of Sex: Notes for a Radical Theory of the Politics of Sexuality” in C. Vance (ed.), *Pleasure and Danger: Exploring Sexuality* (New York: Routledge and Kegan Paul, 1984). There is a growing body of literature generated by both sides of the debate over sexual and reproductive rights. For secular liberal perspectives which also offer an overview of these developments in rights-based discourse, see Sonia Correa, “From Reproductive Health to Sexual Rights: Achievements and Future Challenges”, *Reproductive Health Matters I*, 5/10, The International Women’s Health Movement (Nov. 1997), 107–116; Françoise Girard, “Negotiating Sexual Rights and Orientation at the UN”, *Sexpolitics: Reports from the Frontlines* (Sexuality Policy Watch, 2007), 311–58; A.M. Miller and Mindy J. Roseman, “Sexual and reproductive rights at the United Nations: frustration or fulfilment?”, *Reproductive Health Matters*, 19/30 (2011): 102–18; Richard G. Parker, “Sexuality, Health, and Human Rights”, *American Journal of Public Health*, 97/6 (2007): 972–3; Rosalind Petchesky, “Sexual rights: inventing a concept, mapping an international practice” in R. Parker, R.M. Barbosa and P. Aggleton (eds), *Framing the Sexual Subject: The Politics of Gender, Sexuality and Power* (Berkeley: University of California Press, 2000) 81–103. For conservative Catholic analyses of and responses to these changes in human rights discourse, see D. Brian Scarnecchia and Terrence McKeegan, *The Millennium Development Goals In Light of Catholic Social Teaching*, International Organizations Research Group, White Paper, Number Ten (New York: Catholic Family and Human Rights Institute, 2009); Michael Schooyans, *The Hidden Face of the United Nations*, trans. Rev. John H. Miller (St. Louis: Central Bureau, 2001) Zenit News Agency, “Holy See to UN: Would Be More Sensible to Focus Less on Reducing Fertility, More on Development”, New York, April 11, 2014, <http://www.zenit.org/en/articles/holy-see-to-un-would-be-more-sensible-to-focus-less-on-reducing-fertility-more-on-development> [accessed 3 June 2014].

²⁰ Vatican documents and statements criticizing the concept of gender include Pontifical Council for the Family, *Family, Marriage and “De Facto” Unions*, 1999, http://www.vatican.va/roman_curia/pontifical_councils/family/documents/rc_pc_family_doc_20001109_de-facto-unions_en.html [accessed 16 November 2015]; Congregation for the Doctrine of the Faith, “Letter to the Bishops of the Catholic Church on the Collaboration of Men and Women in the Church”, 31 May 2004, http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_20040731_collaboration_en.html [accessed 16 November 2015]; Pope Francis, General Audience, Saint Peter’s Square, 15 April 2015, https://w2.vatican.va/content/francesco/en/audiences/2015/documents/papa-francesco_20150415_udienza-generale.html [accessed 16 November 2015].

²¹ See Jeffrey Weeks, “The Sexual Citizen”, *Theory, Culture & Society*, 15/3 (1998): 35–52.

²² See Peter Aggleton and Richard Parker (eds), *Routledge Handbook of Sexuality, Health and Rights* (London and New York: Routledge, 2010), Part VIII: “Struggles for Erotic Justice.”

both the protections and the constraints of the international community and its laws and institutions.²³

Moreover, the spectre of Malthusian population control policies continues to haunt campaigns for sexual and reproductive rights. The rights of the poor to have children are vulnerable to pressure from powerful western lobbying groups, including feminists and sexual rights campaigners, often associated with well-funded population control advocates seeking to promote western national and corporate interests under the guise of sustainable development.²⁴ In this context, the Catholic Church is not just a voice of unrelenting religious opposition. It also provides a check on the unbridled promotion of a liberal interpretation of individual rights by global elites, at the expense of communities where economic and social rights are ignored or violated with catastrophic consequences on a daily basis.

This is important because, notwithstanding the legitimate criticisms of its opponents, fuelled sometimes by a virulent anti-Catholicism, the Holy See is the only state within the UN that represents a global constituency, and it has grassroots connections with the poor and the marginalised in every society. In their influential book on global injustices against women, *Half the Sky*, Nicholas D. Kristof and Sheryl Wudunn offer a balanced appraisal of both the negative and positive impact of religious institutions on women's lives. They point out that, despite the Catholic Church's campaigns against condoms, Catholic missionaries and organisations like Catholic Relief Services play a crucial role in health care provision, including AIDS care, in poor societies. They make the point that "Local priests and nuns often ignore Rome and quietly do what they can to save parishioners."²⁵ They also argue that "If there is to be a successful movement on behalf of women in poor countries, it will have to bridge the God Gulf."²⁶

I have argued elsewhere that bridging "the God Gulf" is a challenge not only to religious conservatives but also to secular feminists, whose hostility to religion fails to acknowledge the importance of faith in many women's lives.²⁷ Nussbaum makes religion one of the central themes of her book *Women and Human Development*, strongly criticizing secular humanists and feminists for their failure to recognize the significance of religion.²⁸ She defends "the *intrinsic value of religious capabilities*,"²⁹ and she argues that "It is rash and usually counterproductive to approach religious people with a set of apparently

²³ See Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, trans. Daniel Heller-Roazen (Redwood City CA: Stanford University, 1998). See also Tina Beattie, "The Vanishing Absolute and the Deconsecrated God—a theological reflection on revelation, law, and human dignity" in Christopher McCrudden (ed.) *Understanding Human Dignity* (London and Oxford: British Academy and Oxford University, 2013).

²⁴ See Dean Mitchell, "The Malthus Effect: Population and the Liberal Government of Life", *Economy and Society*, 44/1 (2015): 18–39; Kalpana Wilson, "Towards a Radical Re-appropriation: Gender, Development and Neoliberal Feminism", *Development and Change*, 46/4 (2015): 803–832.

²⁵ Nicholas D. Kristof and Sheryl Wudunn, *Half the Sky: How to Change the World* (London: Virago, 2010 [2009]) 158.

²⁶ Kristof and Wudunn, *Half the Sky* 158.

²⁷ See Beattie, "Global Sisterhood or Wicked Stepsisters: Why Aren't Girls with God Mothers Invited to the Ball?" in Deborah Sawyer and Diane Collier (eds.), *Is there a Future for Feminist Theology?* (Sheffield: Sheffield Academic, 1999) 115–25.

²⁸ See Nussbaum, *Women and Human Development* 174–87.

²⁹ *Ibid.* 179 (italics as given).

external moral demands, telling them that these norms are better than the norms of their religion.”³⁰

With this in mind, I turn now to consider how far Nussbaum’s interpretation of the capabilities approach might inform a dialogue between secular and theological approaches to contentious sexual and reproductive issues in international debate, by focusing on concepts of dignity and flourishing rather than rights. I begin by saying why I think dignity might be a better concept than rights for addressing questions of sexuality and procreation.

DIGNITY BEFORE AND BEYOND RIGHTS

The Catholic tradition has a rich theological anthropology which affirms the full personhood, dignity, and equality of all human beings in the eyes of God. Pope John Paul II summarizes what this means when he writes that

The recognition of the dignity of every human being is the foundation and support of the concept of *universal human rights*. For believers, that dignity and the rights that stem from it are solidly grounded in the truth of the human being’s creation in the image and likeness of God.³¹

The theme of human dignity has played an increasingly important role in legal, philosophical and theological discourse during the last twenty years or so.³² Indeed, the word “dignity” is the cornerstone upon which the whole edifice of universal human rights was first constructed in the 1948 Declaration, which begins with a reference to the “inherent dignity and ... equal and inalienable rights of all members of the human family.”³³ Here, dignity and rights together form the foundation for “freedom, justice and peace in the world.” However, the idea that dignity is the foundation rather than the consequence of rights would be at variance with constructivist theories of human rights, such as that offered by influential human rights theorist Jack Donnelly. According to Donnelly, human rights derive from “man’s moral nature” in such a way that “Human rights are ‘needed’ not for life but for a life of dignity, a life worthy of a human being.”³⁴ He goes on to say that “Human rights are less about the way people are than about what they might become.”³⁵ Developing this point, Donnelly argues that human rights

say, in effect, “Treat a person like a human being and you’ll get a human being.” But they also say “Here’s how you treat someone as a human being.” They also, by enumerating a list

³⁰ Ibid. 178. See also Michael Freeman, “The Problem of Secularism in Human Rights Theory”, *Human Rights Quarterly* 26/2 (2004): 375-400.

³¹ Pope John Paul II, “Letter to Mrs. Gertrude Mongella, Secretary General of the Fourth World Conference on Women of the United Nations”, 26 May, 1995, section 2, available at the Vatican website: http://www.vatican.va/holy_father/john_paul_ii/letters/1995/documents/hf_jp-ii_let_19950526_mongella-pechino_en.html [accessed 16 May, 2014].

³² See the collection of conference papers from an interdisciplinary conference on human dignity co-sponsored by the Bishops of England and Wales in 2012: Christopher McCrudden (ed.), *Understanding Human Dignity*, Proceedings of the British Academy Vol. 192 (Oxford: Oxford University /British Academy, 2013).

³³ *The Universal Declaration of Human Rights* at <http://www.un.org/en/documents/udhr/> [accessed 20 June, 2014].

³⁴ Jack Donnelly, *Universal Human Rights in Theory and Practice*, 3rd ed. (Ithaca NY and London: Cornell University Press, 2013) 15.

³⁵ Ibid.

of human rights, say, in effect, “Here’s how you treat someone as a human being.” Human rights thus can be seen as a self-fulfilling moral prophecy: “Treat people like human beings—see attached list—and you will get truly human beings.”³⁶

What is worrying about this argument is that it brings us back to Agamben’s idea of the *homo sacer*—the person or group who can be excluded from what we mean by the human through the denial of their rights, and who can be subjected to inhuman treatment with impunity because they are not counted among those we regard as human. Implicit in Donnelly’s argument is the suggestion that those who are deprived of all human rights are not truly human.

To insist that there is an intrinsic dignity which belongs to the kind of species we are and which commands absolute respect—a dignity that is unique to the human even though other forms of life have dignity appropriate to the kind of species they are—might therefore potentially offer a better starting point for discussions of justice than the idea of the rights-bearing human. This is not to deny that the concept of “dignity” is in itself elusive and open to different interpretations.³⁷ Like human rights, and indeed like justice itself, it is an ideal that slips away from our conceptual grasp, even as we recognise that it makes some claim upon us. Rather than dismissing such ideas because of their inadequacy, we must use them with a keen awareness of their limitations, mindful of the fallibility no less than the necessity of our endeavours in these complex and contested areas of what it means to be human.

The Catholic understanding of human dignity, rooted in the biblical idea of the *imago Dei*, is developed in the context of the Aristotelian-Thomist tradition of ethics, with its eudaimonic association between virtue and well-being, and its teleological emphasis on the ultimate meaning and purpose of the good life as that in which the pursuit of virtue seeks the harmonisation of all desires and acts in a common orientation towards God. This orientation towards the love of God finds material expression in love of neighbour. Notwithstanding the differences between theological and secular interpretations of Aristotelian ethics, they offer the potential for a mutually enriching dialogue between Aristotelian thinkers such as Nussbaum, and Catholic social teaching. While Sen’s capabilities approach tends to prioritise individual freedom, albeit in the context of a relational concept of human development, Nussbaum’s Marxist Aristotelianism places greater emphasis on economic justice and human sociability—themes that resonate with the biblical Thomism of Catholic social teaching. So, for example, Nussbaum argues that

we need to ask what politics should be pursuing for each and every citizen, before we can think well about economic change. We need to ask what constraints there ought to be on economic growth, what the economy is supposed to be doing for people, and what all citizens are entitled to by virtue of being human. ... Justice takes priority in social reflection.³⁸

A strong point of agreement between Nussbaum’s approach and Catholic social teaching would be the idea of the universality and normativity of certain fundamental capabilities or rights rooted in the principle of human dignity, and the resistance to any form of relativism that would threaten these. So, argues Nussbaum, “The capabilities

³⁶ Ibid. 16.

³⁷ See Michael Rosen, *Dignity: Its History and Meaning* (Cambridge MA: Harvard University, 2012).

³⁸ Nussbaum, *Women and Human Development* 33.

approach is fully universal: the capabilities in question are important for each and every citizen, in each and every nation, and each is to be treated as an end.”³⁹ In agreement with Sen, she defines human capabilities as “what people are actually able to do and to be—in a way informed by an intuitive idea of a life that is worthy of the dignity of the human being.”⁴⁰ The capabilities approach means, according to Nussbaum, adopting “a *principle of each person’s capability*, based on a *principle of each person as an end*.”⁴¹ It also includes “the idea of a *threshold level of each capability*, beneath which ... truly human functioning is not available to citizens.”⁴² To treat each person as an end is to respect that person’s intrinsic dignity and to recognise it as the prior condition for the attribution of rights, and not as the consequence of having those rights.

Nussbaum’s criteria resonate with the vision of human dignity set out in the Vatican II document, *Gaudium et Spes*, which refers to

a growing awareness of the exalted dignity proper to the human person, since he or she stands above all things, and his or her rights and duties are universal and inviolable. Therefore, there must be made available to all people everything necessary for leading a life truly human, such as food, clothing, and shelter; the right to choose a state of life freely and to found a family, the right to education, to employment, to a good reputation, to respect, to appropriate information, to activity in accord with the upright norm of one’s own conscience, to protection of privacy and rightful freedom even in matters religious.⁴³

The idea of human dignity roots the language of human rights in a bodily and ethical quest for the good life, which constitutes far more than simply providing the basic needs of human existence. For example, Pope Paul VI’s 1968 encyclical, *Populorum Progressio*, argues that integral human development “involves building a human community in which people can live truly human lives, free from discrimination on account of race, religion or nationality, free from servitude to others or to natural forces which they cannot yet control satisfactorily.”⁴⁴

However, while the language of dignity might indeed provide scope for dialogue between secular and religious participants in international development, Catholic social teaching offers a more truly universal understanding of dignity than Nussbaum’s essentially political approach. In theological terms, human dignity does not rely on intuition and political recognition, but on the ontological doctrine that the human is made in the image of God and is graced with a unique freedom and therefore responsibility in relation to self, neighbour and the rest of creation. Neither is the theological understanding of dignity limited to a political theory of citizenship, because the affirmation of human dignity is not reliant upon acknowledgement and legal protection by the state. It is no more within the power of the state to grant or withhold my human

³⁹ Ibid. 6.

⁴⁰ Ibid. 5.

⁴¹ Ibid.

⁴² Ibid. 6.

⁴³ Pope Paul VI, *Gaudium et Spes*, Pastoral Constitution on the Church in the Modern World, December 7, 1965, n.26, at http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_cons_19651207_gaudium-et-spes_en.html.

⁴⁴ Pope Paul VI, *Populorum Progressio*, Encyclical on the Development of Peoples, March 26, 1967, n.47, at http://www.vatican.va/holy_father/paul_vi/encyclicals/documents/hf_p-vi_enc_26031967_populorum_en.html [accessed 20 June 2014].

dignity, than it is within the power of the state to grant or withhold my freedom of conscience and of will—no matter how much it might punish or threaten me for expressing these. A weakness of the capabilities approach, at least as Nussbaum presents it, is that, by restricting itself to politics and resisting any appeal to metaphysics, its claims to universality and normativity lack any persuasive philosophical basis. It is hard to see how one would reasonably defend the position of those who are not citizens on the basis of Nussbaum’s political interpretation of justice.

But what would it mean for a woman to be guaranteed the universal and inviolable rights and duties set out in that quote from *Gaudium et Spes*? I want to focus on those aspects of a truly human life which pertain to “the right to choose a state of life freely and to found a family, the right to education, to employment, ... to appropriate information, to activity in accord with the upright norm of one’s own conscience.” When these rights are approached in the context of conservative interpretations of Catholic social teaching, they lend support to the kind of reactionary politics described by Buss and Herman, so would the capabilities approach provide a more nuanced interpretation?

REPRODUCTIVE WELL-BEING AND WOMEN’S HUMAN DIGNITY

When viewed from the perspective of women’s capabilities, that list in *Gaudium et Spes* would be a good starting point. The right to found a family must be protected, particularly when international development agencies and states might use the threat of over-population as an excuse to violate women’s human dignity through the imposition of enforced population control measures—as, for example, in China’s one-child policy.

However, the right to choose a state of life freely must include a woman’s right to have access to “appropriate information” in order to decide whether or not to have children and how many children to have. If a woman is to fulfil her fundamental human capabilities which are achieved through education, employment and the freedom to follow her conscience, then she must be able to exercise some control over her reproductive capabilities. Although *Gaudium et Spes* uses the language of rights, the language of capabilities might offer a broader context within which to address the question of women’s well-being from the perspective of intrinsic human dignity and the range of personal as well as maternal capabilities with which women are endowed. This then becomes a question of justice.

In her prioritizing of justice, Nussbaum identifies certain fundamental capabilities that must all be protected in any political system orientated towards justice.⁴⁵ She also argues that “a sense of the worth and dignity of basic human powers”⁴⁶ requires recognising different types of capabilities, which she describes as basic, internal, and combined.⁴⁷ The basic capabilities are those that relate to the innate capacities of the human, and the internal capabilities are the personal insights and values that a person draws upon in order to function. The combined capabilities are those which arise when a

⁴⁵ She includes a list (provisional and open to new insights) of what she refers to as “central human functional capabilities”—see *Women and Human Development* 78–80. These would require closer engagement than I can offer here, to ask how far they conform to the basic principles of Catholic social teaching.

⁴⁶ *Ibid.* 84.

⁴⁷ *Ibid.* 84–86.

person's internal capabilities—her values, desires, and hopes—are able to be expressed because the conditions exist to allow her to make choices and give external expression to these internal capabilities.⁴⁸ For Nussbaum, this means that “*capability, not functioning, is the appropriate political goal.*”⁴⁹ The role of politics is to protect the choices which make it possible for a person to fulfil his or her capabilities, even if he or she chooses not to do so—in which case, the condition of functioning is absent for reasons of individual choice or personal limitation rather than lack of opportunity.

Again, this has considerable significance for questions of reproduction and motherhood. It would mean that no political system could violate a woman's capability to have children if she so desired, but neither could any political system force a woman to have children if she decided not to translate that potential into a function. Her human functioning is an expression of her internal desires and values as well as her external opportunities. So, while most (though by no means all) women have a basic capability for childbearing during the fertile years of life, women vary widely as to how far their internal capabilities correspond to this basic capability. For many, there is a deep yearning for motherhood, but this is not true of all women. Even among women who want children, choices sometimes have to be made, for example in situations where a lack of adequate childcare provision means a woman must choose between motherhood and a career, or in situations of poverty and enforced migration where women must abandon their own opportunities for motherhood in order to earn a living, sometimes by caring for other women's children. In such situations, a woman can only be said to be exercising a dignified level of choice with regard to her reproductive capabilities, if society provides the conditions to enable her to raise any children she decides to have in ways that respect their dignity and need for nourishment, protection and respect beyond what one individual mother can or should be expected to provide.

Justice, then, would be a question of creating the legal and social conditions within which each individual can express his or her innermost desires, values and principles, orientated towards the flourishing of each and the flourishing of all. This would also mean creating the conditions within which no individual's behaviour would be permitted to impinge upon or deny another's fundamental human capabilities. This brings me to the question of freedom and rights.

FREEDOM AND RIGHTS

While acknowledging a close affiliation between her concept of capabilities and the idea of human rights, Nussbaum points out how difficult it has been to establish a clear idea of human rights. Nevertheless, she insists that the language of rights has an important role to play in safeguarding the conditions within which capabilities are developed and protected.⁵⁰ It can, she suggests, offer protection against the illiberalism inherent in some forms of Marxist Aristotelianism and also in some forms of Catholic Thomism. Rights,

⁴⁸ Again, I would want to develop this much more closely in terms of its shared Aristotelian perspective with CST.

⁴⁹ Ibid. 87.

⁵⁰ See Ibid. 96-101.

argues Nussbaum, protect not just people's actual functionings, but their political choices with regard to the functions they perform.⁵¹

So, if women are to have reproductive choices in the context of rights, it is not enough for the Catholic Church simply to assert the positive significance of motherhood. It must be just as insistent in asserting the human significance of womanhood, so that the idealisation of mothering must be far more realistically tempered by a recognition of its costs and sacrifices. This cannot be understood in terms of some noble duty that women are innately predisposed to perform because of their "feminine genius" or maternal nature, but must be recognized as a socially encoded role which needs political and institutional support if a woman is to function in terms of her human capabilities as well as her maternal capabilities.

Let me consider this in the light of Nussbaum's argument that capabilities must attend not just to the external circumstances of people's lives but also to their inner orientation—"what they hope for, what they love, what they fear, as well as what they are able to do."⁵² Again, this brings Nussbaum very closely into line with Catholic social teaching, particularly with respect to the primacy of conscience and the role of desire, relationality and personal virtue in the orientation towards God and towards one another.

In a more radical and explicit way than before, official Catholic teaching has since Vatican II recognized the role of conscience in decision-making. The 1965 Declaration on Religious Freedom, *Dignitatis Humanae*,⁵³ defends freedom of conscience as intrinsic to human dignity—and here I have taken a slight liberty with the translation:

It is in accordance with their dignity as persons that all women should be at once impelled by nature and also bound by a moral obligation to seek the truth, especially religious truth. They are also bound to adhere to the truth, once it is known, and to order their whole lives in accord with the demands of truth. However, women cannot discharge these obligations in a manner in keeping with their own nature unless they enjoy immunity from external coercion as well as psychological freedom. Therefore the right to religious freedom has its foundation not in the subjective disposition of the person, but in her very nature. In consequence, the right to this immunity continues to exist even in those who do not live up to their obligation of seeking the truth and adhering to it and the exercise of this right is not to be impeded, provided that just public order be observed. (n.2)

This insistence that a person's freedom to follow her conscience can only be curtailed if she poses a threat to society has always informed the Catholic understanding of the law. The law cannot be used to regulate personal morality, but only to protect the common good. The idea that the quest for truth entails freedom from external coercion and psychological freedom could be translated in terms of Nussbaum's threefold understanding of external, internal and combined capabilities.

⁵¹ Ibid. 96.

⁵² Ibid, 31.

⁵³ Pope Paul VI, *Dignitatis Humanae*, Declaration on Religious Freedom, December 7, 1965 at http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_decl_19651207_dignitatis-humanae_en.html.

Moreover, if one considers the ways in which the Catholic tradition interprets mothering in relation to religious commitment, then reproductive freedom becomes closely bound up with freedom of conscience and freedom of religion. For example, in her opening statement to the Fourth World Conference on Women in Beijing in 1995, Head of the Holy See's delegation Professor Mary Ann Glendon said, "To affirm the dignity and rights of all women requires respect for the roles of women whose quest for personal fulfilment is inseparably linked to their commitments to God, family, neighbour, and especially to their children."⁵⁴

This profoundly religious dimension of mothering means that a woman's decisions concerning her maternal capabilities are bound up not only with her natural human dignity but also with the religious freedom that is intrinsic to her dignity. So, for example, there is now abundant evidence that the majority of Catholic women who have the education and freedom to reflect upon these issues have decided in good conscience to reject the Church's prohibition of artificial birth control.⁵⁵ Even if one thinks that they are violating their duty to seek and adhere to the truth, this does not justify violating their freedom to follow their conscience—for example, by using the law to coerce women into compliance with the Church's stance against artificial contraception. Space precludes an exploration of the complex moral dilemmas associated with abortion, but I have argued elsewhere that the Church's own tradition allows for a distinction between early and late abortion, in a way that would enable a more nuanced moral approach to this personally intimate but also socially significant ethical dilemma.⁵⁶

As Nussbaum suggests, the language of rights might enrich the language of capabilities here. A woman has a right to certain fundamental freedoms and capabilities which derive from her intrinsic human dignity, and these cannot be violated by the imposition of motherhood, nor can they be overridden in the name of the greater good of the family. She might of course choose not to exercise certain capabilities in order to meet the needs of her family, but such choices are hers and hers alone. In situations of maternal neglect or abandonment, then the community and society have a duty of care towards the child. This element of choice is surely essential to the humanization of motherhood, if women are not to be (in the words of *Populorum Progressio* quoted above) in servitude to "natural forces which they are not yet fully able to control." If women are to be fully human mothers rather than being reduced to the reproductive functions of female mammals, then the capacity to make informed choices as to how, when and if to express the maternal capability is an essential aspect of a woman's dignity, allied to access to adequate medical care and provision for her children, so that the dignity of mothers and children is assured through the political protection of external capabilities.

This rudimentary illustration of the potential of the capabilities approach would benefit from a much more developed analysis in engagement with Catholic social teaching than I can offer here. It has entailed bracketing out theological concepts of hope and

⁵⁴ Mary Ann Glendon, "Opening Address at the UN Conference on Women", September 5, 1995, available at <http://www.ewtn.com/library/CURIA/STATBEIJ.HTM> [accessed 31 May 2014].

⁵⁵ See Julie Clague, "Catholics, Families and the Synod of Bishops: Views from the Pews", *Heythrop Journal*, Special Issue: Faith, Family and Fertility, 55/6 (2014): 985–1008

⁵⁶ Tina Beattie, "Catholicism, Choice and Consciousness: A Feminist Theological Perspective on Abortion", *International Journal of Public Theology*, 4/1 (2010): 51–75.

redemption, with their accompanying accounts of sin and alienation, all of which are important for a fully developed theological anthropology. The language of dignity, capabilities and rights would not necessarily provide a solution to all the challenges that arise in the face of cultural relativism and ethical pluralism. I am however suggesting that they provide a more coherent and nuanced approach to complex ethical issues than rights language alone.

Yet Christianity cautions against political utopianism. No matter how democratic, inclusive, and participatory our political systems might become, there will always be an inescapable dimension of tragedy to life. Only a transcendent perspective can offer ultimate hope to the Heideggerian condition of being-toward-death. To say this is not to minimise the need for Christian hope to be materially rooted in political and institutional structures and in personal values and practices. Rather, it is to say that, from a theological perspective, human life ultimately derives its dignity from our capacity to image God in creation and to live in a way that expresses our desire for eternal joy in union with God. Part of this involves a constant attentiveness to those who live and die beyond the reach of laws and institutions, a continual movement to the margins to seek and find the abandoned and the destitute—the *homo sacer* of Agamben's philosophy—and to affirm their intrinsic dignity through small attentive acts of recognition and care.

Far beyond the doctrinal conflicts and ideological struggles which position official church teaching in relation to international development, there are millions of ordinary Christians throughout the world giving material expression to the love of God in such small and anonymous daily acts of commitment, struggle, dedication and humanitarianism. To quote Kristof and Wudunn,

When you travel in the poorest countries in Africa, you repeatedly find diplomats, UN staff, and organizations in the capitals or big cities. And then you go to the remote villages and towns where Western help is most needed, and aid workers are suddenly scarce. Doctors Without Borders works heroically in remote areas, and so do some other secular groups. But the people you almost inevitably encounter are the missionary doctors and church-sponsored aid workers. ... Aid workers and diplomats come and go, but missionaries burrow into a society, learn the local language, send their children to local schools, sometimes stay for life.⁵⁷

Only when we see the dignity that shines from the face of the other made in the image of God, can we understand the rights and responsibilities we owe to one another and to the rest of creation, which shimmers in all its aspects with the sublime dignity of the divine mystery.

⁵⁷ Kristof and Wudunn, *Half the Sky* 158.

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