Moral Revolution, Human Rights, and the Myth of African Cultural Uniqueness
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*F*or many of us, whether we are Americans or Africans, the assertion that human beings have rights that they can and ought to be able to claim against the society and others, is a settled issue. We hardly question any longer the idea that "each and every human being is sacred — each and every human being is 'inviolable', has 'inherent dignity and worth', is 'an end in himself', or the like."[1] As a consequence of our belief in the inherent worth and dignity of the human person, we further believe that "certain choices should be made and certain other choices rejected; in particular, certain things ought not to be done to any human being and certain other things ought to be done for every human being."[2]

Surely, it took the West many centuries with enormous cost in human lives and property before arriving at this position. As a matter of fact, at the time the United Nations adopted the Universal Declaration of Human Rights (UDHR), the United States Library of Congress did not have a human rights entry in its index. Kofi Annan, Secretary-General of the United Nations, alluded to this

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history in his opening remarks at the 54th session of the Commission on Human Rights in Geneva, noting that "[T]he Universal Declaration and the inviolable principles that it enshrines were the fruit of the tireless efforts and determination of men and women from all parts of the world."[3] Today, thanks to these past efforts and determination, efforts that should rightly be called struggles in moral revolution, it is an established premise of our private and public morality that "we are a right-claiming and right-recognizing species."[4] We make this claim on the basis of the conviction that having rights and enjoying them is part of what it means to be a human being, to live a well-functioning and relatively flourishing life. Consequently, "what we regard as ours by right is what we are unwilling to beg for and willing only within limits to say 'thank you' for."[5]

This unapologetic commitment to human rights norms as a moral shield against the danger of abuse that others might want to inflict on us has yet to become a universal principle of human and social conduct. As we speak, over a half-century after the historic and moral landmark of adopting the UDHR, people still die of hunger and poor health; children are still forced to work instead of receiving an education; people are still jailed, tortured, or killed because of their beliefs or their ethnic origins; girls are still sold into prostitution; ethnic minorities still suffer discrimination and abuse; and many people still remain without jobs.

Sadly, Africa carries a disproportionate share of these misfortunes. Nowhere else on the globe has so much violence killed so many people on so many occasions as in post-colonial Africa. The continent ranks in the top tier of regions where human rights are violated on a very massive scale, and with brutal consistency. Informed estimates also suggest that "Africa's refugee population constitutes one-half of the world's total refugee population."[6] The indicators of Africa's plight are staggering:

- Life expectancy is below 60 years in 28 countries. Life expectancy is below 50 years in 18 countries. Life expectancy in Sierra Leone is just 37 years.
- About half of the adult populations of at least 13 countries is illiterate.
- Half or more of women are illiterate in at least 18 countries.

- Children under five die at rates in excess of 100 per 1,000 in at least 28 countries. In Sierra Leone, the rate is 335 per 1,000.
- The population growth rate is 2.7 percent annually; almost four times the rate in the high-income countries.
- Among countries supplying such data to the World Bank (not all do), some of the most inequitable income distribution patterns are found in Africa. The most affluent account for about 47 percent of income in Kenya, South Africa, and Zimbabwe, and about 43 percent in Guinea-Bissau, Senegal, and Sierra Leone.[7]

This reality certainly begs for explanation. What I hope to do this afternoon is to argue that Africa's ambivalent attitude toward human rights ideology is partly responsible for her precarious condition. This ambivalence is also partly a reflection of the dominant views on culture in Africa. I will argue that one way of mitigating this ambivalence is for Africa to undergo what a fellow scholar from Cameroon aptly describes as a cultural adjustment program.[8] Specifically, I will argue that those discourses in which culture is invoked as an argument against universalism now largely belong to rulers, not to those who may need rights protected, who talk in terms of wrongs and needs, not rights and culture.

Before I do this, it is important that I clarify in a modest way my concept of human rights. As many of you know, the efforts toward a universal recognition and implementation of human rights have been bogged down by abstract philosophical debates about ontology and foundations. While such debates are certainly interesting and may be intellectually rewarding, I will not engage them. Rather, all I am interested in showing here are those central elements of the concept of a human right that any plausible understanding of human rights must incorporate. I believe that it is possible to achieve a minimal consensus on these central elements, and to use them as tests by which to judge any particular socio-historical and contextual formulations of human rights.

First, human rights, as they have come to be understood in the international community, express *ultimate moral* concerns. They function as moral vocabularies for articulating inter-personal and trans-cultural moral obligations. As such, persons have a moral

duty to respect human rights, a duty that does not derive from a more general moral duty to comply with national or international legal instruments. (In fact, the opposite may hold: conformity with human rights is a moral requirement on any legal order, whose capacity to create moral obligations depends in part on such conformity.) Second, human rights express *weighty* moral concerns, which normally override other normative considerations. Third, these moral concerns are focused on *human beings*, as all of them and they alone have human rights and the special moral status associated therewith. Fourth, with respect to these moral concerns, all human beings have *equal status:* they have exactly the same human rights, and the moral significance of these rights and their fulfillment does not vary with whose human rights are at stake. Fifth, human rights express moral concerns that are *unrestricted*, i.e., they ought to be respected by all human agents irrespective of their particular epoch, culture, religion, moral tradition or philosophy. Sixth, these moral concerns are *broadly sharable*, i.e., capable of being understood and appreciated by persons from different epochs and cultures as well as by adherents of a variety of different religions, moral traditions and philosophies. The notions of unrestrictedness and broad sharability are related in that we tend to feel more confident about conceiving of a moral concern as unrestricted when this concern is not parochial to some particular epoch, culture, religion, moral tradition or philosophy.[9]

Perspectives on Human Rights in Africa

Many voices are involved in human rights struggles in Africa. These voices represent persons and groups of divergent social, political, and ideological orientations. There are activists, academicians, government officials, local and international NGOs, all claiming to speak for and on behalf of Africa, and their activities are not a recent occurrence. Of course, it is common knowledge that Africans were not involved in the conversations leading up to the adoption of the UDHR because the continent was still a territorial satellite of the European powers. Thus, prior to the political independence of African countries, which began with Ghana in 1957, there were no substantive theoretical articulations of human rights from a distinctively African perspective. However, the anti-colonial movements, in both their political and religious manifes-

tations, were a precursor to the modern human rights movements, which provided the intellectual bedrock for the array of values that have come to be identified with African moral historiography. "The struggle for independence in Africa," one scholar notes, "predated the UDHR and remains, with the anti-apartheid campaign, the most popular and successful human rights movement known to African peoples."[10] In other words, before Africans joined the international human rights community, a clear indication of which was the adoption of the *African Charter on Human and Peoples' Rights* in 1981, there was evidence of serious commitments to many of the values that underpin the international human rights ideology. This is true at different levels of society, notwithstanding the fact that some African languages do not have direct equivalents to the phrase 'human rights.' Yet, "neither the notion of justice that underlies human rights nor the experience of struggle to realize these rights is unknown to Africa."[11] Even while they find it ironic that many of the nations advocating the universalization of human rights held colonies and harbored many oppressed groups within their own borders, Africans were not entirely agnostic or skeptical about the importance of human rights values.

But what Africans tend to affirm with one hand, they have also tended to pull down with the other hand. In particular, there is a strong opposition in certain quarters to what is sweepingly, albeit uncritically, regarded as Western or non-African theories of human rights. If the idea of universalization is to have more than rhetorical significance, they argue, Africans must be able to contextualize international human rights norms. This is a matter of logical entailment and pragmatic necessities. For, if the claim that all humans have rights is true, to impose on Africans formulations of rights that lack their cultural imprints would seem utterly illogical. It would also help the cause of universalizing rights if all voices are permitted to shape their conceptualizations and modes of their implementation. These considerations underlie some of the claims associated with the so-called African perspectives on human rights. Among these are:

> That the value orientations of African culture and tradition furnish a normative vision that is radically different from that contained in the internationally recognized human rights;

That the internationally recognized human rights are nothing more than moral cajolery, a neat disguise for the perpetuation of Euro-American hegemony over non-western societies; thus, the geographical origin of human rights, as presently formulated and understood in the international arena, imposes severe constraints on their transferability;

That the notion of the individual *as such*, understood as the bearer of rights in the present international system of civilization, is dangerous to Africa's interests where communal advancement is valued over individual preferences;

That the long subjugation of sub-Saharan Africa to European imperialism dictates a different logic of national self-understanding and developmental priorities. In this regard, individual aspirations (or civil liberties) must yield to the imperative of national unity, and the guarantees of economic and material well-being are presumed to be more urgent than civil and political rights.

Each of these claims deserves serious critical interrogations with respect to foundations, appropriateness, and the extent to which all Africans embrace them. I will single out for special emphasis two of these claims. First, that the value orientations of African culture and tradition furnish a normative vision that is radically different from that contained in the internationally recognized human rights. Second and deriving from the first is the notion that African culture gives lexical priority to communal rights over individual rights. At issue in both is the extent to which African culture and traditions can serve as reliable sources for the promotion of, and respect for, human rights norms. What might the defenders of culture want to gain by their insistence on it as the only credible foundation for human rights in Africa? I will begin the process of answering this question by citing two cases that I hope will guide our reflection about what ought to be the proper relationship between human rights and culture. One case is fairly recent and the other is about three years old.

The first case is about a 17-year-old Nigerian Muslim girl. Her name is Bariya Ibrahim Magazu. She is from the northern state of

Zamfara. Zamfara was the first among several northern Nigerian states to adopt Shari'a, the Islamic holy law, shortly after the return of democracy to the country in 1998, following 15 years of military dictatorship. Bariya Magazu is unmarried, and so the discovery about 18 months ago that she was pregnant was considered a moral affront on a state that had justified its adoption of Shari'a on the basis of the alleged moral decay in the country. The girl was charged and found guilty by the Shari'a Court, and her confession that she was pressured by her father to have sex with three men, one of whom the father had wanted her to marry, was dismissed by the court on grounds of false testimony. The initial offense of pre-marital sex earned her 100 lashes of cane and the accusation of false testimony earned her additional punishment of 80 lashes of cane, all of which were to be carried out in a public square, surrounded by a crowd of curious spectators and state-recruited sycophants. At no time during the proceedings did the court consider performing DNA tests to determine the paternity of the child, nor did the incongruity of the fact that Islam does not have a doctrine of virgin birth mitigate the blatant injustice unleashed on the girl for an act that falls beyond the realm of unilateral discretion.

The second case is about a newly married woman in Zimbabwe, whose name and tribe I will not mention here. According to the prevailing custom of her society, her first sexual encounter after marriage should be with her father-in-law whose obligation it is to determine whether the lady was a virgin or not. Because the woman refused to sleep with her father-in-law, the husband's family sued her for daring to break the tradition. The case went all the way to Zimbabwe's Supreme Court, which subsequently ruled in favor of the family on the ground that the society's culture constitutes the normative framework within which a woman is to negotiate her interests.

Both these cases demonstrate the paradoxical nature of human rights language and how culture-talk can exacerbate that paradox. In each case, we see how the right of the individual is subverted in order to defend a people's right to be governed by the norms of culture. How should we adjudicate in this kind of situation? Shouldn't Muslims have a right to be governed by what they believe best represent their values? If democratic Nigeria (or any other country which claims to be a democracy) is faithful to its political tenets, how can the Muslims not be allowed to exercise their right to reli-

gious freedom and expression? The same question can be asked in behalf of people who invoke the customary law of marriage as a derivative of permissible human rights expression. But what happens when what is being defended in the name of rights — whether religious law or customary law — itself violates the legitimate human rights of the people these laws are supposed to protect? Who has the right to interpret and apply these laws? What are the history and the politics of interpretations within the different communities of these laws? Who decides the fairness of interpretation and application of these laws?

These questions presuppose that cultures are beholden to higher principles by which they should be judged. These higher principles are what the international community now affirms as human rights, but many African leaders and thinkers respond that there is nothing higher about the principles. Rather than seeing them as universal principles, they assert that they are products of alien and formerly dominant cultures. They are clearly correct if the claim is seen as a recognition that these rights, and the ways in which they are described (and institutionalized), arise out of particular historical experiences in Western Europe and America and that they are part of a constantly worked-over narrative of the legal and political cultures of some of these countries. They were also originally 'universal' only rhetorically and they could co-exist without much discomfort not only with both empire and slavery, but with the effective denial of the universal rights to an 'internal' majority.

But the claim that 'rights' are cultural does not dispose of the question of the desirability of 'rights' being universal. Many of the defenders of the African cultural theory of rights fail to make this distinction. They wrongly presuppose by their invocation of culture that Africa is a cultural monolith. Nothing can be farther from the truth. There are no longer (if ever there were) single cultures in any country/polity/legal system, but many. Cultures are very complex conversations within any legal social formation. The tendency to use culture as a means to describe group difference is a legacy of the African past; it is a part of the intellectual history of empire. Even while the earlier social sciences were freeing themselves from racially determined explanation of difference, they remained within a broad narrative of cultural evolution in which there were backward cultures (which could, if guided, move for-

ward). Cultural difference, like racial difference, was a marker of inferiority and condemnation. The practical experiences of colonial rule, and the development of the anthropology of African societies, changed in this paradigm. African cultures were subject to a variety of portrayals, from exotic, to different but functionally equal, to functionally necessary so as to prevent social disintegration. For a variety of reasons both Western governors and social scientists came to defend cultural differences. Likewise, African intellectuals abandoned an early acceptance of cultural assimilation, and celebrated, elaborated and defended difference.

The same intellectuals now largely ignore this history of the fluidity of culture and the constantly shifting patterns of cultural negotiation of meanings, identity, and authenticity. They operate on the assumption that the cultural realm is one of relative permanence and stability and temporal depth. They see cultures as developing over long periods in relatively closed and stable communities which generate shared patterns of behavior and belief that are comprehensible, communicable and legitimate to members of a group over prolonged periods of time. But this form of analysis, while it may once have been appropriate to explain the long-term development of nationalism and national cultures, or the practices and beliefs of isolated communities, may no longer be appropriate to a world of globalized communications in which the circulation of knowledge and images has been dramatically increased in volume and speed. This is not an argument which necessarily leads toward global homogeneity, simply one which suggests that the circumstances of cultural formation are now significantly different, and that temporal depth and relative continuities of practice and belief may no longer be at the heart of a concept of culture.

Consequently, there is little reason why the currently dominant versions of Africa should remain unchanged and unchallenged. They could as well be subjected to precisely the kind of cultural work that transformed a rhetoric of rights in the West applicable only to property-owning white men into one which eventually spread to encompass in form, and slowly, but increasingly, in practice, all persons regardless of color or gender. The achievement of both color and gender equality in the West required and still requires a transformation of the cultures of many institutions — workplaces, trade unions, the church, the legal profession, families,

political parties, schools and so on — all at a different rate and in different ways. Gender equality, for example, could just as well have been described as alien to Western cultures as to non-Western ones. Certainly it was (and continues in important aspects to be) rejected by major Christian churches. It is the product of intense political struggle and cultural work, not immanence.

Should we then postulate that the current state of lukewarm acceptance of human rights idea in Africa has anything to do with African cultures at all? Certainly the major abuses of political rights at the state level are the products of the political institutions bequeathed by the colonial powers; of their weaknesses, and failures to deal with the multi-ethnic states created by colonialism; and of their powerlessness in relation to the goals of development because of the structure and workings of the world economy. Why anyone outside of the small elite which has benefited from this state of affairs would want to defend it as culturally 'African' is not clear. On the other hand, there are features of post-colonial African 'cultures' which do not conform to the universalized version of rights rhetoric, particularly in relation to gender discrimination in property ownership and marriage. Should these be protected, on the grounds of cultural inviolability, from the kinds of political and cultural struggles over property and gender which have been, and are, a feature of Western politics?

Much of the essentializing of the notion of culture, in the past few decades of rapid change in Africa, has been done in the context of the confrontational dialogues between generations and genders. These confrontations became particularly acute in times of change associated not simply with acculturation to 'foreign' ideas, but with fundamental economic and social changes which accompanied the introduction of the money economy, migrant labor, urbanization and pressures on forms of land tenure. The entrenchment of the 'cultural' response to change in Africa owes much as well to the attitude of both colonial and successor governments toward economic and social change. Colonial governments wanted to minimize the 'cultural' effects of economic changes because of an overriding fear of instability, and a similar stance — the view of change as disintegration — has been evident in successor independent governments. Culture was employed as a defense for, justification of and positioning for advantage in a field of conflict over resources, as well as

being invoked as a metaphor for handling and resisting huge changes in ways of living. It has also been employed as a metaphor around which generations and genders, otherwise sharply divided, could be encouraged to unite in opposition to outsiders.

It is relatively easy to trace these processes in the history of modern Africa. The challenge in the present is to realize that it is processes of this sort, in the guise of post-modernism, which continue to give rise to invocations of culture, and the existence of a unified African culture. It is internal conflict about ways of doing things, far more than any other conflict with outsiders, that has led to the essentializing of cultures. Pragmatic practices become 'customs' to be insisted on; styles of religious practice become beliefs and orthodoxies. The intensity of some of the feelings of cultural belonging, and strength of attachment to custom, are testimony of the seriousness of the conflicts and the pace of displacement and change. The elite controllers of institutions (perhaps most importantly, state education systems), and of symbols, can resist internal generational, gender and other challenges by the deployment of images of an essentialized culture under external challenge. Such essentializing responses to change are ways of exerting authority, and they display partial immunity to discursive challenge, especially if it comes from an external source, as such challenge frequently serves to strengthen convictions.

Cultural differences are not simply given. The experience of difference depends on the power to create culture, on the labor of elites in essentializing, displaying, and institutionalizing elements of the myriad practices in any community. The processes of creation and representation of cultures in the post-colonial and post-Cold War world form one of multiple and mutual intersections between the elites of West and non-West. While the continuing process of 'orientalizing' has been much complained of by the orientalized, the elites of the orientalized cultures of the world have been actively complicit both in their own representation of themselves as 'other' and in the reverse process of occidentalizing, in which the 'West,' and especially individuality in Western cultures, is symbolized and portrayed as an opposing essence to the communality of the cultures that non-Western intellectuals (religious and secular) represent and control. Indeed, the establishment of this difference between individualism and communalism is crucial to the non-

Western elites' claim to constitute and to lead their 'cultures.'

There has been far less interest in the intellectual process of occidentalizing than there has been in orientalizing. Occidentalizing has taken two basic forms. One is the habit of Western scholars of non-Western societies in having resort to unexamined cliches concerning an undifferentiated 'West.' The second is the process by which the intellectuals in non-Western societies construct identities in opposition to imagined features of the 'West.' Both draw consciously on the major dichotomy of the grand narratives of Western history — that of *gemeinshchaft* and *gesellschaft* — but allocate cohesive Community to the non-West, and atomized Society to the West. An historical transition from agricultural to industrial societies is thereby transmuted into an a-historical cultural divide. New value judgments have become a part of this essentializing. One scholar observes how non-Western societies are typified by 'generosity, peace and dignity' and inhabited by 'wise ecologist(s) attuned to a fragile nature,' while the West is 'violent, rapacious and heedless.'[12] There is a search for essences, cores or central cultural symbols where differences between cultures seem to "hover on the edge of absolute incommensurability."[13]

Just as orientalizing was a part of imperialism and colonialism, so occidentalizing is a part of the emergence from colonial rule and cultural power. The West is used, Spencer writes, as a 'rhetorical counter,' occidentalism is a "mnemonic for the cultural contradictions engendered by colonial domination."[14] Images of the West are deployed as part of a "rhetoric of authenticity"[15] which opposes itself to Western modes of thought and cultural institutions and practices.

The fact of the matter is that the long tradition of liberal philosophies of rights, as well as Western-inspired rights declarations, is very clearly about groups. They are about the nature of group life, and how it should ideally work. They endeavor to prescribe the ground rules for associating in groups. The differences, therefore, are about the ground rules for associating in groups, not about individuals as opposed to groups, nor even about which has priority. Classical liberalism, from which rights doctrines flow, does not subordinate group to individual or individual to the group, but is concerned with the kind of group to which individuals belong. Furthermore, the attempt to depict Western societies as individualistic as an excuse for rejecting human rights doctrine or advocat-

ing a highly truncated version of it, misses the point that these very societies, with their powerful cohesive ideologies of nationalism, patriotism, collective action and welfarism, have been and are far more 'successful' groups on a larger scale over long periods of time, with better working consensual traditions of government, than the often fragmented, authoritarian, familial, localistically based societies which invoke cultural attachment to groupness.

Realizing the ideological hospitality of human rights doctrine to both individual and group interests is a part, and a necessary part, of what I envision and advocate as an African cultural adjustment program and the enduring moral revolution that the idea of human rights inaugurated over 50 years ago.

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NOTES

[1] Michael J. Perry, *The Idea of Human Rights: Four Inquiries* (New York: Oxford University Press, 1998), 5.

[2] Ibid.

[3] Quoted in *Ford Foundation Report* (Fall 1998), p. 10.

[4] Annette C. Baier, "Claims, Rights, Responsibilities," in *Prospects for a Common Morality*, ed. Gene Outka and John P. Reeder, Jr. (Princeton: Princeton University Press, 1993), 149.

[5] Ibid., 150.

[6] David R. Smock and Hrach Gregorian, "Introduction," in *Making War and Waging Peace: Foreign Intervention in Africa*, ed. David R. Smock (Washington, D.C.: United States Institute of Peace Press, 1993), 2.

[7] World Bank, *World Development Report* (Oxford: Oxford University Press, 1999).

[8] Daniel Etounga-Manguelle, "Does Africa Need a Cultural Adjustment Program?" in *Culture Matters: How Values Shape Human Progress*, ed. Lawrence E. Harrison and Samuel P. Huntington (New York: Basic Books, 2000), 65-77.

[9] See David Little, "The Nature and Basis of Human Rights," in *Prospects for a Common Morality*, ed. Gene Outka and John P. Reeder, Jr. (Princeton: Princeton University Press, 1993), 73-92.

[10] Chidi Anselm Odinkalu, "Why More Africans Don't Use Human Rights Language," *Human Rights Dialogue* 2, 1 (Winter 2000), 3.

[11] Ibid.

[12] J. G. Carrier, ed., *Occidentalism: Images of the West* (Oxford: Clarendon Press, 1995), 10.

[13] J. Spencer, "Occidentalism in the East: The Uses of the West in the Politics and Anthropology of South Asia," in *Occidentalism: Images of the West*, ed. J. G. Carrier (Oxford: Clarendon Press, 1995), 242.

[14] Ibid., 236.

[15] Ibid.