Technicians of Human Dignity

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Incapacity by Design: Politics, Sovereignty, and Human Rights

In short, in relation to his sovereignty, and in relation to the pastorate, something more is demanded from [the sovereign], something different, something else. This is government. It is more than sovereignty, it is supplementary in relation to sovereignty, and it is something other than the pastorate, and this something without a model, which must find its model, is the art of government.

—Michel Foucault

In the previous chapter, I began to specify some of the critical elements that were brought together and that contribute to the form of human dignity as an object of thought and care in relation to the problem of pastoral power. I also attempted to specify the kind of pastoral equipment that the council fathers proposed would be appropriate to this figure of human dignity. This pastoral equipment consisted in the obligation to care for humanity and each human by interpreting the terms of a primordial calling amid the flux of the modern world and by speaking the truth about the demands of dignity in light of that flux. Care for human dignity was constituted as a hermeneutic and truth-telling practice.

All of this concerned one particular venue and one particular event: the Roman Catholic Church at Vatican II. The extent to which the characteristics of human dignity formulated and problematized at Vatican II can be generalized to other venues remains to be seen. Nevertheless, I have tried to show how during Vatican II, and through the work on Gaudium et spes in particular, the council fathers addressed the challenge of reconstituting the church’s object and objective of pastoral
care in the modern world as a problem concerning human dignity. In working on that problem, the council fathers contributed to the form of a distinctive mode of pastoral and ecclesiastical intervention, a mode of veridictional intervention for the care of human dignity.

The problem taken up at Vatican II was a problem without a model, ecclesiastically speaking. That said, several of the aspects of the problem were shaped by ecclesial and nonecclesial histories of discourse and practice connected to the universal figure of the human. The human conceived universally had been a consistent theme of theological reasoning for centuries, questions of the church in relation to modern political and social projects had been debated in various forms for more than a century, and the authority of the magisterium in relation to the problem of historical change was a constant theme of twentieth-century church politics. All of this had been in play before the council. But the configuration of it all, put together as an ensemble that could be thought of as a single, if complex, problem (the pastoral problem of the modern world) and anchored in a single, if complex, object (archonic human dignity): this did not have a model.

It did have prior indications and relative precedents. Human dignity had functioned as a constitutional object for at least one other significant venue and as a calibrating factor in that venue’s designs of modes and forms of practice. I opened Chapter 1 with an account of Pope Paul VI’s address to the United Nations, an address in which Paul offered a series of remarkable statements concerning the consonance between the ministry of the Roman Catholic Church and the ministry of the United Nations. The statements certainly had strategic intent—both in terms of the internal politics of Vatican II and in terms of the need to open up a connection between the Vatican and the United Nations. All the same, Paul was indicating something that, although asserted as self-evident, was in fact quite strange: the idea that the United Nations and the church minister to the same object. Differences abound, and other objects of concern and other instruments of care are not shared. The church, for example, continues to minister to the souls of the faithful, and the United Nations organizes itself in view of the interests of its member states. Nonetheless—and in addition to all these differences—the United Nations, like the Vatican, had conceived of and had worked to constitute itself in view of a responsibility to and for human dignity.

THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

With all of this in mind, I propose to examine a second case—a second venue and event: the formulation of the United Nations’ Universal Declaration of Human Rights. The declaration, and the micropolitics of its development, occupies
a significant place in the history of the United Nations’ self-conception and self-constitution and thereby a significant place in the history of efforts to think about and carry out the politics of human dignity. What is crucial about work on the declaration is that it marks the point at which the United Nations attempted to invent for itself a mode and form of political practice predicated on something other than, or in addition to, the sovereignty of its member states. Regardless of what one makes of the outcomes of these efforts—and there is much to be said about its relative failures and successes—work on the declaration is an event of considerable consequence for the politics of intrinsic worth: an effort is made to design a political practice anchored in and focused on human dignity.

As with the council fathers, the authors of the declaration faced the task of responding to a demand for something more from power. This something more included some of the familiar features of political humanism—the call for a universal political ethic, the question of where and how to set limitations on the excesses of sovereign forms of power, as well as the relative absence of a model and form of power predicated on care for a universal and seemingly self-justifying object. Their task, in part, was how to articulate a mode and form of political power that, on the one side, is oriented toward this-worldly problems and this-worldly goods but that, on the other side, is anchored in and justified by a transcendent or transscendental logic of care. The council fathers at Vatican II dealt with this problem in terms of the relation between nature and the supernatural, in which the human was understood to be a creature that is, by nature, called to unity with the divine and with other humans. The members of the UN Commission on Human Rights (CHR) dealt with this problem quite differently. Although for a short time they dealt with it through philosophical debate over the definitions and source of dignity and over the political requirements implied by different definitions, the dilemma was ultimately resolved procedurally: debate was simply cut off, and human dignity was asserted as given, as this-worldly, and as definitive for legitimate and effective political action. Dignity was, in other words, simply declared. Conceptually, the result of this procedural resolution was the production of a figure of the human whose worth is self-referential, whose moral rectitude commands without an appeal to other sources of authority, and whose recognition is, per se, the guarantee of human good. The result was, in other words, the production of another archonic figure of human dignity.

In light of the challenge and demand that the CHR articulate a mode of political practice beyond the perceived limitations of state sovereignty, it is worth saying a word or two about why I am concentrating on the Universal Declaration and not on some other aspect of the United Nations’ self-constitution, such as the formulation of the UN Charter, which also connects the United Nations to care for human
dignity. The choice to concentrate on the declaration is not as obvious as it may seem. Broadly speaking, the UN Charter has arguably played a more significant role in determining the character and actions of the United Nations and its member states than the Universal Declaration. The declaration does not have the legally binding status of the charter, and its influence on the actual practices of sovereign member states arguably remains (at best) inconsistent. The charter, first and foremost, established the terms of the UN Security Council, a body that has never been overly determined by the politics of intrinsic worth implied in the contemporary notion of human dignity. A study examining the UN Security Council's rationales for action compared the relative frequency with which concern for human dignity and human rights has been propounded as an orienting principle in contrast to the relative infrequency with which these principles have been put to work in any direct and effective manner. Another study concluded that it is impressive to think “how these powers managed to separate the promotion of human rights principles from their ineffectual and selective enforcement without discrediting the universal basis of the entire human rights project.”

More than one author has remarked on the fact that the twentieth century was characterized by forms of political violence more widespread and more brutal than perhaps any other. Genocide, others have proposed, is its most notorious invention. Whether it is singular in its scale of human grief might be arguable; that such grief was one of the twentieth century's defining features, however, is not. In seeming contrast, the twentieth century also saw the rise of the figure of human dignity and the global expansion of human rights. Some scholarly attention has been paid to the relation between these two contrastive characteristics, and it has been argued that the two are mutually generative and represent two faces of a single political logic and epoch. I will examine these proposals in the Diagnostic Excursus following this second case. Less scholarly attention has been paid to a question that is actually more historically concrete and, in my view, equally significant: namely, how it is that the politics of human dignity has not been capable of stemming the excesses of political violence, despite the institution of venues, such as the United Nations, ostensibly designed in response to such excesses. Normand and Zaidi, calling into question the political worth of the Universal Declaration, put it bluntly: “the persistence—some would argue increase—of persecution, exploitation, and inequality since the triumphant arrival of the Universal Declaration of Human Rights (UDHR) in 1948 raises serious questions about the value added to [the] ongoing struggle for justice.” It seems to me that more attention needs to be paid to the question of how the politics of human dignity were actually designed at the United Nations and how talk of human dignity and human rights were effectively separated out from the institution of effective practices connected to such talk. A related ques-
Incapacity by Design

In the examination that follows, I will propose that a kind of practical incapacity was actually designed into the declaration from the outset, and that in connection to this built-in incapacity, a conception of human dignity emerged that subsequently became a model for other venues, venues that, in various ways and to various degrees, began to overcome this incapacity. Said differently: if talk of human dignity and human rights at the United Nations entailed a kind of incapacity by design (and I will argue that it did), it is striking that these designs have nonetheless proven generative for the proliferation of relatively more effective practices connected to human dignity and human rights in other venues.

A final word on why I have selected the UN Declaration and not the UN Charter as the point of orientation for thinking about human dignity. It is important to keep in mind that the Security Council was the first and central body established by the UN Charter and that the permanent members of the Security Council consisted of those “great powers” that animated the United Nations in the first place. Given this centrality and this membership, it is not surprising that whatever else the UN Charter accomplished it did not offer designs for modes or forms of political practice that would place any substantial restrictions on existing power relations. Human dignity, taken as a central object of political concern, would seem to require such restrictions. The Security Council was constituted in a manner partially insulated from the demands of a politics of human dignity. The term “human dignity” does appear in the preamble to the charter, but the key terms of the charter—the operative terms—are all basic to familiar and well-established economies of state sovereignty: peace, social progress, security, and so on. It is on the basis of these terms that the charter constituted the initial relations of power and their rationale for the United Nations and its members. An analysis of these relations of power and of how they structure the problem space within which work on the declaration proceeded will be part of this chapter.

All of this indicates a key point: the constitutional terms of the UN Charter do not (yet) require anything more of power, they do not call for new modes of power, and they do not demand anything more beyond better coordination of existing apparatuses. They may require new interfaces as well as new forums and forms for international affairs—which certainly cannot be taken for granted. They may also initiate new terms for moral legitimacy in international and even intranational affairs. But they do not determine or set out concrete proposals for a shift in power or for the rationality on the basis of which such a shift could take place. This is why it is no small thing that the obligation to think about what it means to govern and act in the name of human dignity and human rights is a problem explicitly excluded
from the UN Charter. It is no small thing that this problem was deferred: Article 68 of the charter hands this task over to the Commission on Human Rights. The work of formulating the terms of human dignity, its ethical and political import, and the modes and forms of practice it calls for fell to the CHR and its work on human rights.

THREE POINTS OF REFERENCE

Three points of reference bear noting from the outset. The first concerns the prominence of discourse concerning human dignity and human rights today. A number of thinkers, in fields ranging from theology to law to anthropology, have commented on the fact that no other discourse has anything like the widespread moral authority of the discourse on human rights; the discourse on human rights is premised on human dignity, variously conceived. The extent to which such claims about human rights discourse and their relative significance in term of political and ethical practices continues to hold true is a question I will return to in the conclusion. At a minimum, however, it is fair to say that talk of human rights and human dignity remains a central term in a highly mobile and global discursive apparatus. This fact needs to be kept in mind when examining the work and legacy of the CHR.

The second point of reference concerns the mandate given to the CHR and the work carried out in response to that mandate. The CHR’s mandate was twofold: to formulate a jurisdictional framework for human rights premised on the notion of universal human dignity and to design means for the implementation and enforcement of such a framework. The commission successfully achieved the first part. After a short period of intense work the CHR produced a draft of a declaration, composed as the orienting principles that would inform further work on the question of enforcement. A good portion of this initial success, however, can be attributed to an explicit and repeated emphasis on the fact that the declaration itself was not legally binding for the member states signing on to it. The question of how the declaration came to be nonbinding and why it is significant for the legacy of thinking about human dignity will be considered in this chapter and the next. For now it is enough simply to note that although the CHR was successful in articulating a framework of principles for the protection of human dignity by way of human rights, they were unsuccessful in producing effective jurisdictional mechanisms connected to it. Or perhaps it is more accurate to say that they were successful in failing to produce jurisdictional mechanisms; the jurisdictional incapacities of the United Nations with regard to establishing effective forms of practice under the sign of human dignity were not arrived at through accidental turns. As such—and this is really the crux of the second point of reference—the legacy of the
CHR’s work includes a built-in asymmetry between the figure of the dignified human at the heart of the declaration, with the notion of human rights as the practical elaboration of that figure, and the jurisdictional mechanisms connected to that figure and those practices.

A third point of reference follows from the second and brings us back to the first. Taking into account some notable exceptions—not least of which is the Roman Catholic Church—I echo at least one scholar of human rights when I say that the conception of human dignity elaborated in the Universal Declaration has become predominant in national and international legal and moral schemas concerned with such matters. This means that even though the jurisdictional mechanisms sketched out by the CHR have remained basically ineffectual (at least in terms of their original designs), the figure of the human that they elaborated and put into play and the regimes of universal rights they articulate as the primary means of rendering that figure susceptible to political care have continued to be mobilized as the object of concern and rationale of practice across multiple and varied institutional settings.

**FRAGMENTING TRUTH AND POWER**

Article 68 of the UN Charter called for the creation of a Commission on Human Rights as part of the work of the UN Economic and Social Council. The article reads: “The Economic and Social Council shall set up commissions in economic and social fields and for the promotion of human rights, and such other commissions as may be required for the performance of its functions.” The CHR was subsequently established in 1946 and charged with a dual mandate: to design a framework within which human rights could be “promoted” as well as the equipment “required for the performance of its functions,” that is, equipment for the implementation and enforcement of human rights.

Sixty years later, in 2006 the CHR was dissolved and its mandate reconstituted under the aegis of the Human Rights Council, coordinated by the UN High Commissioner for Human Rights. A central reason given for the dissolution was the long history of the commission’s inability (and therein the United Nations’ inability) to design and implement effective instruments for the enforcement of human rights. It was widely determined that the CHR had failed in realizing the better part of its mandate. That the commission should be judged incapable is unsurprising. That it took sixty years to rectify a shortcoming present from the outset turns out not to be surprising either, when one considers the players and stakes involved.

In their book on the history of the United Nations Normand and Zaidi offer what would seem to be a self-evident statement: during and immediately after World War II there was tremendous energy and enthusiasm for establishing interna-
tional political mechanisms calibrated to a universal humanism and oriented by the concept of human rights. The statement is no doubt basically correct. One could, for example, construct a fairly thick catalogue of prominent thinkers—principally European and American but not exclusively so—whose work turned to the practical and conceptual problems of humanity, politics, and the modern state during those years. More telling still are the thousands of individual petitions from around the world concerning human rights violations that flooded the United Nations even before the first official meeting of the CHR.

A conclusion that we should resist drawing from this, however, is that the intense attention given to the problem of human worth as a problem of human rights was either a natural or obvious outcome of the ravages of World War II. The war was undeniably the major catalyst. But for the sake of analytic clarity it is important to keep track of the fact that the claim to the self-evidence of human dignity and human rights as the means of addressing and redressing questions of human worth and state sovereignty was itself an important outcome of the formulations and practices developed in postwar politics and ethics. A more analytically useful inference to draw at this point is that the flood of energy and excitement connected to the work of the CHR and the Declaration of Human Rights is evidence of the intense demand for political institutions and mechanisms beyond existing norms and forms of state sovereignty.

Part of the attention paid to the work of the CHR came from the fact that in the late 1920s the League of Nations had inaugurated a practice of receiving individual complaints of violations of human rights. The expectation was that the CHR would carry this practice forward, and that they would address the fact that sovereign states were basically immune to such complaints, goes some way to explaining the scrutiny under which the CHR’s work proceeded in its initial phases. It also goes some way to explaining the widespread hope and even expectation that the commission would approach its mandate as a largely pragmatic affair. With regard to human dignity and human rights, the pressing question was how, and if, any meaningful instruments and practices could be put into place to redress violations, not whether such practices were needed. The commission, in short, was expected to create a venue capable of facilitating human rights.

From the outset there were indications that such a pragmatic demand would not be satisfactorily met. The council was certainly given considerable latitude in formulating the content of human rights and establishing priorities among them. But in view of the twofold fact that the commission was made up of representatives of member states with strong interests in protecting existing power relations (many of whom had already been accused of human rights violations) and that expectations among these member states were sharply dissonant, there was some question as
to whether effective jurisdictional standards and practices would ever be designed, let alone implemented. Nonetheless, the hope was held out that the commission would articulate the mechanisms by way of which the United Nations would become a venue capable of redressing the violation of human rights. To this end, the CHR undertook the conceptual, organizational, and political work of inventing an art of political care for human dignity.

In the early days, critics of the CHR’s work complained that the United States had a disproportionate influence on the proceedings. The complaint has been bolstered by subsequent statements made by U.S. State Department officials that, in fact, in the lead up to the ratification of the declaration, all U.S. demands were met. No other country could reasonably make such a claim. That said, the significance of the complaint can easily be overinterpreted. The declaration was the product of considerable negotiation. If major components were shaped and secured by the United States and its allies, while being unsuccessfully criticized or blocked by others, this only partially diminishes the fact that the work of the commission in other ways proceeded in inventive and even unexpected directions. The final draft of the declaration carried the imprint of the challenges and protests raised by non-U.S. members of the CHR, an imprint that shows itself in the way in which the concepts of human dignity and human rights remained somewhat fragmented and inconsistent within the declaration.

The CHR was chaired by Eleanor Roosevelt, representing the United States. Seventeen other countries also held seats. Given her position as chair, as well as her close relation to the U.S. State Department, Roosevelt was the most influential member of the commission during the time when the declaration was being composed. Other members who significantly shaped the declaration included Colonel William Hodgson, the Australian delegate, a strong advocate of internationalism; Charles Malik of Lebanon, a Thomist and pragmatist who pushed for a workable set of rights; and Peng Cheng Chang of China, a pluralist in his approach to rights and a key player in negotiating deadlocks over the nature and origin of human dignity. It is perhaps not incidental that although the CHR had several prominent members from non-Western countries, most were educated in Western philosophical traditions and took the mandate of the commission, the promotion of human rights, to be self-evident.

The commission’s first order of business was to draft an International Bill of Rights. Under Roosevelt’s leadership this task was conceived as consisting of three components: identifying which rights to recognize and deciding how to prioritize those rights, proposing a framework for legally formalizing the relation between these rights and the obligations of individual member states, and developing an effective means of political enforcement. A triple problem: moral, legal, political.
No element of this problem was straightforward, though the second and third elements were clearly more fraught than the first. On one level, no member of the commission could afford to be against—or even be suspected of being against—developing a means of implementation. On another level, virtually all members actively protested the various means of implementation actually on offer. Knowing how difficult the problem of implementation would ultimately be, most members supported the idea of establishing a single comprehensive instrument in which all three problems would be taken up together. In this way, the more difficult challenges could not be bracketed off from the work of accomplishing the relatively less difficult. The idea was that if the commission was to propose solutions to any of the three problems, they had to propose solutions to all of them. Normand and Zaidi point out that for many members, “human rights were above all a matter of practice, not theory, and that it made little sense to proclaim recognition of human rights in grandiose terms if neither the political will nor the practical machinery existed to bring the concept down to earth.”

In the end, however, the United States and the Soviet Union joined forces to block any attempt to take up all aspects of a Bill of Rights as a single integrated instrument. They thereby effectively blocked efforts at connecting declaration to implementation. It goes without saying that neither country explicitly rejected the idea of implementation, per se; too much was at stake in terms of moral credibility to take such a position. But both were active in generating procedural obstructions to the creation of any serious mechanism of implementation.

In the face of U.S. and Soviet resistance, the drafting committee for the Bill of Rights proposed two alternative ways forward. The first option was to present the General Assembly with a legally binding convention in which human rights and the means of their enforcement would be spelled out. Such a legal convention would mean that both the framework for human rights and some machinery of enforcement would be in place from the outset. The second option would be to present the General Assembly with a “Declaration” on human rights, a documentary form that was not legally binding and that therefore could consist only of a statement of moral principles and intentions.

The U.S. representatives insisted that the first of these two options was simply not workable. Given the complexity of the threefold task, they argued, bundling them together would mean that no one part would ever be completed. They argued that mechanisms for enforcement should be designed on the basis of a clear definition of human rights and hence should be deferred until such a definition was in place. They further argued that the question of moral definition should be disconnected from legal and political questions and worked on separately until the disagreements over issues of implementation were resolved. Roosevelt in particular
insisted that the commission proceed in a somewhat staged and procedurally structured fashion.

The resistance of the Soviet members to issues of implementation was more fundamental and connected to the political and anthropological bases on which the work of the commission was proceeding. I will take up the anthropological concerns in the next chapter. Politically, the Soviet members rejected the idea of implementation on the basis of their claim that a multinational organization was simply the wrong venue for guaranteeing human rights. Human dignity and human rights, they argued, should not be set against the sovereignty of individual nation-states. Modern political experience, they argued, had taught us that human dignity can only be effectively realized within a just social and economic order. Such an order, in turn, could only be effectively realized within the state. So, while the Soviet representatives did not disagree with the need for a declaration identifying human rights nor disagree with the need for the implementation of such rights, they did disagree with the notion that the United Nations needed to invent a mode and form of jurisdiction distinct from the existing sovereign jurisdiction of the member states. In their view, it was enough to ask the member states to implement their own measures to protect human dignity.

Under the influence of pressure from the U.S. delegation, applied with the support of the Soviets, work on a Bill of Rights was ultimately divided into moral, legal, and political components. In a coordinated fashion, the Belgian representative proposed that the CHR set up its work according to three stages and three working groups. The first working group would address itself to the question of a general declaration. The second would take up the task of developing a legal convention. The third would focus on the question of possible strategies and apparatuses of implementation. Although this proposal moved work forward, it also created procedural insertion points that could be used to block attempts to move toward implementation. By formally separating out work on a declaration from the other aspects, member states could effectively endorse a set of orienting truth claims about human dignity and human rights, thereby retaining moral legitimacy, while simultaneously putting off or refusing attempts to turn those truth claims into binding political practices.

This procedural fragmentation was considered by some on the commission, as well as by some outside observers, to be “far and away the most damaging decision for the long-term viability of the human rights system.” Members of the CHR voiced concern that the drafting of a declaration without legally binding requirements would do irreparable harm to the political usefulness of the concept of human rights, turning human rights and with it human dignity into objects of discursive and moral concern without also making them objects of legal and politi-
cal intervention. The British delegation derided the idea of a simple declaration as “nothing more than a document of propaganda.” In terms of the United Nations’ capacity to solve the practical problem of designing a workable mode of power centered on human dignity and human rights, such judgments would, in retrospect, seem to have been warranted; the CHR, after all, would not have a legally binding convention in place for another thirty years.

Implementation fared even worse than the elaboration of a legal framework. Recommendations from the subcommission on implementation, which included facilitating individual petitions from nonstate entities and the creation of a jurisdictional apparatus that could function within the borders of, but in an independent capacity from, individual member states, would be basically dropped. Although many of these proposals would resurface in other forms, subsequently they were only taken up in a fragmented and ad hoc manner.31

The judgment that the breakup of human rights work into separate moral, legal, and political stages was “the most damaging decision” for the long-term viability of human rights practices may be warranted. It needs to be understood, however, not only in light of the persistent efforts on the part the U.S. and Soviet delegations to encumber serious implementation but in view of the genuine tensions between a political logic anchored in human dignity and human rights and the logic of state sovereignty—tensions that were unlikely to be overcome in a multistate venue such as the United Nations whose power basically derives from the power of its members. It is certainly fair to say that the procedural fragmentation of the CHR’s mandate contributed to the United Nations’ lasting difficulties in shifting from designs for a mode of jurisdiction to effective equipment of implementation. But it is also fair to say that this fragmentation is exemplary of a deeper problem connected to human dignity and human rights, a problem sharpened by the CHR but that has proven persistent in other human rights venues: how to constitute institutions capable of turning discourse on human dignity into equipment and capable of facilitating the effective use of such equipment. Perhaps more importantly, what critics at the time could not have accounted for is how the procedural fragmentation of the CHR’s mandate would actually ramify. Ultimately, it contributed to the way in which human dignity would be figured and how other actors in other venues would subsequently take up the language of human dignity and the challenge of turning dignity into a practice.

One of the curious features of the CHR’s work is that, despite its other failings, it actually proved quite capable of producing a conception of human dignity and human rights. Moreover, by formally separating out the problem of articulating truths about the worth and rights of humans from the problem of jurisdictional implementation, the commission produced a legacy of conceptualization whose
defining features include the fact that it could be detached from any specific logic of implementation and thereby mobilized in different forms in other situations. They contributed to the work of formulating human worth as a problem of dignity and rights in such a way that subsequently a wide range of possible solutions could be offered. The fact of this double legacy—an inability to formulate means for effective practice as well as the conception of humanity formulated in the declaration—should give us pause in drawing the conclusion that the concept of human dignity in the declaration appears to be anthropologically and philosophically thin. A relative lack of definitional substance that might direct a more consistent set of practices has actually served to facilitate the mobility of the notion of human dignity and human rights, allowing the notions to work for the elaboration and justification of a seemingly never-ending series of practical actions. Whatever the CHR’s limitations with regard to the question of implementation, it is worth keeping in mind that (somewhat despite themselves) they were able to produce quite a specific political anthropology, one that, though troubled by the politics of implementation, has continued to have significant ramifications for how human dignity is talked about as an object of international political concern.

In any event, the commission’s mandate to contribute to the constitution of the United Nations by formulating a framework for human dignity and human rights, a framework that might serve as the object and anchor point for a new mode of exercising political power, was, in the end, carried forward as a three-part series. The declaration and the conception of human dignity formulated in it, a formulation that has had such a significant discursive legacy, was, from the outset, decoupled from the question of political practice. Other venues have partially overcome this decoupling.32 Multiple and diverse humanitarian organizations and other multinational NGOs, both secular and religious, have been able to take up the basic conception of human dignity and human rights fashioned by the CHR as the basis and object of their political, ethical, economic, or media interventions. The question then is this: what is it about the conception of human dignity developed through the commission’s work on the declaration that is simultaneously susceptible to an announcement of moral rectitude but is underdetermined with regard to its susceptibility to being turned into a practice?

Once the question of implementation was taken off the table, the drafting of the Universal Declaration moved ahead fairly rapidly. A final draft was completed and ratified within the first years of work. Throughout this early period of work, Roosevelt continued to emphasize the nonbinding nature of the declaration while at the same time suggesting that it nevertheless had significant worth as a new articulation of international morality.33 Her optimistic assessment is certainly debatable. The fragmentation of the commission’s work into moral, legal, and political com-
ponents may have facilitated work on the declaration, but on the level of practice, on the level of workable equipment, this fragmentation left at least a partial legacy of incapacity. Yet what the CHR accomplished was nonetheless a major event in the history of contemporary political and moral discourse. It was a major event in that it put into play a new conception of human dignity and a reworked rationale for the politics of intrinsic worth.34

THE POLITICS OF DIGNITY: STATE SOVEREIGNTY AND TRUTH

In the next chapter I will examine the work of the subcommission on the declaration in more detail and turn to an examination of the declaration itself. Before that, however, I think it is worth stepping back and trying to get a clearer sense of the political problem space within which the commission was taking up its charge. I propose to do this by trying to establish an analytic difference between the political logic of human rights and human dignity and the economy of power relations into which this logic was being articulated. The contrast is ideal-typical—in Max Weber’s sense of drawing historical distinctions and sharpening contrasts. The purpose in establishing and sharpening analytic contrasts is twofold. First, it will help pick out the distinctive characteristics of human dignity as a political figure and of human rights as political equipment. Second, it will contribute to greater clarity about what was at stake in proposing human dignity as a new rationale for political order and practice. Clarity about these stakes goes some way toward indicating why the CHR was blocked in their efforts to turn moral declarations into jurisdictional practice.

I will proceed by offering a brief and ideal-typical sketch of prior relations between state sovereignty and the question of the limits and obligations of sovereign power, such as those implied by the introduction of the concept of human rights. This sketch will orient my reading of the declaration in the next chapter and mark out a series of analytic points to which I will make reference. It is important to say that these prior relations are, of course, not the point of my analysis. The point is to make sense of human dignity at the United Nations. One of the suppositions of my analysis, however, is that the work on human dignity at the United Nations was an event in the history of truth, power, and ethics that, although framed by a certain prior history, cannot be reduced to that history. The factors contributing to this event are numerous and can reasonably be taken to range from the intensification of eugenics by National Socialism, to the development of state-centered communism in the postwar period and its inflections within the Soviet Union, to the hybridized relations between market liberalism and constitutional government in the United States. In other words, to borrow an investigatory rule of thumb from
Michel Foucault speaking in relation to the rise of liberalism, the multiplicity of causes is such that “I do not think we need to look for—and consequently I do not think we can find—the cause” for the constitution of human dignity and human rights as objects of concern at the United Nations. As such, I will not present anything like a thoroughgoing history of the development of political rights, the range of their prior justifications, and the ways in which they did or did not contribute to the form of power being articulated in postwar international politics. The task here is simply to offer up enough of an analytic contrast between sovereigntist and dignitarian politics to gain analytic purchase on the significance of human dignity as it developed at the United Nations.

There are obviously different ways such a contrast could be elaborated. I propose to do it by contrasting modes and forms of power at play in modern state sovereignty with what was initiated by the Commission on Human Rights. What I offer is brief and schematic and to that extent less than sufficient. But it is quite important that one get a sense for how the logic of what is produced by the CHR calls for a different set of practices than what was characteristic of prior arrangements.

As something of a strategic device for characterizing the political problem space within which the CHR took up their mandate I propose to borrow from the analysis of “the art of government” elaborated by Michel Foucault in two of his lecture courses at the Collège de France, those of 1977–1978 and 1978–1979. There Foucault addressed the emergence and development of what he referred to as the “general economy of power” characteristic of and particular to the modern nation-state. Foucault produced a striking and provocative reassessment of the character of modern power and its relation to shifts in modes of reasoning about the objects and objectives of state power. This reassessment offers a set of analytic points of reference I consider useful for thinking about the significance and distinctive character of the relation of care and human dignity at the United Nations. In this sense, though several of his specific points have subsequently been challenged by both historians and political philosophers, the broad schematics of Foucault’s analytic approach help facilitate a diagnosis of why the politics of dignity proved so significant and problematic.

**The Art of Government**

Foucault referred to what he took to be a typically modern “general economy of power” using various terms. In the introduction to the first of the two courses (1977–1978), he tells us that what he is setting out to examine is “biopower” (a term that has since become notoriously clouded, as I will discuss in my Diagnostic Excursus). In the introduction to the second course (1978–1979), he tells us that what he has been trying to work through over the course of several years is an analysis of “the art of government,” or “governmentality.” In other places, his analysis
narrates in on the “rationality” of the art of government, the “raison d’état,” and even more sharply on the liberal refinements of the raison d’état that took place from the eighteenth century forward.

Approached schematically, Foucault’s conception of the art of government marks out three useful points of distinction: (1) an answer to the question of what the art of government is and is not, (2) a description of the kind of limitedness and unlimitedness characteristic of the modern state under the art of government, and (3) an assessment of the role of truth practices in the art of government.

Briefly recapitulated, the first of these is the most straightforward. The art of government characteristic of the rise of the modern state is a distinctive jurisdictional mode that cannot be reduced to prior modes of either aristocratic sovereignty or pastoral power, although it overlapped with and shared elements of these prior modes. From the sixteenth century forward a mode of governmental power begins to emerge, not replacing previous modes, but repositioning them in relation to a new set of problems and demands. Foucault writes: “in relation to his [the sovereign’s] sovereignty, and in relation to the pastorate, something more is demanded from [the sovereign ruler], something different, something else. This is government. It is more than sovereignty, it is supplementary in relation to sovereignty, and it is something other than the pastorate, and this something without a model, which must find its model, is the art of government.” Although the development of this “something more,” and the arts connected to it, took place across and through a range of venues, Foucault was particularly interested in the state as a distinctive kind of political institution. He summarized this “something more” as a question of how the political sovereign came to be responsible for and capable of governing the “conduct of conduct”: “guiding men, directing their conduct, constraining their actions and reactions, and so on.” Power was not a matter of the sovereign enforcement of law, exercising divine right, protecting the body of the king, or directing souls toward heaven. It was a matter of the conduct of conduct—this is the first point to note about the art of government.

The second point is that the art of government was characterized by a particular rationality, the raison d’état, which reconfigured the question of the relative limitations and unlimitedness of the state’s exercise of power. Foucault emphasizes that his study of the raison d’état should be distinguished from a study of the particular situations, problems, tactics, and instruments of the art of government addressed or taken up by specific states. His examination, rather, consists in studying the rise and elaboration of the question of “the reasoned way of governing best” as the key problem for political rule, a problem connected to “reflection on the best possible way of governing.” The object in relation to which the problem of the reasoned way of governing best was posed was the nation-state, considered both in terms of
Incacity by Design

a political entity that actually exists and therefore needs to be worked on and improved and the imagined state that does not exist yet but that ought to be brought into being. “Raison d’état is precisely a practice, or rather the rationalization of a practice, which places itself between a state presented as given and a state presented as having to be constructed and built.”43 The state is the object of the raison d’état and its objective. And what is the state that ought to be built, the state that is both object and objective? It is the state characterized by the interdependence of wealth, health, and, above all, by the security of the population.

Foucault suggests that the modern state, considered as the object and objective of the raison d’état, is given form according to a double and mutually reinforcing condition: strict limitation with regard to its external relations and objectives and unlimitedness with regard to internal relations and objectives.44 First the state’s external relations. The raison d’état is a political rationality that separates out the state as an autonomous reality, existing only for itself and through itself, and thereby positions the state amid a plurality of other states. Foucault proposes that government according to the raison d’état has nothing of the imperial impulse of the medieval sovereign, in which power takes as its objectives an unlimited horizon constituted as a kind of eschatological theophany. Rather, and in contrast to this, each state “must limit its objectives, ensure its independence, and ensure that its forces are such that it will never be in an inferior position with respect to the set of other countries or to its neighbors.”45 The objective of mutual self-limitation, and therefore of autonomy, is characteristic of the raison d’état in Europe from the seventeenth century forward. Generally speaking, from this point forward a style of military-diplomatic policy emerges according to which the claim that states are entitled to their own domain of sovereignty and autonomy is no longer simply a matter of divine right or the right of individuals to self-governance (though it may be these as well). It is, rather, a matter of the raison d’état.

This autonomy in international relations has a correlative: the absence of limitation in the exercise of power within the state. The raison d’état is characterized by unlimited objectives with regard to the conduct and regulation of the activity of groups, institutions, orders, and individuals within the state. Autonomic, the state rules itself without limit, per se—per se, because obviously sovereign powers governing according to the raison d’état cannot actually do whatever they want; the state is still conditioned by a number of limiting factors: divine laws, moral sensibilities, natural laws or natural rights or the rights of man, and so on. Theology and philosophy, Foucault reminds us, were often called upon to fix the limitations of raison d’état even with regard to the internal affairs of government. These conditions and principles of limitation, however, were not intrinsic to raison d’état. We might say that these conditions and principles formed part of a juridical rationality and
not the rationality of the conduct of conduct, a juridical rationality that could be brought into an orthogonal relation to the governmental rationality of the raison d’état.  

(This point is crucial and, as I will explain in the next chapter, bears directly on the difficulty of bringing the politics of human dignity into a nonorthogonal but nonetheless delimiting relation with state apparatuses.) The effectiveness of these limiting conditions was precisely that they were extrinsic to it. They marked out points beyond which the state could not exercise its power: the state may rule up to this point, in these ways, and under these conditions, but not any further. By way of contrast, Foucault notes that in the Middle Ages royal power multiplied itself by way of judicial institutions and a judicial mode: fundamental laws, divine laws, natural laws, and contracts between sovereign and subjects served to justify and extend royal power, and, most importantly, they were also intrinsic to royal power.  

In relation to raison d’état, these fundamental laws were extrinsic to and not at all intrinsic to rational political order. Raison d’état indicates the unlimitedness of the states’ power with regard to its internal objectives—how to govern in a rational manner—even if this unlimitedness in actual practice continues to be challenged in the seventeenth and eighteenth centuries by the appeal to a juridical rationality of one kind or another.

So, to recapitulate, the first observation is that the art of government can be thought of as a particular economy of power that is concerned with the state beyond and in distinction from either juridical sovereignty or pastoral power. The art of government concerns the conduct of conduct. The second observation is that the art of government was, especially in the sixteenth and seventeenth centuries, constituted by a particular rationality, the raison d’état, which had the effect of creating strict limitations with regard to the external objectives of the state and that opened up a kind of unlimitedness with regard to the state’s internal objectives.

Now the third characteristic of the art of government: Foucault tells us that over the course of the eighteenth and nineteenth centuries the art of government begins to undergo a development in its logic of self-limitation, a development altogether different from the external juridical limitations of natural or divine law. It is a development in self-limitation that is precisely not constituted in opposition to raison d’état but is a further refinement of its inner logic—it is for this reason that it should be called self-limitation.  

This practice of self-limitation takes multiple concrete forms depending on particular circumstances and particular developments but is nevertheless quite general. This general practice of self-limitation is constituted by the establishment of a different type of political reasoning, a different mode of reasoning about what counts as the proper objective of political thought, within and as part of the operations of government. The shift can be characterized in this way: rather than centering on the juridical question of legitimacy, on the question
of where, how, and whether sovereign power has the right to exercise power according to fundamental laws, political reasoning becomes a matter of discerning what might be called the empirical difference between “what must be done, and what it is advisable not to do” to ensure health, wealth, and security. Political reasoning, the mode or style of reasoning connected to the art of government, concerns political prudence and not political rights, strictly speaking. And the question of political prudence, in principle, will be determined entirely by the consideration of the nature of the object being governed.

The rationality of government begins to concern itself with a particular kind of object according to whose nature or naturalness the technologies of government will need to adjust themselves. Foucault puts it like this: rather than concerning itself with the discovery of rights, in the name of which it would act, under the sign of the raison d’état the state discovers “a certain naturalness specific to the practice of government itself.” The challenge of government becomes how to understand this “naturalness” and how to design, develop, and adjust the mechanisms of power in order to regulate this naturalness. The object in relation to which government must adjust its understanding and regulation of naturalness is, to be more specific, “a milieu.” This political milieu is both given and produced; its nature is precisely that it is both natural and cultivated. This milieu consists, in the first place, of populations of bodies, humans as living entities, interacting and constituted with and by not only other natural elements but also with the institutions, mechanisms, and practices of government.

In its liberal forms, this milieu, this relation of the living and cultivated human, is constituted as “society,” and the exemplary form of reasoning connected to the governance of this objectification of the milieu is political economy. It is plausible to argue that there are illiberal forms of the art of governance as well, in which the idea of society is rejected in favor of attention to the material elements that are taken to be the compositional things within a milieu. In either case, what is crucial is that the object at stake can be conceived as a multiplicity of elements, which can be identified, assessed, and arrayed as a series in relation to which certain regular patterns can be identified and certain probabilities can be calculated. To say this differently, the objects at stake in the refinement of the raison d’état are constituted and conceived as objects that are susceptible to statistical reasoning. This means these objects also have a particular mode of being in the world to which government will have to attend: they exist for the mechanisms of government as probabilistic series in relation to which desirable and undesirable norms of health, wealth, and security can, in principle, be discerned, established, or avoided. If the objects of concern for an art of government are probabilistic in character, then a central feature of governmentality follows: power can no longer concern itself
primarily with matters that are taken to be unchanging, timeless, or otherwise transcendent or absolute. It is not the soul of the believer, the creature of natural law, or the divinely appointed sovereign in relation to which certain fundamental rights or laws need to be discerned and obeyed. Such objects are, as it were, figures of anthropos without a political nature that can be normalized. They are too absolute; they fall outside the mode of reasoning characteristic of the art of government. The measures of good governance in the refinement of the raison d’état state, by contrast, are made to turn on a logic of minimization and maximization: the question is how to intervene in the naturalness of the object in such a way that the goods of wealth, health, and security can be maximized and those things that impede wealth, health, and security, minimized. The practice of self-limitation characteristic of a refined raison d’état is constituted in terms of minimization and maximization: how to not to govern too little nor too much but rather according to the nature of the object of government.\textsuperscript{54}

The characteristic of the relation of truth practice and the art of government that needs to be underscored here (and this characteristic marks the point at which the sharpest difference from human dignity is perceived) is that the raison d’état demands a different mode of reasoning from either royal sovereignty under juridical regimes or the power of the church under pastoral regimes. In this mode of reasoning a different class of truth claims is called for and taken seriously. In the case of juridical modes of power those truth claims were taken seriously that demonstrated or followed from matters of fundamental law, whether natural or divine. In the case of pastoral power (which I will return to at some length in the Diagnostic Excursus), only those truth claims could be taken seriously that contributed to the direction of souls and the salvation of the flock. In the art of government, those truth claims will be taken seriously that bear on the nature of the object to be governed—verified claims about the nature of the political milieu. And of all the things that might enter into this particular class of truth claims, only those will receive careful attention that are likely to contribute to the governmental work of regulating and normalizing political milieus. In other words, a mode of reasoning is called for that can contribute to normalization as a mode of political intervention. Foucault takes political economy as a privileged example of this mode of reasoning, although it is fair to say that all of the human sciences and functionary practices that leverage statistics—“state numbers”—to the end of ameliorating the health, wealth, and security of society will be both central to, and a product of, the coupling of knowledge and power in the art of government.\textsuperscript{55}

Foucault refers to this mode of reasoning using various terms. It is typified by what he calls “the analytic of finitude” but that might also be called a “verificationalist” mode of reasoning.\textsuperscript{56} As a mode of reasoning, an analytic of finitude stands in
Incapacity by Design

127

an uneasy tension with, and constitutes a key part of the background to, the kinds of nonchanging and absolute truth claims that the CHR will make about human dignity and human rights. Moreover, as I will show in the third case taken up in this book, bioethics, it is a mode of reasoning that will continue to trouble the question of how or whether one can demonstrate the origin, nature, and material dimensions of human dignity as well as the question of what modes of care are appropriate to it.

With this in mind, let me summarize the key features of this verificationalist mode of reasoning. Once again, it bears acknowledging that this is all schematic and ideal-typical, put in the service of emphasizing distinctions so as to establish a kind of grid of analytic variables. The mode of reasoning, which becomes typical of the nineteenth-century human sciences, operates according to a strict logic: only those truth claims will be taken seriously which can be verified through the process of reducing particulars to calculable regularities. The art of government requires an ever-expanding collection of facts and an ever-receding attempt to ground that collection of facts in definitive calculations about the relation of governmental practices and the populations that need to be normalized. This incessant movement between the accumulation of data and the attempt to verify it systematically through calculable regularities provides the basis upon which the question concerning whether or not government is asserting too much or too little power, in an appropriate or inappropriate manner, can be effectively settled. Of all the truth claims that can be generated by an analytic of finitude only those will count for the art of government that can contribute to the work of discriminating the border, the distinction, between governing in the right way, under the right conditions, and not governing too much or too little. Since milieus will never be static, and since regularities are likely to change over time, the task of discerning truth and the task of discriminating which activities will be appropriate is a never-ending one, and the unlimited mandate of *raison d'état* will only ever be limited by the reciprocal relations of the knowledge and the mutual adjustment of governmental practice and the analytics of finitude—the biopolitical goods of wealth, health, and security, and the apparatuses of power within the state.

One orienting conclusion suggested by this is that the art of government characteristic of modern governmental power will attempt to limit itself on the basis of the discrimination between true and false within a verificationalist mode of reasoning—and not, for example, on the basis of claims about fundamental laws and rights. Of course such rights and laws, where enshrined, may continue to check power, but they are not a principle of self-limitation, a principle internal to the mechanisms of the governmental power of the state per se. This point bears repeating because one of the questions about human dignity and human rights is whether
or not they are simply a reiteration or reproduction of the juridical tactic of using fundamental laws as a negative limit on normalizing state power. The challenge for the CHR, however, is different than this prior juridical challenge. The challenge for the CHR is this: how to reformulate the notions of dignity and rights so that they not only provide a point of limitation but also function as the positive criteria for a new mode of political practice and power beyond either the juridical or the governmental, a mode that can somehow interpolate itself into, or otherwise positively interface with, the governmental logic of the sovereign state. This challenge, the attempt to facilitate this shift, goes some way to indicating why the task of implementing and not only declaring human rights remained so difficult within the United Nations.

So, a number of elements formed part of the immediate background to the work of the CHR and can be used as points of analytic contrast between governmental power and human dignity as it was formulated at the United Nations. The first is that the mode of power characteristic of modern states, of the art of government, is distinctive and not reducible to the juridical and pastoral modes prior to it. The second is that raison d'état establishes a hinge between the limited character of state sovereignty in relation to other states and its unlimited character with regard to its internal objectives. And the third is that although apparatuses of self-limitation begin to emerge within the state, these are calibrated to the nature of the object to be governed and not to fundamental laws. “In short,” to quote Foucault again, “there is the simultaneous entry into the art of government of, first, the possibility of self-limitation, that is, of governmental action limiting itself by reference to the nature of what it does and of that on which it is brought to bear, and second, the question of truth.”

Of course I am only identifying and highlighting elements that will help me position the work of the CHR and thereby indicate those points at which the introduction of new forms of political practice are likely to be particularity difficult. I am interested in drawing an analytic contrast between the mode of governmental power characteristic of modern regimes of state sovereignty and the mode of political practices, practices that might be glossed as a politics of intrinsic worth, as called for in the Universal Declaration. I think these schematic and strategically selected elements give a sense of the difficulties attendant to advancing a new figure of anthropos, one that will require a different veridictional and jurisdictional mode.

Human dignity, after all, like the art of government, functions according to a particular mode of reasoning and is constituted by particular kinds of truth claims. We saw this with Vatican II. Likewise, it requires the discrimination between what should be done and what should not be done. But where a verificationalist mode of reasoning will only admit as true and false those claims that are useful (or not) in regulating political milieus, the practices that center on the care of human dignity
will admit only those that bear on an absolute: namely, those that either violate or conform to a metric of dignity.

At the CHR, the challenge was subtle and difficult. The commission’s mandate did not consist first and foremost of the work of putting the legitimacy of sovereign states into question. Such work would amount to a reproduction of juridical limitations of the *raison d’état*. The mandate, rather, was a matter of discerning a different kind of alignment of governmental practice with a series of goods according to the metric of dignity. The situation at the United Nations was not one, as it would be thirty years later, in which nongovernmental organizations—nonstate actors—put the sovereignty of state government in question through a discourse of human dignity and human rights. Rather, the members of the CHR were representatives of sovereign states and so were put in the difficult position of having to rethink the relation of an absolute metric to the nonabsolute practices of government and to give form to that relation in such a way that the United Nations might establish itself as a venue capable of facilitating human rights in the name of human dignity.

A last word on the politics of dignity before shifting to an analysis of the Universal Declaration: the range of actual governmental practices, and the forms these practices took, varied considerably across the member states who had delegates on the commission—the United States, the Soviet Union, Latin American countries, colonial Britain, etc. The analytic contrast I propose to draw between the art of government and developments at the United Nations concerning human dignity is a general one and is put forward as a strategy of orientation and clarification. But it is a generalization that I think applies fairly well to the major powers at the table at the CHR. Certainly it applies to the attitudes and positions staked out by the U.S. and Soviet delegates: a presumption that sovereign states only need to be limited in the conduct of conduct according to a mode of reasoning that adjusts the practices of government to the nature of the object to be governed and that does this to the end of maximizing what might be called the biopolitical goods of wealth, health, and security. Obviously the particular elements to be governed, a sense of their nature, and an answer to the question of “too much” or “too little” government varied according to different delegates. But in most cases what these states had in common was a sense that as sovereign nations they had the right to govern in such a way that the objects of government could be maximized and minimized.

Certainly in practice negotiations at the CHR as to how to navigate the differences between sovereign power and the demand for a human rights apparatus had as much to do with the play of interests and micropolitics as it did with contrasting rationales for government. Yet despite this—and here is the analytic point I would like to make with regard to what I will examine in the next chapter—many of the member states argued vehemently for the retention and protection of basic limita-
tions and unlimitedness characteristic of state sovereignty under the *raison d'état*. Certainly not all members explicitly used the rhetoric of state sovereignty. Indeed, many explicitly argued that the privileges of state sovereignty had to be adjusted in favor of the more basic claims of human dignity and human rights. Given that these members were basically unsuccessful in their efforts to produce means for implementation, however, such critiques of sovereignty did not matter much in the end.

**TRUTH AND THE ARCHONIC**

At the beginning of this chapter I noted that the Commission on Human Rights had a double mandate: to articulate a framework for the promotion of human rights and to design and propose mechanisms for implementation and enforcement. The mandate represented a kind of deferral on the part of the General Assembly concerning the problem of how to respond to the demand for something more from power. The rationale for the United Nations, after all, was in part that it could facilitate modes and forms of political practice that were different from, and hopefully better than, the politics of national sovereignty that had shown themselves to be so problematic over the course of the two world wars.

The demand for something more from power, however, was a conflicted proposition. The United Nations really had no source of power other than what would be offered up by its constitutive members. And though its charter explicitly mentions a commitment to human dignity and human rights, it also carries forward and internalizes familiar tropes of state sovereignty. I have suggested that, analytically speaking, this amounted to a situation in which the CHR had to take up its mandate within and against the rationality of the *raison d'état*. Given this situation, it is not at all surprising that the commission found it much easier to deal with the moral and veridictional aspects of their mandate in a manner decoupled from the political and jurisdictional aspects.

With pressure from both the U.S. and the Soviet delegations it was proposed that the CHR should take up their mandate in terms of three different tasks, each assigned to a different working group. As I have already noted, the working group charged with implementation fared the worst. At the group’s first meeting, the Ukrainian representative, Klekovkin, opposed any implementation measures at all. He argued that equality between autonomous nations was the only mechanism needed for enforcement. His arguments did not carry the day, but they did set the tone. More important, his arguments were indicative of the fate of implementation. The working group proposed multiple measures, including the establishment of a series of courts and local agencies by way of which human rights as a political mode of care for human dignity could be given form.
No one at the CHR took the commission’s challenge to be one of inventing a mode of political action; human rights were presumed and mandated from the outset. The challenge rather was at the level of equipment: how to give form to this mode as a practice. On one level the difficulties faced by the CHR were not altogether different from those faced by the Vatican. The council was inaugurated with a demand for something more from ecclesial power, and with the supposition that this “something more” would pass through the teaching authority of the church. The commission was inaugurated with a demand for something more from political power, and with the supposition that this “something more” would pass through human rights. In the case of the Vatican the demand and the mode suggested more or less from the outset that the new form of pastoral practice was likely to be of a truth telling, that is, veridictional, sort. The church’s equipment was never really designed to be connected to any jurisdictional mechanism, per se. The form of practice was not going to be a matter of the conduct of conduct but only of the discernment and orientation of conduct.

It is at this point that the problem faced by the CHR looks quite different from Vatican II. It is, in fact, not presumed from the outset that the mode of political equipment, human rights, will be disconnected from mechanisms of implementation. Such mechanisms may not be governmental in character, strictly speaking, but they would clearly need to have something more than an orthogonal relation to the governmental. They would need to be capable of reordering states’ internal relations through a different logic of self-limitation. The working group on implementation’s proposed system of courts and agencies was one proposal for interfacing dignity with the sovereign power of states. The courts would be international and supervisory. The agencies would be located within sovereign nations but would answer to the United Nations. Across the course of the next half-century some of the working group’s proposals were ultimately taken up. These efforts, however, positioned human rights equipment as external to the logic of the sovereignty of the nation-state while also operating within the internal spaces of the nation-state.63 To the degree that this double positioning has been effective, it has been thanks as much to the leverage of individual nations as it has been to the authority of any reliable human rights apparatus. In any case, as we will see in the next chapter, the proposal of a kind of independent relation of human rights to the self-limitation of sovereign power was ultimately blocked at the United Nations. As a result of this blockage, the United Nations ultimately formulated an understanding of human dignity that, much like the Vatican’s formulations, called for a mode of intervention and care predicated less on the conduct of conduct and more on recognition and protection. That is to say, the formulations were, in the end, archonic.

It bears noting that from the outset of their deliberations the Commission on
Human Rights did not spend much time defining human dignity, its sources, its character, its conceptual structure, or its referent—though they did give more attention to these questions than most subsequent philosophical analyses of the declaration itself credit. As Shultziner has shown in a helpful article on the status of human dignity in spheres of legal discourse, the phrase “human dignity” has, more or less from the declaration forward, functioned more as a justification for various claims about rights and duties and less as a coherent and fundamental anthropology. As a result of this so-called founding function, the content of claims about rights tends to differ from context to context while nonetheless appealing to universal human dignity as a kind of “a priori bedrock truth justification.” The strategic use of dignity, as Shultziner explains, simultaneously anchors different concepts and views of rights and their requirements in it. One result of this, of course, is that human dignity seems to lack any fixed or genuinely universal content and thus any circumscribed course of action following from it.

As I will discuss in the next chapter, however, Shultziner tells only half of the story. It is certainly the case that substantive debate about human dignity was limited at the CHR. This is not to say that it was not discussed at all—indeed, several members of the CHR proposed language that would have provided explicit conceptual grounding for human dignity: grounded in reason, in the nation, the race, in the divine, and so on. Nevertheless, as Shultziner notes, these proposals all sparked dissent and were ultimately rejected in favor of simply leaving the phrase underdefined. The point I will argue in the next chapter is that the primary outcome of this practice of leaving the term underdefined is not only that human dignity can therefore be mobilized as the anchor point for a wide range of concepts and referents. The primary result of the underdefinition, rather, was a kind of indirect generation of a fairly stable and specific anthropology. Human dignity was conceived as archonic. If at the Vatican the archonic was generated through a debate over the relation of nature and the supernatural, here it is generated by the fact of a procedural intervention, that is, the cutting off of debate on the question of dignity’s source and meaning.

The reasons for ultimately failing to articulate a systematic philosophical grounding of human dignity were straightforwardly pragmatic. The ramifications, however, were conceptual and ontological. Cutting off philosophical debate in favor of simple “recognition” meant that the conception of human dignity actually put into play in the declaration (that is, dignity as an object that should be “recognized”) was a conception that was effectively self-referential and self-justifying. It also meant that the ontology of human dignity called for a mode of care calibrated more to protection than to creation or cultivation. This calibration proved to be both remarkably resilient and remarkably adaptable, as can be seen in the range of actors
who have subsequently made use of the notions of human dignity and human rights, while at the same time accommodating the continued predominance of state sovereignty. While acknowledging all of the obvious contradictions and failures of the CHR, this archonic rendering of human dignity admitted to a mode of political practice that might occasionally stand in contradiction to the exercise of sovereignty predicated on the *raison d’état*, but only occasionally.