Dignity and Governance:  
The Universal Declaration of Human Rights

“Yes,” they said, “we agree about the rights but on condition that no one asks us why.”

—Anonymous, UNESCO National Commission, 1947

In the previous chapter I tried to identify some of the significant characteristics of the political problem space within which work on the Universal Declaration on Human Rights was carried out. The problem consisted of a demand for something more from power: political relations and practices calibrated to universal human dignity and carried out by means of human rights. I tried to show how the challenge of constituting the United Nations as a venue capable of formulating and facilitating human rights equipment was taken up against the background of the raison d’état and the interests of state sovereignty. In short, the Commission on Human Rights faced a particular and peculiar difficulty: how to give form to a human rights mode of jurisdiction within a structure that depended on existing modes and forms of state power. The commission, and thereby the United Nations, proved to be a venue quite capable of formulating a conception of human dignity and human rights but not quite capable of overcoming blockages to implementation. Nonetheless, and this is the curious twist, the figure of human dignity that was so difficult
to turn into practice within the United Nations has subsequently served to facilitate a proliferation of practices in other venues, a fact that raises interesting questions about the exercise undertaken by the CHR to bring human dignity into a productive relation to state sovereignty.

It is worth noting that this troublesome relation between the discourse of dignity and extradiscursive implementation surprised almost no one. Indeed, it was explicitly anticipated by the American philosopher Richard McKeon and other observers before work on the declaration really got going, as I will explain below. One of the questions taken up in this chapter will be how and in what ways the tradeoffs between conceptualization and political implementation is particular to the situation and limitations of the United Nations and in what ways these tradeoffs seem to be connected to an archonic figure of human dignity in relation to politics more broadly.

The core of this chapter will consist of an analysis of the text of the Universal Declaration of Human Rights, with a focus on the way in which human dignity is figured therein. I will also give attention to how the attempt to bracket the question of the substantive definition of human dignity actually, if indirectly, produced a significant conceptual and political legacy. This legacy includes the fact that the conception of things human at play in the declaration was subsequently taken up as the object and objective of other human rights venues, governmental as well as nongovernmental. Insofar as that conception implies a particular ontology and demands a particular mode of intervention, it is fair to say that work on the declaration contributed to the circumscription of the logic of ethical and political practices that would be linked to human dignity.

What I am interested in providing here is an analysis of the logic at work in the declaration and how that logic is anchored in and serves to inform human dignity. To this end, I will pick out and focus on those elements that I think contribute to the definition of that logic, so as to think through their relations and significance. This means that my analysis will say less about the practical outcomes of work on human dignity and human rights in the decades following the work of the CHR than would probably be helpful. I am focusing more on what was taken to be the most favorable—or at least most politically acceptable—way of talking about human dignity and forms of possible political practice and less on the mobilization of these forms in particular situations, the difficulties encountered in those situations, and the instruments and tactics subsequently invented in response to those difficulties. In this sense I am focusing on the art of caring for human dignity at the level of the design and figuration in the constitution of venues and practices rather than at the level of their actualization or implementation.
Part of my task will be to analyze how the CHR dealt with the problem of giving form to the politics of human dignity. One of my tactics for carrying out this task will be to review the assessment of the notion of universal human rights and human dignity offered by Richard McKeon at the time of the commission’s work. McKeon’s assessment is interesting in that it serves as a kind of second-order observation of the work of the CHR as it unfolded. His assessment is significant in that he suggests that the task of giving practical form to human rights might require tradeoffs between philosophic coherence and political unanimity. My analysis follows McKeon’s up to a point: the crucial components of work on human dignity and human rights for the CHR did, in fact, generate such tradeoffs. For reasons of expediency the commission limited efforts to discern and articulate the truth of human dignity and human rights in something like a philosophic mode. They also limited discussion of which political activities are appropriate to and follow from such philosophic definition. As Schultziner notes, the task, in the end, was a matter of grounding a series of heterogeneous rights and duties on and in the phrase “human dignity.”

What I propose to add to McKeon’s analysis is this: the philosophic and political tradeoffs found in the declaration facilitated, albeit indirectly, the production of an archonic figure of human dignity. The significance of this fact needs to be examined in light of what Klaus Dicke has called the “founding function” of human dignity. The negotiation, coalescence, and mutual adjustment of philosophic and political elements gave rise to a reworked form of what I have referred to as pastoral power. One of the tasks of this chapter will be to specify that form and to connect it to the formulation of human dignity and form of equipment produced at Vatican II. A more thoroughgoing comparative analysis will be the subject of my Diagnostic Excursus. And all of this has direct bearing on my third case on human dignity and bioethics.

PRAGMATICS AND THE ARCHONIC

The CHR’s mandate was to produce a conceptual framework for human rights as well as the jurisdictional mechanisms for enforcement and, of course, to establish the means by which these two would interface and connect. Three components: work on a nonbinding declaration, work on the machinery of implementation, and work on a legal covenant to connect them. The decision to work on these three separately and to form working groups for each was made at the first session of the CHR in 1947. At that first session the CHR also requested that the UN Secretariat provide them with preparatory materials consisting of an outline of candidate rights that might be included in an initial draft of the declaration. The CHR requested
that these preparatory materials be drawn from existing collections and statements and presented to the members of the commission in time to be reviewed and edited by a drafting subcommittee before the CHR’s second session, to be held in the fall of 1947.

The task of preparing the materials fell to a Canadian legal scholar, John Humphrey, who in 1946 had been appointed “director of the United Nations Division of Human Rights” by the Office of the Secretary-General. Three things are worth noting about the materials Humphrey prepared. First, he did not merely prepare an outline of possible rights to be included; rather he produced an entire working draft of the declaration. Second, his draft drew much of its material from existing statements of rights, most of which were of European or American origin. These existing statements were strongly liberal in character, which is to say that they emphasized the rights of individuals in the face of the possibility of excessive governance. Third, much of Humphrey’s working draft would ultimately pass into the final version of the declaration.

Humphrey submitted his work to the drafting committee in June 1947. The drafting committee reviewed the work and assigned the French legal scholar and commission member René Cassin the task of revising it. Cassin, like Humphrey, retained an emphasis on individual rights. His work passed through several reviews and revisions before being presented to the full CHR at the second session. NGOs who held consultative status with the commission, as well as other NGOs and individuals, also submitted drafts and comments. At the second session an eight-member group reworked Cassin’s materials to produce what became known as the Geneva draft. The Geneva draft was adjusted to the other submitted materials and packaged as a single report, to be debated, revised, and ratified at the third session.

Initial work on the declaration proceeded relatively quickly. As the third session approached things became more difficult. Work on the legal covenant and on implementation was beginning to stall out. The members of these two working groups faced a difficulty, which would become acute for the working group on the declaration as well. Analytically speaking one can say that the difficulty was anthropological, although these difficulties took form in and through the micropolitics of positioning and counterpositioning between representatives of the major powers. The challenge of forming the notions of human dignity into legal and political equipment for the implementation of human rights threw into relief a series of basic differences about what is meant by the dignified human and how it is that rights and dignity should be conceived and connected. The core differences among the participants were neither new nor unfamiliar. The particularities of their resolution nonetheless proved consequential.

The principal blockage point was the question of whether to include those
classes of rights that were understood to be economic and social, or whether the commission should concentrate only on matters of civil freedom and political protection. The former, of course, included rights whose guarantee would require the active exercise of governmental power by states in the production of new conditions within those states, an exercise that could be contrasted to a mode of exercise indexed to the protection of dignity against possible violations. The latter included only those rights that are ostensibly amenable to the defense and safeguarding of individual freedoms and in that sense are governmental only insofar as they cohere with and reinforce certain kinds of limitations on the exercise of power. The difference between these classes of rights was first raised as a problem by self-identified communist countries as well as several Latin American countries who also insisted on the inclusion of economic and social rights in the legal covenant. With regard to the declaration, the question was pressed and sustained by the primary Soviet representative, Koretsky. Koretsky insisted that insofar as the declaration was designed to orient and calibrate legal and political practice, the question of political anthropology needed to be resolved.

The question as Koretsky and others pushed it turned on two familiar points. First was the basic approach initiated by Humphrey and Cassin. The early drafts framed human rights and their connection to human dignity as matters requiring the active intervention of the United Nations in the affairs of individual states insofar as those states have been found to have violated the rights of its citizens qua humans endowed with dignity. The violation of dignity in this case was understood to show itself through the violation of certain inalienable rights. This framing, in other words, tacitly distinguished between the individual as citizen and the individual as human. The human as the bearer of dignity and rights was qualitatively antecedent to and more basic and universal than the citizen. The human therefore served as an external principle of limitation for the state. The second point followed: the positioning of human dignity and rights as basically antecedent to the state suggested a particular rationale for the United Nations: insofar as the United Nations is to be constituted as a venue responsible for human dignity and human rights, it would need to reserve the right to act to protect individuals from the violations brought about by their own governments. Again, all of this was more or less familiar.

However—and this was Koretsky’s point—if dignity is constituted by, rather than threatened by, the bonds of social life, and if the bonds of social life need to be established and cultivated in part by governmental apparatuses, then the art of caring for human dignity and human rights is not primarily a matter of “mere” protection. It consists, rather, in the active fostering of an economic and political order wherein things human could be made to flourish. Given this, Koretsky ar-
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argued against the design or development of any jurisdictional mechanisms by way of which the United Nations might claim the right to intervene in the relation of the state to its citizens and thereby assume for itself a kind of governmental independence from the power and sovereignty of the individual member states. 11

Koretsky called for an alternative mode of action. Rather than providing means for the protection of humans from excessive government, the declaration should include language that requires signatories to implement their own state-facilitated measures to create the economic and social conditions through which human rights (produced through economic and social intervention) and the rights of the citizens could be seen as coincident. 12 Otherwise said, Koretsky, by way of the notion of human dignity, argued in favor of retaining state autonomy, autonomy characterized by external limitation relative to other states and internal unlimitedness. Human dignity and human rights should be fully synthesized with the dignity and rights of citizens and thereby function as aspects of governmental self-limitation.

As I noted in the last chapter, the United States slowed work on legal and political enforcement of human rights on procedural and pragmatic grounds. They offered no in-principled reasons why the United Nations should not constitute itself as a political venue capable of acting on the basis of objectives, objects, and practices distinct from, if connected to, those of its individual member states. On the anthropological and practical point pushed by the Soviet delegation, the U.S. representatives, Roosevelt in particular, flatly refused the inclusion of any language that would impose requirements on sovereign states to develop economic and social mechanisms for the cultivation of human rights through state apparatuses. 13

A twofold resolution was proposed. In the first place the United States and its allies agreed to the inclusion of certain rights designated as economic, social, and cultural. The inclusion, however, was predicated on a tacit hierarchy according to which these rights would be placed in the document following statements concerning the protection of civil and political rights. 14 All parties understood that this tacit hierarchy carried with it the suggestion that civil and political rights were more basic and more urgent than social and economic rights. There was also a suggestion that the latter actually followed from the former. The heterogeneity of the collection of rights, and its possible anthropological contradictions, was not commented on or problematized. On the surface of things, the so-called civil and political rights would seem to function according to a juridical and absolute metric. And, on the surface of things, the economic and social rights would seem to function according to a governmental and normalizing metric. One could hardly be said to follow from the other. Despite this implicit heterogeneity, however, a kind of anthropological distance between the human as the bearer of dignity and the human understood
in other modes either as the figure of foundational natural or divine law, or, as a governmental population, was indirectly opened up and stabilized. This anthropological distance was marked out by and as the archonic, as I discuss below. What is important to note here is that the familiar parsing of things, by which “liberal” rights were placed above and over “social” rights did not, in actual practice, hold.

The second part of the pragmatic resolution—and this proved all the more significant for the legacy of the figure of human dignity—the anthropological and practical differences between the United States and the Soviet Union were resolved not only by way of a tacit hierarchy of rights but also by way of a certain set of exclusions. During the drafting process, an initial challenge concerned the question of the source of human dignity and how certain terms, such as “person” or “creature,” carried with them implied answers to that question. What is it that makes the human distinctively human? Where does dignity derive from? How is dignity grounded? Does human dignity derive from God (are humans in the first place creatures made in the image of God)? Does human dignity derive from conscience and reason (are humans in the first place Kantian persons)? Does it derive from nature (are humans in the first place part of “mankind,” or participants in the “the human race”)? And what are the modes of reasoning by way of which these questions can be debated?

The question of the source of human dignity obviously carried with it formative implications for human rights as a mode of jurisdictional practice. What are the criteria according to which appropriate and inappropriate political activities can be discriminated? Which ethics follow from which truth claims? The question of source also bore on matters of venue: given this source of dignity, what kind of venue is needed for the protection and care of human rights? Is the United Nations appropriately suited to human dignity? Is “the human” a kind of object that is susceptible or in need of care or protection from an international governing body?

Problems of origins, practices, and venue were linked.

These questions were never resolved, strictly speaking. The delegates were not capable of meeting the philosophic demand for a shared formulation of the origins and substance of human dignity. No one tradition of political, philosophical, or theological reasoning proved sufficiently acceptable to all participants to overcome their differences. The delegates could not agree to the standards by way of which statements regarding the origin of human dignity could be assessed as true or false, good or bad, better or worse. The delegates were veridictionally blocked. They could not speak a shared truth, as it were. They could not even agree to formulate their differences as shared problems to which convergent solutions might eventually be proposed.
In the end, the philosophical blockage was overcome procedurally. Because the
delegates could not agree on the origins of human dignity, the chair, Roosevelt,
simply closed discussion. The question was set to the side. It was decided that no
explicit mention of the source of dignity would be offered in the declaration and
that language that seemed to favor one philosophical position over another would
be removed. The logic of this decision, to quote one thinker who puts it nicely,
turned on the idea that the problem could be resolved “by simply allowing silence
to speak for all viewpoints.” The phrase “human dignity” was decoupled from
any explicit referent, concept, philosophical explanation, or political justification.
It was simply declaimed. Given that all parties agreed that human dignity and hu-
man rights were of unique worth and of central concern, and given that all parties
agreed that human rights follow from and are grounded in human dignity, human
dignity was put forth in a purely formal way. Procedurally speaking it was simply
taken for granted that the referent of human dignity was obvious and stable and
could simply be “recognized” in the world. Strategically speaking, the declaration
would be crafted so as to allow for variable concepts to be attached to the term and
thereby to the referent. In cutting off debate, the members of the commission knew
what they were doing. It is not clear, however, whether they understood how what
they were doing would ramify.

THE FORMALIZATION OF DIGNITY

The final wording of the Universal Declaration has become familiar. It does not
strike us as particular and certainly not peculiar—if it ever did. The wording is simi-
lar enough to both previous and subsequent political formulations that its subtleties
easily can be passed over as though the declaration were simply the latest variation
on the long history of humanisms in the West. However, both ontologically and
anthropologically—not to mention ethically and politically—the wording and its
function warrants careful attention.

Several lines are particularly significant. The preamble tells us that the declara-
tion is premised on “recognition of the inherent dignity and of the equal and in-
alienable rights of all members of the human family,” that such inherent dignity and
rights are “the foundation of freedom, justice and peace in the world,” and therefore
that the abuse or refusal of dignity and rights results “in barbarous acts which have
outraged the conscience of mankind.” The preamble affirms “faith in fundamental
human rights, in the dignity and worth of the human person” and pledges commit-
ment to “the promotion of universal respect for and observance of human rights.”
Article 1 then asserts that “All human beings are born free and equal in dignity and
rights.” It tells us that humans are “endowed with reason and conscience” and that they should thereby act in “a spirit of brotherhood.”

What is human dignity then? Whatever else it may be, human dignity is that which is inherent and it is that which can be, and must be, recognized. It is the kind of thing that one can have faith in. It does not need to account for itself by pointing beyond itself to a feature of human nature, reason, or the divine. It is not derivative of these features, nor is it cultivated or produced. It is, rather, what defines humans as part of the human family. Moreover, and in addition to all this, it is the source of political goods. The recognition of dignity issues in freedom, justice, and peace, and its violation brings with it outrage and disunity.

A number of years ago, the legal scholar Klaus Dicke published an essay that, among other things, offers a meditation on the significance of the fact that human dignity in these passages is set forth in a strictly formal manner. This formalism, Dicke suggested, was elaborated in a threefold manner. First, dignity was figured as a given. Second, it was figured without explicit substantive definition—at least insofar as the question of origins is concerned. Third, it was figured as the source and guarantee of human good. Human dignity, as a given, is also a moral mandate and places an absolute obligation on conscience and thereby political action. However, in the course of the declaration, human dignity does not remain a matter of pure form. Where explicit substantive definition might be lacking, tacit and operational definition quickly fills in. It fills in by way of something like retrodiction. In the declaration, human dignity is declaimed as the ground for human rights. What proves to be the case, however, is that human rights, which are subsequently elaborated, effectively define the substance of human dignity. Dignity is only a guarantee of goods to the extent that the rights that adhere in it are assured. Dignity and rights share a mutually formative and constraining relation, and that relation defines what it means to be human, politically speaking. Among other things, all of this means that, in the declaration, a heterogeneous and novel anthropology is synthesized.

Several aspects about this anthropology are particularly crucial. First, the human is that being whose dignity is immanent and inherent. It is immanent in that dignity does not point beyond itself to another source. It is inherent in that dignity is coincident with being human, per se, and is therefore an essential truth about human being. And insofar as it is coincident with the actuality of being human, dignity is self-referential. I do not mean to say that the delegates to the CHR proclaimed dignity to be self-referential; the debate over sources indicates that most delegates conceived of dignity as grounded in origins of one sort or another. In the course of these debates dignity was not taken to be self-referential. Nevertheless, human dignity, as formulated in the declaration, simply refers to
itself; it is self-grounding. This is a first crucial anthropological artifact of the pragmatic and procedural solution to the problem of origins: self-referentiality and self-grounding.

The second artifact concerns the mode of reasoning proper to a self-referential dignity. Terms such as “recognition,” “faith,” and of course “declaration” are not incidental but rather indicate that the speech-acts that can be taken to be true about human dignity are those produced and authorized in a declamatory fashion. I think it is reasonable to suggest that this conception of the human, this immanent form of dignity, would not have been put in play and would not have come to be commonplace in discussions of human rights if any of the alternatives in the debate over the question of the source of dignity had been found acceptable: reason, God, nature, or the like. Neither these terms nor the modes of reasoning recommending them carried the day. Instead, human dignity was simply declaimed. Consequently, the human was enshrined as that being whose truth could be conceived through a mode of reasoning that was neither theological nor scientific, neither demonstrative nor verificational, but declamatory. The second anthropological artifact of the declaration is that the human is that being whose dignity must simply be declaimed.

The third artifact concerns the mode of jurisdiction appropriate to, even prescribed by, human dignity. The declaration states that human dignity is inherent, and, as inherent, it is the guarantee of human goods. It is morally non-negotiable. As a guarantee of human goods it functions as both absolute and transcendental. It is therefore inviolable: violations of dignity result in outrageous and barbarous acts. It is also demanding: given the fact of past barbarism and the constant threat of further outrage, human dignity prescribes what must be done. And what is it that must be done? Insofar as human dignity is inherent and absolute, it is not susceptible to the play of minimization and maximization. It does not derive from a capacity or a characteristic that could be variable or cultivated. Human dignity does not require the daily conduct of conduct either toward the governmental ends of wealth and security or toward ethical ends of virtue and justice (although dignity will certain provide the metric according to which governance and ethics might be rightly aligned). Rather, dignity requires protection, reorientation, and redress. Dignity must be protected against violation. Dignity must reorient those practices that threaten to violate it. And dignity commands us to redress those situations where dignity has been compromised. The third anthropological artifact, then, is this: in relation to human dignity practices of protection, reorientation, and redress are uniquely appropriate and urgently needed. Human dignity is simultaneously the guarantee of peace and the warrant for emergency intervention where peace has been compromised.
In *Gaudium et spes* human dignity is not, strictly speaking, self-referential (after all, the challenge there was to show how such inherent dignity is ontologically established by the supernatural as cause and aim of humanity), and the goods it ensures are not only this-worldly (the challenge, of course, was to show how the goods of this world can be put in continuity with eternal goods). At the same time, the figure of the human in the declaration is not altogether inconsistent with the figure produced at Vatican II. The dignity of the human is constitutive, essential, available to declamation, and in need of protection. It is archonic. Human dignity in the declaration is primordial; it thereby governs what must be done.

Let me return to Dicke’s “founding function” of dignity for a moment. Although human dignity is not given substantive definition by the CHR, it is given formal definition. The declaration defines the substance of dignity indirectly by elaborating the forms that it takes in human life. Dignified human life is marked by certain characteristics, certain goods, such as freedom, equality, and participation. These goods, in turn, are given definition by the collection of specific rights and duties attached to them (for example, the right to life, equality before the law, freedom of religion, etc.). Two key definitional claims follow. Human dignity is actual as a set of goods. This set of goods takes concrete form in specific rights and duties. The subtlety of these two claims is that they are presented in the declaration as though specific rights and duties, via goods, are deduced from human dignity. In fact, within the content of the document, quite the opposite is the case—a point made by Schultziner. Even a brief survey of the range of rights that were included in the declaration suggests that the figure of the human, insofar as it is taken to be the object and anchor of all of these rights, must be something of complex and possibly inconsistent being. What counts in the end, however, is not whether this complexity or inconsistency can be philosophically or legally justified. Rather, what counts is whether human dignity as figured in the declaration is ontologically capable of synthesizing and fixing these rights without regard to their relative consistency. Again: a reciprocal relation is produced. Human dignity receives its substantive definition from rights and duties. Rights are the form of the primordial and the outward sign of its status. The archonic grounds and synthesizes while being defined and given form by the derivative and heterogeneous.

One of the crucial accomplishments of the Universal Declaration is that it successfully specifies a rationale and a mode according to which mechanisms of jurisdiction can be fashioned and implemented. Put in general terms, the declaration determines a concrete, if complex, problem within a broader problem space. And it articulates a possible solution to that problem. The broader problem space consists in the question of the worth of human beings and the limits and failings of
existing modes and instruments of power relative to that worth—a question taken to be particularly acute in the wake of World War II. The concrete problem that it determines is how to make recognition of inherent human dignity the guarantor of core human goods—freedom, justice, peace—and the failure to recognize human dignity the cause of outrage and atrocity. The outward sign of that recognition or lack of recognition is the support for or violation of fundamental rights. A series of indeterminations, difficulties, and blockages are taken up through the declamation of human dignity and framed as a problem of the violation of inherent rights.

As a result two possibilities emerge. First, the archonic can function as an absolute and primordial ground. Second, through human rights, the archonic, which otherwise is not available to intervention and could not otherwise be worked on, becomes available to equipmental intervention. What’s more (and this is the subject of the concluding section of this chapter), a mode of jurisdiction is designed that appears to be amenable to being interfaced with, and where needed reordering of, existing modes of state power. This mode is emergency intervention. The violation of human dignities constitutes an exceptional circumstance, in the sense that the goods of political order otherwise arise out of the recognition of dignity. Human rights are one type of equipment for intervening in the internal life of sovereign states, but only where dignity is being violated. The notion of a “humanitarian crisis” won’t be articulated for another twenty years, and even then by NGOs and not by the United Nations. But the idea that the violation of human dignity and human rights is an exceptional circumstance calling for and justifying intervention is already in play with the declaration. Human dignity is not the kind of thing that needs to be managed as a matter of the daily conduct of conduct. It needs protection. Of course, the declaration does in fact call for the guarantee of certain positive rights and duties—rights to marry, to change nationality, etc. These rights and duties would seem to indicate a mode of intervention beyond protection, one moving in the direction of cultivation or development. It is important to note how these rights are framed, however. Their actualization does not amount to the cultivation or development of human dignity. Rather, these rights, with the others, indicate that human dignity is being recognized, that is, guaranteed and protected. The commission’s work was certainly not the first attempt to connect the protection of dignity to the guarantee of rights. It was exemplary, however. Moreover, given that the major world powers were crafting the declaration, it was also constitutional both in terms of the United Nations and in terms of the history of discourse on rights. In short, human rights functioned as a pragmatic means of transforming human dignity
into the concrete problem of violation such that a set of possible practical solutions could become available. In the end, such practical solutions were not forthcoming. As Charles Malik, the delegate from Lebanon put it: “the crux of the whole question of human rights lay in the implementation of measures for their protection.” On this score, work on the declaration was initially seen as only a modest success. The fact that other venues, such as NGOs and other religious and secular humanitarian organizations, have taken the conception of human dignity as developed in the declaration as the object and warrant for their interventions changes the assessment.

The third session of the CHR took place from September to December 1948. During this session delegates held eighty-five meetings to discuss the declaration. The final draft submitted by the subcommittee was passed by the full CHR 29–0. The declaration was sent on to the General Assembly. The CHR decided to forgo also sending recommendations on the covenant or on implementation; too little progress had been made on those fronts. Debate at the General Assembly echoed that in the commission: the hierarchy of rights, the question of origins, instruments of implementation, and so on. Nonetheless, on December 10 the declaration was passed by a vote of 48–0, with multiple abstentions.

As Normand and Zaidi underscore, the vote was far from the global consensus that has subsequently been claimed for the declaration. The Soviet delegation as well as many Latin American countries continued to insist that their amendments and vision for the relation of human dignity to national sovereignty were unfairly blocked. A few of these were among those who abstained. Nevertheless, even these countries were happy to take credit for the significance of what had been accomplished. Perhaps Roosevelt overstated that significance when she said that the declaration would “serve as a common standard of achievement for all peoples of all nations.” She was, after all, among those who failed to facilitate any serious mechanism for implementation. Nevertheless, by bracketing the question of the source of human dignity and by fragmenting the relations between moral declaration, legal convention, and political implementation, human dignity was ultimately figured in archonic form, a form ratified by almost all involved, a form that has subsequently proved generative as an anchor point for a wide range of humanitarian practices. It is no small thing that through negotiation and compromise, reformulation and omission, a distinctive mode of talking about things human was put into political play. The question remains, however, as to why it is that the United Nations had such a difficult time making itself into a venue capable of taking up human dignity as an object of active care and therein making itself capable of turning talk of human rights into a practice.
At more or less the same time as the formation of the CHR, the United Nations Educational Scientific and Cultural Organization (UNESCO) convened a parallel project on human rights and human dignity.24 This project focused on philosophical issues and practical dilemmas likely to be encountered in the work of producing a universal declaration on human rights within the sort of international setting found at the United Nations. Participants in the UNESCO project included an array of seminal thinkers including, among others, the British international theorist E. H. Carr, the French Thomist philosopher Jacques Maritain, the revolutionary leader of the Indian nonviolence movement Mohandas Gandhi, the Indian poet and philosopher Humayun Kabir, and the American philosopher Richard McKeon. The project was overseen by Julian Huxley, who, at the time, was serving as UNESCO’s director general.25

The project served to provide second-order observation and analysis of the commission’s work as it unfolded. The participants took up the question of rights and dignity without the burden of the commission’s own first-order constraints, that is, having to produce practicable and politically negotiated results, and therefore they were able to make the CHR’s work and deliberations part of their own object of analysis. The results of the UNESCO project are striking in that many of the challenges of producing the Universal Declaration were anticipated and analytically parsed. The project is also noteworthy in that its diagnoses, offered in what amounts to real time, remain pertinent.

One contribution is exemplary in this regard: an essay by Richard McKeon entitled “The Philosphic Bases and Material Circumstances of the Rights of Man.” The essay, completed in advance of the CHR’s final session of work on the declaration, anticipates what was subsequently confirmed: that the difficulties faced by the CHR in constituting a venue centered on a universal conception of human dignity and the transformation of human rights talk into nondiscursive practice are problems more basic than micropolitics between delegates of member states. McKeon’s essay proposes that the double work of philosophical and moral formulation on the one side and of legal and political implementation on the other inevitably involves a series of tradeoffs between conceptual clarity and pragmatic headway.26 This means that the anticipated goods associated with the formulation of a Declaration of Human Rights come at a cost, a cost that one must be willing to pay either in terms of truth or power. The procedural fragmentation played out by the CHR, while by no means inevitable, can be understood as a strategy for managing the types of tradeoffs McKeon describes. The fact that the CHR was not, in the end, willing to pay the
full price of such tradeoffs, one that might have led more directly to implementation, is clear. That efforts were made in this direction, however, is significant.

McKeon’s essay centers on a pragmatic question: in a multinational context such as the United Nations, what is the worth of a declaration of human rights, and how can such a declaration be made workable? The answer to the first is given in straightforward terms: a declaration, rightly conceived, can produce a frame “within which men may move peacefully to a uniform practice and to a universal understanding of fundamental human rights.” Note the double supposition: both a uniform practice and universal understanding are lacking. Uniformity and universality are at stake. The answer to the second question is more complicated and forms the core of McKeon’s essay.

McKeon’s proposal for developing a workable declaration begins with a two-part diagnosis. First is that the problem of developing a bill of rights in the postwar world is not at all the same thing as constituting a bill of rights in other centuries and under other political arrangements. If a workable declaration is to be produced, this first point must be understood: the problem has changed. Second is that a workable solution depends on “the possibility of separating the political from the philosophical question.” The task of formulating a universal declaration can be conceived either as a matter of elaborating philosophic solutions from which an agreed-upon list of rights could be derived. Or it can be conceived of as a matter of elaborating a political frame within which common actions and common ends can be specified and philosophic differences more or less bracketed. “The utility of a declaration of human rights,” says McKeon, requires more than the distinction of these two approaches. It depends on a kind of strategic separation—recognizing points of connection and interdependence—according to which the two problems are related to each other in a recursive and not sequential manner. A workable declaration depends on understanding that the problem has changed and that philosophic and political aspects of the problem need to be taken up recursively.

McKeon elaborates this two-part diagnosis in three sections. In the first section McKeon argues that the problem of creating a bill of rights has changed in two basic respects, which map onto his separation of the philosophic and the political. With regard to the philosophic, it has come to be taken for granted, McKeon proposes, that the world is basically divided into two mutually opposed and conflicting ideologies—socialism and liberalism. These ideologies draw together and synthesize a range of philosophical, political, religious, and economic differences and serve to reduce an otherwise complicated array of variables into two sets of simple oppositions. Whether or not the world really is divided in this way, and whether or not the synthesis of all differences into prevailing ideologies is philosophically defensible, matters less than the objective fact that those working out a world declaration take
this division and this synthesis to be real and defining. In addition, and equally im-
portant, this division appears amenable to resolution only through the emergence of
a new single philosophy that reconciles and absorbs both, a philosophical reconcilia-
tion that is likely not forthcoming, or, much more likely, through all-out war. 29

McKeon suggests that this philosophic or ideological blockage needs to be re-
solved through agreement on courses of action calibrated not to a universal phi-
losophy but to the identification of shared values and ends. A commitment to
common action and shared values takes form and is stabilized in the first place by
constitutional frameworks, like that of the UN Charter. Specialized agencies, such
as the United Nations’ commissions, furnish the means by which such agreement,
common action, and the equitable solution of common problems can be reached.
The focus can thus be on a commitment to facilitating human welfare and the
common good and perhaps, along the way, on the achievement of common moral
understandings. The formulation of a declaration of human rights will be basic to
establishing a pragmatic way forward. But the declaration will need to be rooted in
practical and not philosophic unanimity. 30

The second section: If the problem today is different because the world is philo-
sophically divided, it is also different because the meaning of key terms, such as
rights, freedom, or democracy, has also shifted. 31 Such shifts carry with them con-
siderable implications for political practice. McKeon tells us that these differences
and implications become most apparent in the introduction of a new class of rights.
Eighteenth-century formulations consisted principally of the elaboration of those
rights “inherent in the nature of man” and that function to set the limits on the
excesses of governmental interference. Rights set the external boundaries on gov-
ernmental power in the name of fundamental laws, natural or divine. As I proposed
in the previous chapter, fundamental laws, natural and divine, in the Middle Ages
served as the basis and multiplier of sovereign power, sovereign power as juridical
power. In the seventeenth and eighteenth centuries, however, these fundamental
laws were reconceived not as sources of power but as checks on the new govern-
mental modes of power characteristic of the raison d’état. However—and this is
the point McKeon draws our attention to—at the time the CHR was beginning
its work on the Declaration of Human Rights, rights were no longer restricted to a
negative limit on the state. A new series of rights has been placed alongside rights
protecting the individual from governmental interference. These rights demand
something from government. They demand the cultivation of opportunities and
conditions that can only be secured by governmental action: economic and social
rights, the right to education, the right to work, the right to a fair share of the gains
of science and civilization. Rights are not just a matter of limitation but call for a
new mode of power to be exercised. 32
With the introduction of this new regime of rights, unanimity of action was likely to be difficult. These difficulties are familiar, and McKeon merely abbreviates the challenges. These economic and social rights suggest a very different political anthropology than the figure of the human at work in classical renderings of the “rights of man.” The “human” of social rights depends on a certain ordering of material circumstances in order to flourish, where the human of individual rights stands before a contracted social order as its end and limit. All of this is well known. The distinctive point that McKeon wants to make is that because of these changes in the meaning and situation of rights the attempt to solve the philosophic problem by way of a political mechanism cannot be straightforward. The ways in which rights are conceived carry with them anthropological and ontological dimensions that encumber the task of selecting out and agreeing on common courses of action—especially insofar as those dimensions are connected to existing institutions and practices. The veridictional dimensions and the jurisdictional dimensions continue to form part of a conjoined problematic.

The third section of McKeon’s essay concerns the question of what, then, to do. If the problem today is such that neither an exclusively philosophic nor a political solution is available, a strategy needs to be identified by way of which the two can be sorted out in relation to each other. McKeon suggests one possible way forward. The separation of the philosophic and political aspects of the problem, and the characterization of the differences and dependencies between those aspects, opens up a third problem space, within which work on a declaration might be conducted. If the philosophic, in McKeon’s formulation, concerns the relation of “men” to “governments” and the political concerns “governments” to one another, this third problem space concerns “the relation of groups of men and of states to one another.” This third problem space is given form within venues such as the United Nations in which a constitutional frame facilitates the creation of new meta-state or interstate agencies and provides the structures within which the practical relations between these agencies and states can be worked out. It is here, in this space between agencies and states, that McKeon thinks that “a world declaration of human rights” can be effectively elaborated. Among other things this space focuses energy and attention on the real stakes of the matter: the negotiation of modes and apparatuses of power and the terms of mutual adjustment that such apparatuses require.

The challenge in activating a declaration will not merely consist in “the recognition of agencies” within which a declaration of human rights can be worked out or even in the empowerment of those agencies to implement and carry forward such a declaration—although obviously neither of those can be taken for granted. The challenge, rather, is to establish a relation between the agencies and states, to work
out the power relations and sites of exchange between them in such a way that the philosophic and political problems can be addressed in a case-by-case fashion. In something of a circular procedure, such a case-based approach entails at least two requirements. In the first place it requires that all parties recognize that the legal and political implementation of rights and the philosophic interpretation of rights will vary under different circumstances, among different sovereign nations, and, likely, within different UN agencies depending on their missions. In the second place, it obviously also requires the creation of administrative, legislative, and judicial mechanisms by way of which and within which such a broad range of interpretations can be worked through. In this way, a catalogue of practical definitions will begin to fill in the spaces between divergent philosophies, and a history of practical actions will begin to align practices.

According to McKeon’s proposal the promulgation of a universal declaration—or “world declaration” as he refers to it—will, in the end, depend on tolerance for definitional ambiguity and the political equipment needed to work through such ambiguity while still enforcing human rights. One must be realistic about the fact that ambiguities will remain with regard to the question and problem of a uniform administration of human rights. There is no single basic philosophy that could rationalize such administration from the outset. One must also be realistic about the fact that ambiguities will persist with regard to philosophic matters. Without accepting ambiguity on this count, administrative practices cannot begin to move forward on a case-by-case basis. This double realism about ambiguity might allow concerned actors to eliminate enough of the sharp differences between them to allow for a single declaration of rights to be produced and for action on those rights to begin. At least this is what McKeon proposes as a possible means by which “men may move peacefully to a uniform practice and to a universal understanding of fundamental human rights.”

What does McKeon’s proposal add to our analysis of human dignity? First of all, as I have already noted, it suggests that the procedural fragmentation and the pragmatic closure of the conversation over the source and nature of human dignity, though enacted through the micropolitics of the CHR, could never be reducible to those micropolitics. The problem of fashioning a human rights apparatus predicated on human dignity but carried out by and in relation to sovereign nations includes the usual conceptual difficulties attending any political problem, but it additionally includes difficulties pertaining to the work of unsettling and readjusting relations of power. Moreover, McKeon’s proposal reminds us that the problem is not just the intransigence of power, per se, but the host of specific veridictory and jurisdictional encumbrances connected to introducing shifts into the general logic of power. It suggests that the veridictory and jurisdictional elements of the situa-
tion not only need to be analytically distinguished (which, on some level, is evident) but that they also need to be historically contextualized and brought into an under-determined and mutually adjusted relation. Modes and forms of truth production need to be brought into relation with modes and forms of governing in a recursive and mutually rectifying manner. Hence the need for tolerating a certain measure of ambiguity in the formation of both the definition of rights and the administration of the mechanisms of enforcement. Crucial to this is that the work of forming the relation between the philosophical and political needs to be facilitated by the creation of new venues. In the case of McKeon’s proposal, these would be venues that take philosophic coherence and uniformity of political action not as givens but as outcomes to be generated through case-based processes.

Needless to say McKeon’s proposal was not carried forward. Nevertheless, the declaration does exhibit characteristics not wholly unlike what McKeon anticipated. Three differences between what McKeon recommended and how the CHR actually proceeded are worth attending to. Although the CHR separated the philosophic and political problems, they never brought them back into a sustained recursive relation, whether through the implementation of case-based mechanisms such as those McKeon proposed or some other mechanism. The second difference, which on some level is more interesting, is that the separation of the political and the philosophical at the CHR did not so much result in a tolerance for underdefinition or ambiguity but actually served to produce a positive conception of human dignity that not only has endured and has even become predominant in the history of human rights but that was characterized by a coherent, if tacit, anthropology. This conception carries with it a quite specific set of parameters for formulating which political actions can be considered necessary and even urgent. Which is to say, although the CHR may not have produced a workable form of political equipment for the care of human dignity, they certainly determined a logic and mode according to which such equipment might be elaborated. The third difference is simply that the declaration of human dignity in the Universal Declaration served to insert an object of political care as well as a metric of political rationality into the heart of a political problem space otherwise defined and dominated by the apparatuses of state sovereignty. Although this insertion did not immediately produce a shift in practice, it nevertheless introduced the design parameters for a style of political reasoning that is not reducible to prior models. In this sense, and perhaps only in this sense, the CHR made good on the demand for something more from power: a form of care for human dignity. Whatever else McKeon’s analysis foresaw, it did not anticipate the effects of a pragmatic tradeoff between the veridictional and the jurisdictional at the level of refiguring political rationality or how the invention and elaboration of such a refigured rationality might prove to be significant.
Pastoral Power and the Politics of Dignity

Along the course of analyzing the development of modern arts of government, Foucault took time to clarify the stakes of his experimental inquiry. “The point,” as he described it, “is to show how the coupling of a set of practices and a regime of truth form an apparatus (dispositif) of knowledge-power that effectively marks out in reality that which did not exist and legitimately submits it to the division between true and false.” Such a division requires both a metric and a mode. The metric, in the case of the raison d’état, is normalization: privileging attention to things in the world that can be measured, arrayed, and normed. Its mode is regulation: the work of appropriately minimizing and maximizing governmental practices. The question of appropriateness, in turn, becomes a matter of constant adjustment and calibration in terms of knowledge of the nature of the object being governed and in terms of the presumed naturalness of the governmental practices themselves.

Human dignity and human rights likewise mark out in reality that to which governmental practices need to be submitted in terms of the division between true and false. But, of course, human dignity calls for a different mode and a different metric and therefore a different coupling of practices and truth into a different sort of apparatus. The metric is precisely that which cannot be normalized. And the appropriate mode called for cannot be a matter of minimization and maximization of governmental practice, per se (it is not a question, for example, of normalizing freedom of speech). However—and here is the twist and the point of distinction from the older juridical rights and their external limitation of the art of government—the question of appropriateness in the case of human dignity does remain, and it remains as a matter of knowledge of the nature of the object being governed and thereby a matter of the naturalness of the practices of power.

The declaration, after all, asserts that unless governments recognize human dignity, they cannot achieve the goods of peace and freedom. A truth claim about appropriate practices is being made here. The problem is how to adjust or reconcile the metric and mode of human dignity with the metric and mode characteristic of the biopolitical state. What is more, the problem is not simply that human dignity sets an outside limitation on state power. The Commission on Human Rights consisted of nothing more than delegates from sovereign states. The Universal Declaration on Human Rights serves as a stent by way of which human dignity is inserted not exactly into governance but into the field of political practice inside of state sovereignty. It is inserted into the body of sovereignty, if you will, although it is not integrated into it. Human dignity is formulated in an adjacent position to state power, a position neither entirely internal nor external to governmental apparatuses but that connects governmental apparatuses to a new apparatus of knowledge-power.
Said differently, human dignity as figured by the commission introduces a different logic of limitation into the *raison d’état*. The moral variable, which had been partially removed, is reinserted and combined with the veridictional calculus of governance. It takes the moral question of the *right to govern* and connects it with the scientific question of *how to govern* according to the nature of political objects. The question of the nature of peace, justice, and freedom, however, is said to turn on the political ontology of human dignity rather than on milieus made up of markets and populations. In this way human dignity functions to reintroduce the question of moral limitations back into the game of governance, but precisely as a matter of political *reason* and not only political *right*. Of course, it is not inserted as the object to be governed—human dignity is certainly not to be governed—but rather as a determinant of the field of relations within which governance takes place.

It should be said straightway that on a formal and binding level, the price to be paid at the United Nations would appear not to be that high for the insertion of this determinant. As Eleanor Roosevelt reminded the General Assembly, the declaration entailed no legal or contractual obligations of any kind on the part of governments actually to guarantee human rights. Despite this limitation, the fact that the declaration included language of pledge and promise is not nothing. As I have already noted, several scholars have argued that in international politics today almost no discourse has the moral legitimacy and traction of the discourse of human dignity and human rights. The Universal Declaration undoubtedly set one trajectory for this rise to prominence. But it is worth asking: is adjustment to the “soft power” of moral legitimacy the only price that sovereign states were asked to pay with regard to human dignity and human rights, which certainly do extract a cost at this level? As Foucault pointed out, the rationality of the art of government entails as a shift away from the question of legitimate/illegitimate rule to the question of effective/ineffective. The question then is this: does human dignity, taken up in an archonic mode, ask anything more of power in terms of its calculation of effectiveness and ineffectiveness, or does it only work as an external principle of limitation on questions of moral legitimacy?

I think this question can be responded to by running through a course of distinctions similar to those laid out in the last chapter regarding the art of government. Recall first that the mode of power characteristic of modern states, of the art of government, is distinctive in that it is not reducible to the juridical and pastoral modes that are prior to it. Second, *raison d’état* establishes a hinge between the limited character of state sovereignty and its unlimited character with regard to internal objectives. Third, although apparatuses of self-limitation begin to emerge within the state, these are calibrated to the task of governing according to the na-
ture of the object to be governed and the naturalness of the practice of government itself.

In a kind of parallel fashion, several distinctions can be made with regard to human dignity as it is fashioned in the declaration. The first point I want to be absolutely clear about is that human dignity is the anchor point for a distinctive jurisdictional mode. It is a central hypothesis of this book that this mode cannot be reduced to prior modes of power, generally speaking, and cannot be reduced to governmental, juridical, or pastoral modes in particular—though it overlaps with and shares elements of all three of these modes, particularly the pastoral. This means that whatever is significant about it, human dignity does not mark out the opening of a new political epoch or the exit out of a prior epoch. Apparatuses of human dignity today exist alongside of and in interconnected assemblages with other modes.

With this in mind, it is nonetheless clear that human dignity is not governmental. Whatever else we say about the archonic, it is not susceptible to normalization. The claim that it is not juridical is not as clear, however. Human dignity shares some resemblance to juridical modes in their classical forms. Foucault is clear that even with the emergence of the *raison d'état* nation-states do not abandon their relation to the juridical apparatuses characteristic of the late Middle Ages. A prominent feature of the development of modern states is the pressures generated by claims to divine law or the law of nature or to fundamental rights, which are regularly put forward as key limiting factors. The *raison d'état* in the seventeenth century may not be characterized by any mechanism of self-limitation, but it is often limited by appeal to the external and absolute character of fundamental laws and rights. The question is: is human dignity simply an appeal to such strategies of external limitation? It certainly must be this in part. Human dignity as archonic does establish criteria of limitation in terms of that which cannot be violated. However—and this point is absolutely crucial—human dignity is put forward by the CHR not just as an external limitation on governmental power. Rather, it is put forward as an internal factor that contributes to a positive form of government. The declaration claims that the worldly goods with which member states are concerned are predicated on a certain positive agenda: faith in and recognition of human dignity. What is more, the archonic does not only tell us what must not be done or what lines must not be crossed. It also tells us what must be done: human dignity must be protected, and political equipment that would facilitate such projection must be developed. So, human dignity may function as a principle of delimitation, but it is not simply a principle of external juridical limitation, and for this reason it is not only the remainder, the reciprocal face, or outside of governmental power.

Thus, working typologically, one can conclude that, although human dignity
interfaces with governmental and juridical modes and shares elements with both, it is not reducible to either. However, as I have already proposed, human dignity is in some ways closely aligned with pastoral power. Actually, the claim is not entirely my own. Foucault speculated that as long as forms of humanism persist as a positive political agenda, the modes of power once associated with the Christian pastorate would continue to operate even in political venues, and that their relative lack of prominence in the eighteenth and nineteenth centuries should not lead us to assume that pastoral power was somehow merely a remnant of a prior epoch. The conception of human dignity put forward in the declaration purports to be universal, which is obvious by the declaration's title. This universality is not simple, but synthetic. A read through of the list of human rights included in the declaration indicate a very particular obligation: these are the rights of individual humans as well as the rights of humanity. There is an inner link between humans and humanity that overcomes the scalar difference between individuals and collectives. What this means, among other things, is that the declaration, as a pledge on the part of the member states to care for humans as members of the human family, invokes the classical mandate of the Christian pastorate: omnes et singulatim, care “for all and for each one.” The archonic is not susceptible to cultivation or to normalization, at least not directly. So, although human dignity invokes the classic mandate of the pastorate, the mode of intervention appropriate to it is not that of the shepherd, either as the conductor of souls or the conductor of populations.

A first conclusion one can draw about human dignity, then, is that it is not reducible to prior modes of power even while being connected to them. The second is that it troubles the dynamics between the limitedness of external objectives and the unlimitedness of internal objectives characteristic of raison d’état, even in its later and more refined manifestations. I said in the last chapter that the declaration functioned as a device by which human dignity passes beyond a relation of external limitation to the raison d’état (such as was characteristic of previous juridical limitations) to something like a position inside of the raison d’état, inside in the sense that it is proposed as a positive variable in state practices of self-limitation. I also said that in doing this, human dignity does not actually become an integrated part of the raison d’état. Human dignity does not refine the conduct of conduct. It does not become a further refinement of governmental rationality. Rather, what human dignity does (or one thing that it is proposed that human dignity can be made to do) is reconfigure the dynamics according to which the state calibrates the logic of its relative limitations and unlimitedness.

On the one side, with regard to external relations, where peace had been a matter of mutual respect for autonomy among a multiplicity of states and where the raison d’état had set strict limits on states’ external objectives, it is now asserted
that peace is founded on a faith in human dignity and that states must take as an unlimited obligation to recognize and promote human dignity. On the other side, where the *raison d’état* had called for near-unlimited objectives within the life of the state, objectives only limited by the nature of the objects being governed and the biopolitical goods to be achieved through such governance, it is now asserted that the realization of better standards of political life depends on states checking their governmental practices against the claims of human dignity. Moreover, the declaration indicates how this adjustment of limitedness and unlimitedness should be accomplished: through the recognition, protection, and redress of human rights. If in the nineteenth and twentieth centuries the art of government had been refined by attention to the nature of the object to be governed and by attention to the naturalness of government to that nature, with the Universal Declaration the art of government must recognize that it is responsible to another object and therefore must take stock of the nature of that object in constituting the terms of its self-limitation.

So, human dignity is not just a juridical limitation on governmental practice. It is also a positive mode of jurisdiction. And this positive mode of jurisdiction troubles the relative limitedness of the external objectives and unlimitedness of the internal objectives of the state. With human dignity a distinct metric and mode of reasoning enter into the calculation of political practice. If the problem for the art of government is how to act in accordance with the nature of the object it governs, then the nature of human dignity does not so much require a different political problem as a different style of reasoning, one appropriate to an object with a different nature. This is the third conclusion one can draw about human dignity. It is a conclusion by which the difference between human dignity and human rights on the one side and the art of government on the other becomes clearer still. It also indicates the point where the problem of interfacing human dignity with governmental modes of political power and making that interface into a practice becomes most difficult.

The members of the CHR could not settle on a mode of reasoning—philosophical, theological, or legal—according to which human dignity could be defined and justified and according to which specific rights could be shown to reasonably follow. They did, however, agree on a metric according to which truth claims could be picked out and included in the declaration. The metric, of course, was dignity. Dignity was asserted as the defining feature of the human and the human family without reference to origin, source, or ground. It was thus put forward as if self-referential and archonic. Where the commission members had been unable to formulate a shared veridictional mode about the nature of dignity, their simple assertion of human dignity and the need to recognize dignity brought such a mode tacitly in tow. This veridictional mode can be called declamatory. Where the analytic of finitude will only admit as true or false those claims that are susceptible to
a metric of normalization, the politics of human dignity, operating according to a declamatory mode, will only admit as true or false those claims that concern the violation or protection of an absolute metric, dignity.

Foucault experimented with an analytic exercise helpful in thinking about dignity as a metric for the ordering of truth claims. He showed how a series of questions about power get inflected as new “regimes of truth” and enter into the art of governing. From the juridical to the governmental, he wrote, the question “Am I governing in conformity with fundamental divine or natural law?” shifts and becomes “Am I governing between the maximum and the minimum fixed for me by the nature of things?” With the assertion of archonic human dignity, a three-fold shift comes into play: “Can I govern in such a way that human dignity will be secure; can I intervene where it is being violated; and can I reorient other fields of activity so that dignity can be said to be recognized?” These questions do not turn on matters of the legitimacy and illegitimacy of power, although this might be implied. Rather, they turn on the question of how political equipment should be calibrated. Which activities should we care about, and which practices should be blocked or facilitated? In this way the notion of human rights becomes critical. How will we know if human dignity is being violated and if peace and freedom are being put at risk? We will know because human rights are not being protected or ensured.

One can see that the challenge faced by the Commission on Human Rights was both difficult and subtle. The challenge did not consist, first and foremost, in elaborating new criteria of legitimacy or in establishing external limitations and in that way blocking the excesses of state sovereignty. Nor did the challenge consist in recalibrating the instruments of governmentality so as to cultivate human dignity better through the creation of economic and social conditions, as the Soviet delegation had called for. The challenge for the CHR consisted, rather, in figuring out how to position governmental practice and this-worldly goods within the purview of the metric of dignity and how to invent and facilitate practices according to which such alignment can be implemented. At the CHR sovereign member states were effectively put in the position of having to rethink the relation of the absolute and the governmental and to give form to that relation such that the United Nations could constitute itself as a venue capable of facilitating the recognition of dignity and the elaboration of human rights.

The point of transforming the metric and mode of human dignity into political practice, however, was the point at which the CHR became blocked. The question of how human dignity can be institutionally connected to a mode of practice and put into play in the field of governmental relations was never satisfactorily resolved.
This juncture point between the conceptual and the equipmental is the point at which—to use McKeon’s terms—the philosophic problem was bracketed out in favor of the political problem. One can credit the CHR for what it did accomplish. It did in fact contribute to the problem of “the reasoned way of governing best” with regard to human dignity.

Perhaps more important, other organizations have subsequently taken up the figure of human dignity put forward in the declaration and have elaborated practices of intervention taking that figure as a warrant and point of reference. If the conception of things human offered in the declaration has worked better for, say, NGOs, this may be because, in the end, NGOs are not faced with the question of inventing modes of sovereign self-limitation. The problem for the CHR was precisely how to interface the demands of the art of governance and the demands of human dignity within a single venue: member states were asked to sign on to the proposition that they could and would recognize the humanity of their citizens as a source of political goods and thereby govern in accordance with that recognition. How to assemble the archonic and the biopolitical, and the extent to which such assemblage is possible, remain open questions. As we will see in the third case, this is a question that bioethicists, among others, have had to confront.

A crucial outcome of the CHR’s work was that the conception of human dignity and human rights they articulated could be used by subsequent actors to calibrate a mode of jurisdiction that is, in fact, orthogonal to the internal lives of states, if not altogether orthogonal to the art of government. The archonic, after all, is precisely that which cannot be cultivated, maximized, or minimized but only violated or protected. And it is not surprising that human dignity has been turned into a practice most effectively in situations cast as emergencies or crises. Such as it is, the human is dignified. As the declaration puts it, the human is born with dignity even if, at times, that dignity relies on a particular national or international order to be sustained. Where that order is taken to be lacking and human dignity is under threat, actors operating in the name of dignity take it as their right to cut across the claims of sovereignty and intervene in the internal affairs of nations. If human dignity is a matter of protection under emergency conditions, then human rights equipment requires a range of strategies and instruments. It requires vigilant monitoring to determine the extent to which governments are recognizing human dignity. Where human rights and therein human dignity are found to be violated, equipment is needed to intervene, to rectify, and to redress. The forms of this rectification and redress often incorporate techniques and technologies that might otherwise be part of “biopolitical” apparatuses—as can be seen in almost any situation of emergency aid where aid organizations are stepping in to fulfill what might otherwise be thought
of as the obligations of the state, from providing clean water to basic healthcare. It is for this reason, I suspect, that many scholars studying global public health and other humanitarian aid have found the concept of the biopolitical to be illuminative. In any event, whatever equipment was or was not elaborated by the United Nations, the orthogonal character of human dignity, exercised through human rights, has been a key to turning human dignity into a practice of care in the face of the perceived excesses and deficiencies of the art of government.

There is a price to be paid for this orthogonal relation to governance. And it is a price that for some will begin to seem too high, as I hope to show in the case of bioethics. The price to be paid is that human dignity, whatever the CHR imagined, has never really been made an integral part of governmental instruments. A relation of critical tension remains between dignitarian and biopolitical reasoning. If human dignity is not the kind of thing amenable to cultivation, this means, on the one side, that the archonic can put into question the excesses of biopolitical pursuits of wealth, health, and security. On the other side, this nonintegrated position means that human dignity is less useful for promoting, orienting, and supporting practices (whether scientific, political, or ethical) designed to increase such biopolitical goods. The archonic will retain a difficult relation with apparatuses of government. Whatever forms the art of caring for human dignity might take, when advanced in an archonic mode it remains in that strange and unresolved adjacency to government in which the CHR put it.

This indicates a second price to be paid for conceiving of human dignity in an archonic mode. To the extent that human dignity calls for a new mode of political practice, the question remains: what types of venues are actually capable of facilitating such practice? The answer will turn on two further questions. The first is methodological. How does one constitute a venue such that it is capable of bringing a new mode of power into relation with human dignity as the object of care and concern? This constitutional question obviously raises other difficulties, as we have seen. Which activities are appropriate to a given mode of power? Which are necessary, and which are urgent? And how will one know that these activities are urgent and necessary? Which truths about human dignity will need to be settled before equipment can be designed through which such activities can be facilitated? And, of course, what then does the venue in question need to be in order to facilitate these activities? What kind of equipment is to be facilitated in the name of protecting human dignity? Will the equipment be articulated as human rights? Will there be apparatuses of emergency intervention? Will the equipment be used to curb the excesses of government or to redress violations? The question of the capability of venues has everything to do with the challenge of turning truth claims about hu-
man dignity into practices. This question of how to constitute a venue capable of caring for human dignity becomes increasingly crucial as the discursive apparatus of human dignity begins to circulate into ever wider and more diverse domains. What is more, as this circulation increases and fragments, the problem of defining the terms of human dignity becomes more acute. The demand for better definitions gets made on all sides.

If the price to be paid on the side of human rights apparatuses for an orthogonal relation to sovereignty is a difficulty in access to governmental instruments, the ultimate price to be paid for state sovereignty is, of course, having its power limited. The difficulty at the United Nations was precisely how to reconcile all of this. The commission was expected to bring human dignity into zones of activity otherwise taken as proper to the exercise of state power. This insertion was largely discursive—declarative to be more precise—but the insertion was made nevertheless. Although human dignity as the CHR imagined it has not been integrated into state apparatuses, it was not conceived by the CHR as simply an external and limiting principle, either. This means, at the level of the CHR’s proposals, that the state could no longer exercise power only according to a metric of maximization and minimization. Analytically, one can say that with the declaration member states were put in a position in which they had to say to themselves and to other members: we are responsible for this object that cannot be normalized and that is not reducible to the unlimited exercise of power under the *raison d’état*; we must govern within view of this thing that we cannot violate and that we might have to protect. The declaration, after all, asserts that the guarantee of worldly goods not only requires the art of government but also the recognition of the archonic.

**POLITICAL EQUIPMENT AND HUMAN DIGNITY:**
**LIBERALISM AND SOCIALISM**

Normand and Zaidi make a claim about the work of the CHR, which on the surface of things does not seem problematic. The claim is a sort of summary diagnosis of the CHR’s early work. They tell us that, in the end, the majority of the delegates to the CHR rejected any fundamental challenges to “the predominance of a Western liberal frame for thinking about rights.” Such a diagnosis has a certain truth to it, as far as it goes. The commission members did in fact make a distinction between so-called civil and political rights, which are ostensibly attached to individuals without reference to their group identifications, and economic and social rights, which ostensibly could only be realized when a certain order of things was put into place governmentally. But such a diagnosis, suggesting that at the end of
the day the work of the CHR amounted to a kind of standoff between “liberalism” and “socialism,” covers over as much as it explains. As McKeon suggested, the presumption that the world is divided into two philosophical camps is itself one of the historical peculiarities of the modern situation. That is to say, the presumption of the analytic salience of this dyad does not take seriously enough the fact that the historical circumstances under which these designations are produced cannot be taken for granted. The fact is that member states on all sides resisted giving form to practices for the care of human dignity in a mode of human rights, insofar as these practices stood in tension with the regnant modes of exercising power characteristic of existing regimes. An emphasis on conflict between liberalism and socialism also covers over the ways in which, in an attempt to negotiate philosophic and political impasses, a distinctive figure of political thought and action was introduced into the world. Whatever the terms “liberalism” and “socialism” might refer to in regard to the work of the CHR, a significant outcome was the insertion of the archonic into governmental apparatuses, an insertion that cannot be reduced to either tropes of juridical limit or a biopolitical remainder.

The question, I think, is not whether liberalism or socialism wins out with human rights. The question is: what mode of political practice did the declaration recommend? As a kind of summary we can enumerate several elements. The first is the most apparent. The political practice recommended by the declaration is that which gives attention to and turns its activity toward human dignity. Human dignity is what needs to be cared for. The problem is not just that human dignity is at risk of violation and that such violations are scandalous. In addition, the declaration tells us that the goods of peace, justice, freedom, etc. depend on a proper recognition of dignity. What, then, would proper recognition consist in? What tekhnē, what art of care, is appropriate to it? What techniques are appropriate to the archonic? The forms of practice one might foster as a means of realizing the protection of the archonic are no doubt numerous. But what all practices would need to have in common, a shared calibrating factor across all of them, is that they would need to take up a vigilant relation to possible excesses of other modes and relations of power. The crucial activities would not be those that orient other modes of power, per se. Nor would they be those that limit other modes in a kind of regularized and constitutive sort of way. Rather, they would need to be practices that remain close enough to other forms of power so as to inflect or reorder them when the occasion is called for.

We might say that the equipmental mode recommended by the archonic conception of human dignity is moderative. As a verb, the term “moderate” refers both to an adjustment in quantity, intensity, or portion, as well as to exercise control or influence over something, to preside. As an adjective, the term can mean to avoid
excess or extremes of conduct. Moderative practices for the care of the archonic would neither be an outside limitation on state power, nor would they form part of the raison d’état as that object whose nature one would need to attend to in order to know whether or not one was governing too much. The care of human dignity is not about the governmental conduct of conduct, per se. Rather, human rights equipment would need to be positioned alongside state power. In this space, neither outside nor inside of the art of government, two things could be facilitated. The first is that the United Nations could watch over human dignity and intervene at those places where rights were being violated. The second is that governments could operate with human dignity just in view as the source and guarantee of certain kinds of worldly goods. It bears noting that it is here that we see the clearest deviation from classical modes of juridical reason. Where fundamental rights had previously been a matter of limiting the space of government, and therefore letting sovereignty be within its proper sphere, human dignity will not limit sovereignty but will seek to moderate sovereignty within its own sphere.

The extent to which the United Nations has been successful in implementing equipment of this sort is obviously open to question. It is clear that other organizations have found means of animating the vigilant observation of the governmental activities and strategic interventions involving, among other things, both the work of making violations visible and, where possible, intervening in an emergency and limited fashion. The fact that these efforts have been increasingly entangled in governmental and military apparatuses of multiple sorts, all in the name of human dignity, is a topic that warrants still more attention than it is currently receiving. The militarization of humanitarian work is yet another zone in which new problems and new modes and forms of practice are reconfiguring the ways in which we think about and intervene on things human.

Whatever the pragmatic outcome, it is fair to say that in a fashion not altogether dissimilar to the Vatican, the CHR proposed a reconfigured and restylized form of pastoral power. It was oriented by an updated form of the classical mandate of omnes et singulatim. Despite being composed of sovereign states, the United Nations had presumed to constitute itself, by way of human rights, as capable of a mode and form of political practice calibrated to the care of “the human family,” all and each one as dignified. In this sense, what the United Nations was attempting to do—again, not unlike the Vatican—did have a kind of rough precedent, insofar as they did not invent the general logic of pastoral power as a mode of exercising power. But by interpolating that logic into a new problem space, it opened up a different range of practices and a different range of ramifications. As with the Vatican, one of the challenges was to take up this demand without direct access to the mechanisms of government, ecclesial or political. And as with the Vatican, the conception of
human dignity formulated by the CHR calls for a mode of care that recognizes and protects human dignity. This means that human dignity itself does not need to be moderated. It means that those practices that bear on human dignity, those practices that constitute or violate human rights, need to be moderated in the name of human dignity.