

Human Rights as a Global Conversation about Human Dignity

Position Paper

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Scholars and writers who study “human rights” have done so in various ways. In his study of “An Akan Perspective on Human Rights,” the Ghanaian philosopher Kwasi Wiredu defined “human rights” as “claims that people are entitled to make ... by virtue of their status as human beings.”¹ The Canadian writer Michael Ignatieff sees human rights as “the language through which individuals have created a defense of their autonomy against the oppression of religion, state, family, and group.”² In his book *Human Rights*, the British political scientist Michael Freeman identified “human rights” as a set of norms outlined in international documents for the protection of vulnerable groups against all forms of violence and “unjust customs.”³

People may disagree over what human rights are, and from whose value systems they come. But even those who claim that there is a distinctively “African perspective” on human rights, or different ways in which “Africans” and “non-Africans” perceive and promote these rights agree that human rights are values that confer dignity and respect on every human being, and, therefore, should be guaranteed in every human society.⁴ As Michael Ignatieff has argued, human rights have become a global phenomenon “not because it serves the interest of the powerful,” but “because it has advanced the interests of the powerless.”⁵ Today, workers, women, minority groups, children, refugees, and people with physical disabilities, who are often the victims of prejudice and discrimination in some societies, are now able to appeal to human rights norms to demand respect for their identity and humanity. As a value system, human rights in all their manifestations-----right to life; right to work; freedom of thought, respect for one’s

¹ Kwasi Wiredu, *Cultural Universals and Particulars: An African Perspective* (Bloomington, IN.: Indiana University Press, 1996), p. 157.

² Michael Ignatieff, *Human Rights As Politics and Idolatry* [edited by Amy Gutman] (Princeton, New Jersey: Princeton University Press, 2001), p. 83.

³ Michael Freeman, *Human Rights* (Malden, MA.: Polity Press, 2002), pp. 1-2

⁴ Josiah A.M. Cobbah, “African Values and the Human Rights Debate: An African Perspective,” *Human Rights Quarterly* 9 (1987): 310, 320, 321, 322,; Tim Murithi, “A local response to the global human rights standard: the *ubuntu* perspective on human dignity,” *Globalization, Societies and Education* 5, no. 1 (November 2007): 278.

⁵ Ignatieff, *Human Rights As Politics and Idolatry*, p.7.

identity, etc----offer a secular alternative to discriminatory religious beliefs and social traditions in a pluralist world.

As entitlements that individuals and groups claim to protect their dignity as human beings, human rights have become the legal and moral criteria by which a progressive and tolerant society can be distinguished from a conservative and intolerant one. Yet, human rights conversation tends to stir up passions between Europeans and Americans, on one side, and Africans, on the other, over the importance of “individual rights” and the relevance of “group” or “community” obligations in the organization of human society. Thus, what should be a simple conversation about “human dignity,” defined as the intrinsic worth of every human being, often descend into acrimonious debates over “individual” versus “communal rights”; “universal rights” versus “cultural relativism”; “national identity” versus “global citizenship.” These contentious “debates” over human rights have been fuelled, in part, by unhelpful ideological scholarship about the “origins” of human rights, as claims and entitlements, and how they were written down in “international laws.”

Fighting over “origins” and “ownership” of “human rights.”

There is a continuing “debate” about the “history of human rights” or whose ideas or values they are. This debate tends to degenerate into claims that today’s global human rights norms emerged from “Western” (that is European and American) “liberal values” that emphasize the freedom or “autonomy” of the “individual” human being over the aspirations and prescriptions of that individual’s society or ethnic community. In a much-quoted article written on this subject in 1982, the American political scientist Jack Donnelly argued, controversially, that “the concept of human rights is an artifact of modern Western civilization.”⁶ In Donnelly’s view, respect for the “dignity” of human beings (human dignity), an ethic that all societies have, is not the same as individual liberty, freedom and autonomy (human rights), a fundamental norm that exist only in Western cultural and political traditions. Those who have viewed Donnelly’s controversial claims uncritically have also argued, controversially, and rhetorically,

⁶ Jack Donnelly, “Human Rights and Human Dignity: An Analytic Critique of Non-Western Conceptions of Human Rights,” *The American Political Science Review* 76 (1982): 303. See also Jack Donnelly, “In Defense of the Universal Declaration Model,” in Gene M. Lyons and James Mayall, eds., *International Human Rights in the 21st Century* (Lanham, MD.: Rowman & Littlefield Publishers, Inc., 2003), p. 26. For further analyses of this approach to the discussion of the history of human rights, see Freeman, *Human Rights*, Chapter 2.

that since every nation has its own culture and values, there could be no common or “universal” ideas of human rights that all human societies share.⁷ The inherent demand, in these types of arguments, for the appreciation of “differences” in the values and traditions of nations, in global interactions, is understandable. But, these arguments can also become a rhetorical instrument for human rights abuses. It is not difficult to imagine that governments, churches, elders and organizations that wish to violate other people’s human rights will make these or similar arguments to deflect criticism of their oppressive conduct. The appeals to “culture”, “tradition” and “community” in human rights talk, have often overlooked the historical origins of particular customs and traditions; who created and enforced them, at what point in time and for what purpose, and for whose benefit?

Certainly, some scholars who have written about the “history” of human rights, have given too much credit to Western thinkers as the originators of the idea of human rights. By overlooking the historical reality that human rights are actually inherent in every human society, these scholars have promoted the unhelpful impression that human rights are Western values that Europe and America gave to the rest of the world. As the Nigerian sociologist Biko Agozino has pointed out, in the same century that the English issued their *Magna Carta*, in 1215, outlining the rights and freedoms that English people were entitled to, and long before the Americans declared the same in their *Bill of Rights*, in 1789, the Mandingo people of Mali, in West Africa, had proclaimed their own principles of human rights, in 1236, that affirmed the intrinsic worth of “every human being” and not just the Mandingo nobility.⁸ Here, the Mandingo were ahead of the English and Americans in human rights thought. In other parts of the African continent, Mandingo liberal values also mirrored similar freedoms and autonomies that some African kingdoms and societies granted their individual members and social groups long before contact with Europeans and “Western liberalism.” For example, respect for women and equality of the genders existed in many matrilineal societies in precolonial Ghana, and among the Igbo of Onitsha, in precolonial Nigeria, in West Africa. Freedom of religious thought existed in the kingdoms of Kongo and Ndongo, in Central Africa, before the arrival of the Portuguese there in 1492. Diversity of sexual orientations existed in the Kingdom of Buganda, before the influence

⁷ Josiah A.M. Cobbah, “African Values and the Human Rights Debate: An African Perspective,” pp. 309, 310, 320, 321, 322-323, 324-325. . See also Amy Gutman’s “Introduction” to Michael Ignatieff’s book *Human Rights as Politics and Idolatry*, p. v.iii., and Peter N. Stearns, *Human Rights in World History* (London: Routledge, 2012), pp. xi, 5-8.

⁸ Biko Agozino, “Contributions of Africana Scholars to the Theory of Human Rights in Sociology,” *Theories and Praxis* 2, 1 (2013): 1-2., 7.

of British Christian missionaries in that East African kingdom, in the late nineteenth century.⁹ The prevalence of these human rights values in some African societies should not obscure the existence of harsh treatment of women and the enforcement of brutal customs and traditions in other African societies that infringed on human rights.

It is safe to argue that not every group of people in Africa “proclaimed” their notions of dignity and “humaneness” as the Mandingo and other Western human rights thinkers did. The absence of paper “documentation” of notions of rights should not imply the absence of human rights values. Therefore, claims that African societies lacked the concept and practice of human rights overlook the historical evidence that in some precolonial African systems of thought “individual and group rights” were viewed as “inseparable” bedrocks of human rights.¹⁰ Beyond the debates over the origins of human rights ideas, and how “universal” or “culturally-specific” they are, there is another controversy over how human rights principles were written down in international legal documents and whose aspirations these documents embody.

Suspicious over the codification of international human rights laws

Eleanor Roosevelt, wife of the American president Franklin Delano Roosevelt, led the movement to write down the 30 human rights principles that exist today in the Universal Declaration of Human Rights (UDHR) of 10 December 1948.¹¹ The UDHR is the main source of today’s international human rights law. Yet, the absence of representatives from Africa and other societies under colonial rule, among the eighteen people who drafted the UDHR, has aroused suspicion that this international human rights declaration is a “Western liberal ideology” imposed on the rest of the world.¹² Tim Murithi has criticized the UDHR as lacking “adequate recognition” of “African” thoughts on human dignity.¹³

⁹ Wiredu, *Cultural Universals and Particulars*; Agozino, “Contributions of Africana Scholars to the theory of Human Rights in Sociology,” p. 7. For analyses of the history of sexual diversity in the history of precolonial Buganda, see Kristen Cheney, “Locating Neocolonialism, “Tradition” and Human Rights in Uganda’s Gay Death Penalty.,” *African Studies Review* 55, no. 2 (Sept. 2015): 79-88. See also Mikki van Zyl, “Are same sex Marriages UnAfrican? Same-sex Relationships and belonging in Post-Apartheid South Africa,” *Journal of Social Issues* 67, no. 2 (2011): 338.

¹⁰ Biko Agozino, “Contributions of Africana Scholars to the Theory of Human Rights in Sociology,” pp. 2, 1 (2013): 1-2., 7.

¹¹ Facing History and Ourselves, *Fundamental Freedoms: Eleanor Roosevelt and the Universal Declaration of Human Rights* (Brookline, MA.: Facing History and Ourselves, 2010), pp. 1-3, 5, 148.

¹² Cobbah, “African Values and the Human Rights Debate,” p. 316. See also Murithi, “A local response to the global human rights standard;,” p. 278.

¹³ Ibid..

It is important to look at the unique circumstances under which the Universal Declaration of Human Rights was put together. The world had just witnessed the depths of human cruelty in the Holocaust, the organized and systematic attempt by Germany under the Nazi regime to exterminate Jews as a group across Europe and the world with about 6 million of them actually destroyed in concentration and death camps. Jews were not the only victims. The Nazi regime had also targeted members of the Jehovah Witnesses (as a religious group), and homosexuals (as a social group), among others, for annihilation. More than one million Africans had fought and died, as colonial subjects, in battlefields in East Africa, Burma, and in Europe, in the war that brought these horrendous Nazi atrocities to an end between 1939 and 1945. These brave sons of Africa fought Nazi Germany and Fascist Italy to ensure that black people could enjoy the fundamental human right to life. No one can know for certain what the fate of black Africans would have been, given what the Nazis had done to the Jews, had Adolf Hitler's Germany won World War II. Hitler had not hidden his contempt for Blacks and Jews in his well-publicized book *Mein Kampf*.¹⁴ With the Nazi policy of sterilizing Black Germans so that they could not reproduce themselves as a racial group, it is reasonable to assume that a post-war world controlled by the Nazis would not have respected or protected the human rights and dignity of Africans. Therefore, despite the absence of African delegates on the "Human Rights Commission" that drafted the UDHR, what its members including Charles Malik (Lebanese), P.C. Chang (Chinese), and John Humphrey (Canadian), did, actually represented various human values, and, therefore, spoke loudly to the aspirations of Africans and those who were not present.

The preamble of the UDHR captures these values and aspirations. It acknowledges that the "inherent dignity" and "the equal and inalienable rights of all members of the human family" are the "foundation of freedom, justice and peace in the world." That disregard for human rights have, throughout human history, resulted in acts that offended human conscience. That in the new post-war world, "human beings shall enjoy freedom of speech and belief and freedom from fear and want." The UDHR proclaims these values as neither European, American nor African values, but rather as "a common standard of achievement for all peoples and all nations."¹⁵

The adoption, in June 1981, of an "African Charter on Human and Peoples' Rights" (ACHPR) by member states of the then Organization of African Unity was a legal affirmation of the fact that the rights and freedoms enshrined in the UDHR are also the "values of African

¹⁴ Clarence Lusane, *Hitler's Black Victims: The Historical Experiences of Afro-Germans, European Blacks, Africans, and African Americans in the Nazi Era* (New York: Routledge, 2002); Rafael Scheck, *Hitler's African Victims: The German Army Massacre of Black French Soldiers in 1940* (Cambridge: Cambridge University Press, 2006).

¹⁵ Facing History and Ourselves, *Fundamental Freedoms*, pp. 152-155; 212-213.

civilization” and, therefore, worthy of “national and international protection.” The 68 articles that constitute the ACHPR may be larger in number than the 30 principles in the UDHR. However, they do not deviate from the rights to life and freedom from persecution that the UDHR grants to every individual human being, and which the African Charter also affirms as fundamental human rights to which “[e]very individual” in Africa is “entitled” without discrimination on the bases of “race, ethnic group, color, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status.” These rights are affirmed in Articles 2 and 5 of the African Charter.¹⁶ Ghana ratified this Charter on 24 January 1989.

Playing “politics” with human dignity

There is no doubt that the selective application of human rights norms in international affairs is the greatest flaw in global human rights observance. When Western nations selectively apply international human rights norms in their dealings with non-Western nations or nations they do not consider as “allies”, that deepens suspicion that human rights talk is a mere political rhetoric that industrialized nations in the West employ to cajole developing nations in Africa into obedience. African leaders bent on overlooking the legal checks that human rights norms impose on how they treat their citizens have often pointed to the politicization of human rights in global affairs to dismiss human rights activists in their countries as puppets of Western imperialism. Nowhere in the world, today, has this attitude become more of an impediment to human rights observance than in countries in Africa where minority groups are persecuted in the name of preserving “African culture and tradition.” Playing politics with the dignity and lives of our fellow human beings undermines the kind of respectful and inclusive conversation about human rights that African nations should have.

A better human rights discourse for Ghana and Africa

What human rights talk has become today in our national and international conversation on human dignity is a sad commentary on what human rights are and why we need them. In our 21st century world, we should see human rights as claims and aspirations that individuals and groups in a nation-state assert to protect their dignity as human beings and the responsibility of national governments and the rest of society to respect those claims and aspirations. After all, a “group” is defined by its “individual” members, and it is individuals in their diverse identities who represent a nation’s social and economic wealth. Therefore, there are immense social and

¹⁶ African (Banjul) Charter on Human and Peoples’ Rights (Adopted 27 June 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21. L.L.M. 58 (1982), entered into force 21 October 1986, at http://www.achpr.org/files/instruments/achpr/banjul_charter.pdf.

economic benefits to be derived from promoting tolerant and inclusive discourse on how we treat one another.

If we look at “international human rights laws” beyond the nations or people who participated in their codification as legal documents, we will recognize that the notion of human dignity that underpin them exists in all human societies. At the time they were written down, bold statements about human dignity were necessary to galvanize human conscience. It should not matter who was present and who was absent at the table. The legitimacy of human rights, “international” or “African” should derive from their affirmation of the inherent dignity of the human person, equality of all, and freedom from fear of being treated in a degrading manner. Collective commitment to the basic human values of tolerance, respect, empathy, understanding and accepting difference should become the criteria by which we should judge how far a nation, a continent and its diverse people have come in their journey through civilization and social transformation. Social justice requires that we seek a constructive and ethical pathway for resolving our disagreements over the meaning of individual and group aspirations in society. That is an ethical and inclusive way to build a nation and guarantee global peace.

