

**PHILOSOPHICAL FOUNDATIONS OF HUMAN RIGHTS: THE  
YORUBA EXAMPLE**

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**Abstract**

Some foundations have been provided for the social validity of human rights in Western philosophical literature. Some African scholars have also sought to ground the notion of human rights within the traditional African cultural beliefs and practices. There is, however, a dearth in literature on the Yoruba notion of human rights. Perhaps this may be due to scholars' attitude that any talk about human rights is incompatible with the communalistic social structure of the Yoruba. The present paper challenges this prevalent attitude by providing some philosophical foundations for human rights within the limits permitted by the Yoruba world-view. The paper attempts a theoretical reconciliation between the Yoruba claim to communitarianism and the possibility of human rights. The paper concludes that, in spite of the seemingly antinomic relation they bear to each other, the idea of human rights is neither practically meaningless/unintelligible in a communitarian society, nor is it conceptually incompatible with the communitarian ideology.

**Keywords:** Philosophical foundations, Human, Rights, Communitarianism, Yoruba

**Introduction**

Literature on human rights have swollen, and are still swelling. This continuous growth is partly accounted for in terms of the importance of the concept as a notion on which many things, both theoretically and practically, depend. If rights are values, then human beings, the carriers of rights, must be inherently valuable. That is, if human beings are said to be intrinsically valuable, then they are, as a result of their possession of certain inalienable rights. Human rights do not come with social status. Respect for human rights "does not signify kindness nor call for gratitude, for it is what justice requires" (LYONS 1979, 1). Rights are not conferred on individuals by reason of their belonging to certain groups such as political party, economic or social class, racial affiliation, religious denomination, or any group for that matter.

The question about the origin of human rights has been widely discussed in the Western philosophical writings (LOCKE 1924; KANT 1948; RAWLS 1999; GROTIUS 2005). These writings seem to agree on the foundation of human right as grounded in the ideas of freedom and rationality of all persons: all men are born free and rational, and hence, intrinsically valuable. Others have alluded to the equality of all men. As a matter of historical fact, the ideas of freedom and equality of all persons became so popular that it played a vital role in the conceptualization and implementation of many Western states' constitutions, the boldest of which are the opening lines of the American Declaration of Independence: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable Rights" (LINCOLN 1996) and the French declaration of the "Rights of Man,": "Men are born and remain free and equal in rights." (JAMES 1904)

Scholars like Jeremy Bentham (1792) have found the whole idea as suspect. Bentham's *Anarchical Fallacies* (1792) is specifically written to discredit the supposed merits of arguments for human rights, especially as contained in the French declaration of the "Rights of Man." According to Bentham, the idea of "natural rights is simple nonsense: natural and imprescriptible rights (an American phrase), rhetorical nonsense, nonsense upon stilts" (1792, 501). As noted by Amartya Sen, "that suspicion remains very alive today, and despite persistent use of the idea of human rights in practical affairs, there are many who see the idea of human rights as no more than 'bawling upon paper'..." (2004, 316).

Against the foregoing backgrounds, the present paper attempts a contribution to the human rights discourse within the Yoruba socio-cultural context. Specifically, the paper aims at constructing a natural theory of human rights, based on the conceptual and doctrinal standards of the Yoruba speaking nation. The paper is divided into four sections. The first part reflects on some of the definitions of rights that scholars have been offered in the history of discourse on human rights. Considering the alleged opposition of right talk to communitarian social structure, which may tempt one to conclude that the idea of human right is un-African in orientation, the second section examines the question of whether the idea of human rights is a universal phenomenon or it is only being universalized. The paper argues that, although the idea might have originated from libertarian writings, there is a sense in which it is implicitly present in every culture, and to this extent, it can be considered universal. In the third section, the paper considers some possible foundations for the idea of human rights within the context of the Yoruba metaphysical worldview. The paper concludes, in section

four, that, as far-fetched as the idea of human rights appears to the communitarian socio-political structure, it cannot be the case that *it* is completely alien to the traditional Yoruba socio-political thought system.

### **What are Human Rights?**

In spite of its popularity in contemporary moral and political discourse, the concept of right belongs to the category of concepts that are intuitively clear but theoretically difficult to understand. This has created room for the misuse of the concept to mean so many things that its real meaning remains obscure, if not elusive. It is easy to see why this is so. One, “in the Western world at the present time, right talk is one of the common ways of formulating moral issues, whether the issues involve only individuals or are between individual and communities or even when they involve the relationships of whole communities with one another” (OZAR 1985, 4). If David Ozar’s (1985) observation about right talk being “a way of formulating moral issues” is correct, then it seems plausible to characterize right talk as an evaluative social construct, which may be used, within a social context, either to justify a course of action as upholding the principle of human rights, or to disdain another as being defiant to the principle of human rights.

Also, the simple way in which the question; “What are human rights?” is asked does not help matters. “What is/are...?” questions are always not as innocent as they appear. In respect of ours, the question, “what are human rights?” seems more demanding than it appears at first glance. The question is vague, and thus capable of different significations. “What are human rights?” may mean asking for particular instances of the acts that constitute human rights. To answer this question appropriately, one may be required to find out that thing that makes the difference between a right-based act and an act that is not so based. This is the quest to state the constitutive element of right-based actions. On the other hand, the question may be interpreted to mean a quest to *define* what human rights are. Note, definitions of this sort only specify certain properties, which, if obtained in an act, makes same to be right-based act. Howsoever it is interpreted; the question is fraught with conceptual difficulties.

We shall here conceive the question, “What are human rights?” to mean a demand to specify what kind of entity human rights are. To put it less technically, the question could be interpreted to mean “What kind of claims are claims to rights?” Obviously, human rights are some kind of claim. If claims are like entitlements, then they presuppose duties or obligations on the part of others to affect the claims. Kwasi

Wiredu anticipates this line of reasoning when he defines a right as “a claim that people are entitled to make on others or on society at large by virtue of their status” (2003, 366). Although Wiredu’s (2003) definition stakes the validity of rights on others and the society at large, it fails to clarify the nature of such claims in a philosophically incontrovertible manner. This failure is generally attributed to the observation that “no simple definition of the form “a right is a....” can adequately explain this complex concept” (OZAR 1985, 4). As Ozar (1985, 4) would have us believe, to have a headway in grappling with the complexity of the concept of right, there is need to ask two closely related questions: “(1) What do we imply when we make the statement “A has a right, R, of some sort?”; and (2) “what condition must be fulfilled for such a statement to be true?” We adopt this theoretical framework in our search for an understanding of what sort of thing rights are.

Ozar (1985) identifies seven features of rights. One, right talk is about what ought or ought not to be done. Ozar’s (1985) writes, “When we say that someone has a right we are ...talking about what ought or ought not to be done.” This puts right talk in the moral perspective; right talk is moral talk. Principally, it is used to inform people of their obligations and to give explanation of our own and others’ choices and actions. Two, right talk presupposes an individual who has the rights. “A right always has a reference to an actor – or, in philosophical jargon, an “agent” – a being that acts and is acted upon” (OZAR 1985, 4). Rights do not exist in vacuum. All rights are someone’s rights. “There is debate about whether human rights apply to literally all human beings, including those that are not persons (such as anencephalic infants), and whether they apply to only human beings (or also to, say, chimps)” (METZ 2014, 133). The question of animal rights is still being defended by people like Tom Regan, who, without significant success, has tried to extend rights as applied to human, to non-human animals. Three, if there is someone who has rights, then there must be, at least, another who is morally or legally bound to fulfil these rights. “To say that someone, A, has a right, R, of some sort is to imply that someone else, B, has an obligation of some sort, to perform or refrain from some act relative to A” (OZAR 1985, 4). Rights never walk alone; they go in company of corresponding obligations. In other words, the idea of right would have been significantly meaningless had people no moral or legal obligations to behave in a particular way in relation to the right carrier. “A human right is essentially such that others have a stringent duty to the individual because she has some quality shared by characteristic human beings” (METZ 2014, 133). Thus, “rights are relational” by which Ozar (1985, 5) means that rights describe a kind of “relationship between a

person who has the right and others who have corresponding obligations to act or to refrain.”

The fourth feature is the overriding effect or character of rights. Consideration of rights takes priority over other things. Others may not matter, but right do in social discourse. To use Gregory Vlastos’ remark, “rights take precedence over many other sorts of moral considerations” (1962, 72). What this implies is that, the moral weight attached to the consideration of right is heavier than any other which might be available for the same purpose. The cogency of argument premised on rights is always superior to any alternative. Fifth, “to say that A has a right that B act or refrain in some way is to say not only that B has an obligation in this regard, but that B owes this to A” (OZAR 1985, 6). Failure to act or refrain from acting in conformity with the dictate of duty, is not only moral failing on a general note, but it is a failing against the holder of the relevant right.

Sixth, rights do not include right to impossible claim. If an agent lays claims to unrealistic rights, then others are under no moral or legal obligation to fulfil them. “Since there is never a moral obligation to do what is simply impossible, it follows that it is never the case that B do what is impossible or that B refrain from what B cannot possibly avoid” (OZAR 1985, 6). This may be termed the limits of rights. Rights are valid only when they carry humanly possible obligations.

The seventh and the last feature identified by Ozar (1985) is the existence of a special category of right which override all other rights, namely, the right to renounce one’s rights, either partially or completely. To put it schematically, “if A has a right, A has the option *not to exercise* that right and also the option to waive the right in particular cases and, possibly, altogether” (OZAR 1985, 6). This happens all the time. Consider a case where A leased a plot of land to B for two years. After the expiration of this period, A has right to his land back, while B has the obligation to relinquish the said land. But suppose B refuses to vacate the land for whatever reason, and A, being a nice guy, does not bother. One may call this self-forfeiture of rights. This feature is dotted with myriad of obscurities, however.

What are we to say about children, for example, who presumably have various rights but who are not competent to choose to waive or not exercise them? Can another person choose for them to exercise or not exercise, to waive or not waive, their rights? May every failure by a right holder to exercise a particular right be treated by the rest of us as a choice not to exercise the right; that is, does the responsibility for exercise always fall first on the right holder? May a pattern of

failure to exercise a right eventually be interpreted as a waiving of the right? Finally, are there rights that cannot be waived, which are—as the most traditional language expresses it — “inalienable”? (OZAR 1985, 7)

While these puzzles remain sufficiently unresolved, they do not seem to constitute much hindrance to our understanding of the concept of rights. At best, they provide various perspectives to the idea of right. Our awareness of these difficulties has a way of enhancing and broadening discourse on human rights, which is now a wide field of inquiry.

We have gone through the long list of features above basically for two reasons. One, they serve as the criteria for identifying *rights* in the multitude of acts. As insufficient as the list is, it is very important because it equips us with the ability to distinguish rights from other moral acts. Two, the list is fundamental to the assessment of right-value in traditional Yoruba metaphysical worldview. Suffice to say that if, in the analysis of certain Yoruba linguistic and non-linguistic materials, we are able to find traces of these features, then, arguably, the idea of right cannot be totally strange to them, in spite of their acclaimed communalistic social structure.

### **Are Human Rights Universal?**

The question whether human rights are universal becomes necessary at this juncture. This is because there is a sentiment amongst certain scholars<sup>1</sup> to the effect that talk about rights is the invention of the libertarian pattern of thought, and hence, the idea of human rights cannot be universal. Some of these scholars, especially the sub-Saharan African scholars among them, argue that the idea of rights is being made universal in order for its advocates, mainly Western scholars and politicians, to achieve certain ends, which may not be necessarily unselfish. Sometimes the universality of human rights is challenged on the grounds that those historically proclaimed right, are said to be Eurocentric and inappropriate, or only partially appropriate, to other cultures and circumstances (LUKES 1993, 20). As observed by Metz, “human rights discourse has often been criticized for serving ideological

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<sup>1</sup> One of such scholars is J. O. Famakinwa of the Department of Philosophy, Obafemi Awolowo University, Ile-Ife, Nigeria. My discussion with him on the issue of right reveals his thought as betraying that sentiment. For instance, he believes there cannot be African conception of right because “right talk” is alien to the African communalistic social structure. Claude Ake also holds a similar belief; see Claude Ake, “The African Context of Human Rights” in *Africa Today*, vol. 34, 1987, 5–12.

purposes, e.g., for legitimating forms of imperial intervention in the affairs of African and other countries” (2014, 134).

Claude Ake (1987), on his part, rejects the idea of human rights for its defiance to the social structural reality of the African communities. Specifically, Ake (1987) thinks that the idea of human rights is incompatible with communitarian societies such as found in Africa, for two reasons: one, it presupposes a society which is atomized or individualistic, whereas typical indigenous African societies are not; and two, because of the prevalent poverty of sub-Saharan Africans, the relevant rights are not those premised on claims to individual unbounded liberty, but those which empower Africans economically. Metz interprets Ake to mean that “access to socio-economic goods that would help people in ‘the struggle for existence in its brutal immediacy’ are much more important than rights for those who can ‘afford to pursue the more esoteric aspects of self- fulfilment’” (2014, 135).

Notice that Ake and other scholars to whom his style of argument is appealing, have not denied the existence of human rights, however. In the specific case of Ake (1987), there are human rights, except that, given the present poor state of many African societies, they are not the suitable type. Instead of individual human rights, Ake (1987) proposes group right, which he claims goes better with African communalistic social setting. As he argues, “If the idea of human rights is to make any sense at all in the African context, it has to incorporate them in a concept of communal human rights” (AKE 1987, 9-10). The concept of “communal human right” may be an invention of Ake (1987), but it is surely in the opposite direction of what we ordinarily take human rights to be, which in all cases, are *someone’s* rights.

A more radical repudiation of the idea of human rights can be found in Steven Lukes’ “Five Fables about Human Rights” (1993). In the paper, Lukes performs a thought-experiment whose conclusion aims primarily at discrediting the reality of the idea of human rights. Lukes (1993) considers the concept of human rights in five imaginary societies, namely, *Utilitaria*, *Communitaria*, *Proletaria*, *Libertaria* and *Egalitaria*, these being “five doctrines or outlook that are dominant in our time.” He soon finds out that human rights have no placement in utilitarian, communitarian and proletarian societies because the social patterns obtainable in these societies are largely incompatible with the idea of human rights. Even in Libertarian societies, where human rights flourish because of their strong belief in individualism, there is the problem of not taking them as seriously as they deserve. By not taking rights seriously, Lukes (1993) means the absence of equal treatment with respect amongst possessors of rights: Libertarians are not treated equally. Meanwhile, the question whether an Egalitarian society, as

ordinarily conceived, is feasible or viable within the present world remains significantly unanswered and equally puzzling.

To properly respond to the sceptical attitude such as Ake's and others above, one may be required to make a distinction between two types of right: conventional rights and moral rights. On the one hand, conventional rights are those verified by reference to a social rule or rule system or an institutional framework of some sort. "Such rights are called *conventional* rights because the existence of such rights depends upon the existence of particular social rules, rules system and institutions, whose existence depends in turn on the *acceptance* of rules, rule systems, and institutions by the parties involved" (OZAR 1985, 8). Conventional rights derive their validity from the existence of certain social institutions or standards, which are legitimated via their general acceptance by the inhabitants of such universe. The point to note here is that, for there to be conventional rights, the social rules, rule systems and institutional frameworks that validate them have to be present; otherwise conventional discourse about rights would be grossly unintelligible.

On the other hand are moral rights, which have also been known under various names, especially natural or human rights. These rights derive from the moral nature of things, and are independent of anyone's choosing. "When they are called natural rights, the emphasis may be on their being part of the nature of things, but this expression is also used to indicate that the basis of such rights lies in "human nature" – a stable and fundamental set of characteristics thought to be built into every human being" (OZAR 1985, 8). It is believed that human beings have some things in common, things that differentiate them from other forms of beings. These features, it is argued, places them in a special moral status in the universe. Moral or human rights come with this special status. Since their existence is founded on certain features shared by all human beings, moral rights "indicate those objects towards which and those areas within which every human being is entitled to act without securing further permission or assent" (WASSERSTROM 1979, 50). It is easy to see moral rights as the basis for British unwritten constitution, and other important historical documents including Magna Carta, American Bill of Rights and the Universal Declaration of Human Rights. Sometimes, these rights are described as "inalienable" because, beside the fact that they are not dependent on one's choice or acceptance of them, one cannot choose not to have them or waive them.

The distinction above is specifically necessary because it helps to argue the point that while it is possible to claim that traditional Africans lack the notion of conventional rights because of the absence of the social rules, rule systems and institutional frameworks under which

conventional rights are plausible, such cannot be said with regards to moral rights. While we believe that the experience of human beings may differ from culture to culture, there are reasons to believe that the human conditions remain the same across cultural boundaries. Across cultures, human beings are sentient beings, with the capacity to live, to feel pain, and to die. Also, most human beings have purposes, goals, aspirations and desires. These are by-products of human rationality, and the achievement of these (i.e., purposes, goals, etc.) is dependent on human freedom. Human rights therefore are like machineries put in place to ensure that human beings are free to use their rationality in the achievement of their purposes, goals, aspirations and desires.

In the ensuing section, the paper considers this above claim within the social context of the Yoruba people of Nigeria. The paper argues that there are linguistic and non-linguistic evidence to demonstrate the Yoruba awareness of the notion of human rights, even though there is need to put the latent materials in a clearer perspective.

### **Foundations of Human Rights: the Yoruba Example**

The Yoruba are not an unpopular group in Nigeria,<sup>2</sup> West Africa and some parts of the world, such as in Benin Republic, Togo, Brazil, Trinidad and Tobago, Jamaica, among others (FADIPE 1970; ATANDA 1980; OLUSANYA 1983; ADETUGBO 1991). Communitarian ideals permeate the socio-political thinking of the Yoruba. With a strong foundation in the extended family system, Yoruba communitarianism is informed by the conviction that all human beings are, in one way or another, related to one another. Hence, in the final analysis, humankind must have originated from the same source (IDOWU 1962). The normative conception of the African person as contained in John Mbiti's remark, "I am because we are" (1968, 108) and Desmond Tutu's "a person is a person through other persons" (1999, 35) is true for the Yoruba people. To be sure, the Yoruba people

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<sup>2</sup> The Yoruba group occupy the SouthWestern part of Nigeria, and consists of states such as Lagos, Ogun, Osun, Ondo, Ekiti, Oyo, Kwara, and some part of Edo, Delta and Kogi. The major language among this group is Yoruba. As a major group in both Nigeria and African continent, Yoruba consists of smaller groups which include: "the Egbado and Awori of the Ilaro division of Abeokuta Province of Nigeria; the Egba of Abeokuta Province; the various groups of Ijebu in Ijebu Province; the Oyo and Ilorin Provinces; the Ife and Ijesa of Oyo Province, the Ondo, the Idoko, Ikale and Ilaje of Ondo Province; the various small groups of related people collectively known as the Ekiti, the most important of which are people of Otun, Ado, Ikole, and Efon; the Yagba and the Igbomina of Ilorin and Kabba Provinces." See N. A. Fadipe, *The Sociology of the Yoruba*, Ibadan: Ibadan University Press, 1970, p. 29.

extol the virtue of communality above individuality. Among the Yoruba, there are sayings such as “Àgbájọ ọwọ lafi sàń’yà, àjèjé ọwọ kan kò gbẹ’rùr d’òríf” - which translates to mean “in togetherness we fight a common cause, a lonely hand does not lift the load to the head”; “ọtún wẹ òsì, òsì wẹ ọtún ni ọwọ fí í mó” – it is through reciprocal washing that the hands get clean. These sayings sure suggest a communitarian ideal. Sayings such as these might have influenced Ake’s rejection of human rights based on individualistic conception of the human person, and his upholding what he terms “group rights.” Ake overblows the idea of African communitarianism to exclude the possibility of individualism. A closer examination reveals, however, that the two social perspectives could be held consistently together within the Yoruba traditional social system. The point is not at all to discredit Ake’s position as untenable. Ake is correct that African values tend to be communitarian, but they are best interpreted as being only ‘moderately’ so, as Kwame Gyekye (1997) influentially puts it, meaning that they are consistent with human rights.

Segun Ogungbemi (1992) has argued for the belief in individuality of the human person from the perspective of the Yoruba. His evidences range from the Yoruba mythological account of creation, which is the creation of individuals, argument from self-consciousness, argument from freedom and argument from different desires (1992, 97-110). Specifically, Ogungbemi’s argument from self-consciousness harps on the fact that it takes individuality to be self-conscious. According to him:

When man first appeared on the earth, he was a solitary individual. To be in total isolation is a disease; hence he needs a corporate body to provide nurture and training, but that does not take away or obliterate his individuality. Because of the nature of self-awareness of an individual in Yoruba society, it is not uncommon to hear an individual say, *emi lo ni ara mi*, meaning “I own myself”; or *Mo mo iru eniyan ti mo je*, “I know the kind of person that I am.” This implies that he does not want anybody to tell him who he is. (1992, 103)

Ogungbemi’s (1992) view above is crucial to the acceptance of the concept of rights in the traditional Yoruba social context. It demonstrates the important point that, within the Yoruba world view, the individual is not crushed under the weight of the community. The individual has her identity intact, even though such identity is only meaningful in the light of others. On this view, there seems to be no significant difference between Africans and people elsewhere in the

world. This implies a theoretical amalgamation of individualism with communitarianism.

The foregoing discussion foregrounds the concept of human rights within its proper Yoruba theoretical perspective. Before proceeding to the discussion of the foundations of the concept of human rights in Yoruba social thought, there is the need to settle the question, “What does right translate to in Yoruba language?” There is one word that comes closest in meaning to the English word “right” in the Yoruba language, namely, “*ẹ̀tọ̀*”. But “*ẹ̀tọ̀*”, is incurably ambiguous.

Etymologically speaking, “*ẹ̀tọ̀*” is a nominal formed from the root verb, “*tọ̀*”, which literally has, at least, three significations: deserve (as in “*ika tọ̀ tọ̀ s’ímú laafi r’omú*”); befit (“*kò tọ̀ fún omo ẹ̀leran láti maa j’eegun*”) and; “to guide” or “to give direction to” (as in “*awon obí mi tọ̀ mi s’ónà*”). The interesting thing about these three ways of using the verb “*tọ̀*” is that, each of them carries the idea of rights, differently derived. For instance, there is a sense in which rights could refer to “that which is deserved.” This means that an assertion of right is a demand for that which one deserves. Right could also refer to “that which befits human status or person.” Except in cases where the human status has been tampered with through involvement in anti-social activities – human beings are, by nature, social, and acting anti-socially is acting against that nature – human beings are expected to be treated with respect and be accorded certain considerations which other non-human animals do not enjoy. Lastly,<sup>3</sup> right could be conceived as “that which regulate, guide or gives direction to our relationship with other persons in the community.” Rights are social compasses that define what our attitudes towards others, and others’ towards us, are.

So, how do we make sense of all this? Which of the senses of “*tọ̀*” well captures the sense of the English word, *right*? There seems to be two general ways of answering this question, both simple. One may choose the one that one thinks is the closest to the idea of right, West-conceived, then reject others on that ground. At the best, this would result in relativism because scholars may not agree on which of the senses of “*tọ̀*” is closest to the concept of right. Besides, having made a choice from the three, the choice made still would not have amounted to the concept of right, since this would only be a synonym, and synonyms do not imply meaning. On the other hand, one may make a synthesis of

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<sup>3</sup> This is just for the purpose of our argument here, as there are certainly other interpretations of *tọ̀* in Yoruba linguistic framework. J. O. Famakinwa, for instance suggested to me another of its senses, namely, “to last long” or “to endure”. This may not be directly relevant for our purpose because it does not apply to the moral nature of human beings, except if used with some qualifications attached.

the three senses, and fashion out a more encompassing understanding of “*ẹ̀tọ̀*” as that which all human beings deserve, which befits their status as human beings, and which guide or give direction to their relationship with other members of their community. Philosophers may raise the question, “how do we understand these terms, ‘deserve’, ‘befit’, ‘guide’?” This may require a stipulated definition, specifying conditions that must be met for a piece of action to be so referred as deserving, befitting, and guiding. To stipulate these conditions is to answer Ozar’s demand for conditions that must be fulfilled for the statement “A has a right, R, of some sort” to be true. In the case of “befitting”, for example, one may define as follows: x is befitting if x is an act performed from the recognition of the dignity of human beings.

One may now return to the fundamental demand for the theoretical grounding of the idea of human rights within the Yoruba cultural context. It appears that the Yoruba accept the human dignity thesis proposed by such scholars as (WIREDU 1996; GYEKYE 1997; IROEGBU 2005; DENG 2004; BUJO 2001) etc. Human dignity, in Yoruba thought system, is derived from the divine origin of all human beings, which makes them special candidates in the universe populated by seen and unseen others. According to this view, all humans are divine specks, having shared from the divinity of the Supreme Being. All human beings, on this account, are children of God, and hence inherently valuable. The Yoruba name for the human person is “*ẹ̀niyàn*”, which is etymologically derived from “*ẹ̀ni-tí-a-yàn*” – the chosen one (KARENGA 2009, 1999). To describe man as “chosen”, according to Maulana Karenga (2009, 239) “carries with it a uniqueness, in that it presents the highest level of humanism in its inclusion of all humans as chosen... as is the case for virtually all other traditions who self-define as chosen, elect, or recipients of endowed status.” God chose human beings to assume the status of coordinators of the world. Similar elements can be found in the thought systems of other groups in Africa. The Akan people of Ghana, for instance, have a saying that “Everyone is an offspring of God; no one is the offspring of the earth” (WIREDU 2003). This, to some, is the origin of human dignity. On this, the Yoruba are not significantly different from other sub-Saharan African groups.

Others, such as Metz (2014, 2012), have rejected the divine origin of human dignity, and have founded it rather on the human capability for community. Accordingly, a theoretically promising way of reconciling communitarianism and the recognition of an individual’s human dignity, is in the form of a principle prescribing *respect for persons in virtue of their dignity as beings capable of community* (METZ 2014, 139). The view that human dignity is derived from human capability to commune seems to be too strong. Metz identifies two

characteristic components of this view, namely, identity and solidarity (METZ 2014; BEWAJI 2004; TANGWA 1996). It seems there are human beings, for examples, infants, the mentally derailed, senile old people, etc. who apparently do not have the capacity to exhibit these attributes. Yet, they are not treated with less human dignity. The point here is not to undermine the role of the community in the understanding of individuals within the African social context. Rather, it is to demonstrate that human dignity derives from something more fundamental than human capability for community.

While not necessarily antithetical to either the divine origin of human beings or human capability for community, the Yoruba idea of rights, places more premium on the notion of “equality of births” of human beings. One of their proverbs says, “ìbí ò jùbí; bí a ẹ̀ b’érú la b’òmo” - no birth is superior to another; both slaves and freeborn are born the same way. By birth, the Yoruba do not refer to the circumstance of birth, which surely differ. Whatever the circumstance of birth is, the fact of birth is the same across persons. This is an expression of the doctrine of equality of persons. Community is here significant because it is within it that the equality of births makes sense. It may also be argued that, since each individual is a speck of the divine, then each birth is an addition to the community another child of the gods, to whom must be accorded the dignity due its kind as human.

I also think that the concern of the Yoruba about birth transcends the empirical fact of being brought to the world. Consider a corollary of the above saying: “orí kò j’orí” – one head is not superior to another. “Orí” here depicts the essence of human beings which is either discovered, or otherwise conceived, by each person. Avoiding the metaphysically puzzling notion of “orí” (inner head) for its notoriety for lack of clarity and agreement among scholars (GBADEGESIN 2003; MAKINDE 1988), I shall talk about life projects in pursuit of which individual life is significant. Reflecting a general pattern of African world-view by being deeply religious (IDOWU 1962; MBITI 1969; AWOLALU and DOPAMU 1979), the Yoruba believe in the pre-natal assignment of destiny, which individual comes to the world to realise. Destinies in terms of life’s projects are realisable only within the social context in the physical world. The existence of destiny presupposes a cluster of other cognate phenomena such as goals, desires, aspirations, purposes, choices, etc. Destiny itself is a state of affairs, where goals are met, desires are achieved, aspirations fulfilled, purposes known and choices made,<sup>4</sup> etc.

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<sup>4</sup> We adopt a positive conception of destiny here. In this conception, destiny means the inner purpose of a life that can be discovered and realized; the

Now, for any of the life projects that constitute objects of goals, desires, aspirations, etc. to be achieved, certain necessary and sufficient conditions have to be met. In other words, the achievement of goals, desires, aspiration, etc. heavily depends on (i) being alive and (ii) being free. Life and freedom thus become *sine qua non* for the attainment of destiny. Consider life, for instance. Life is important because it provides the platform for destiny fulfilment. A Yoruba proverb says: “Èni tí ó ti kú ní ti è gbé” – only the dead whose lots are lost. Also, the saying: “Bí èmí bá sì wà, ìrètí nbẹ” - when there is life, there is hope – emphasises the role of life in fulfilment of destiny. Since life, once lost, cannot be regained, there arises the moral imperative to protect life, either in one’s own self or in another’s. This may be termed the proper foundation of right to life. If right to life is conceived as “implying an obligation to not deliberately to kill the right holder”, it may then be said to derive chiefly from the recognition of the individual as a person with goals, desires, aspirations, etc., the fulfilment of which requires the person to stay alive. This may also be the moral justification for the right to self-defence against any plot/attempt to unlawfully take one’s life.

On the other hand, freedom, like life, is a prerequisite for the fulfilment of any individual’s life project. There is no use of life without freedom. In freedom, human beings have the ability to channel their abilities appropriately in the realisation of their life projects. A restriction on human freedom is a restriction on human destiny. Freedom has numerous manifestations and an individual is not fully free if restricted in any of them. Such restriction may come in terms of mental restriction, associational restriction, economic restriction, restriction on movement, etc. If destiny would be fulfilled, then none of these restrictions must be entertained because they limit human capacity to flourish. Hence, just as life must be protected, so must freedom, if an individual must fulfil his/her destiny on earth.

It thus becomes criminal to hinder an individual from exercising his/her freedom with respect to any aspect of life. It is criminal because it infringes on an individuals’ right. On this ground, rights to freedom of speech, freedom of association, freedom of religion, freedom of movement, or any other freedom for that matter, are founded on the role freedom plays in the discovery and fulfilment of one’s purpose in life. It is only on the account of someone’s involvement in

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purpose of one’s creation. Thus, our conception of destiny does not include everything that occurs to a person on earth. On this conception, it would not be the destiny of Judas Iscariot to betray Jesus Christ because, although it was a deliberate choice made by the latter, it was a move that truncated his destiny. In other words, Judas died without fulfilling his destiny. On the other hand, Jesus Christ fulfilled his own destiny because it was inextricably tied to his death.

anti-social activities – anti-social in the sense that such acts constitute an infringement on other people’s rights to life and freedom – that s/he may be denied these rights. However, people are not just denied their rights to freedom without having been found guilty of *really* being anti-social, for they have the right to fair trial (i.e., “the right not to be punished without guilt having been established... the right to mount a defense, the right not to be coerced into confession and so on” (METZ 2014, 141). The purpose of this is to prevent or reduce to the barest minimum the event of miscarriage of justice, that is, to ensure it is the guilty that get punished. Such concepts as “àrè” (innocence), “ẹ̀bì” (guilt), “ìdájó” (judgment), “túbú” (prison), “abénilóri” (executioner), etc. suggest that the Yoruba people have a well-rounded judicial system for dispensing justice and for avoiding miscarriage of justice.

It need hardly be said that punishment is a denial of a sort. If it takes the form of imprisonment, then it is a denial of right to freedom of movement and, maybe, freedom of association. If the punishment is death, then it is a denial of right to life. It seems uncontroversial on this note that there is no punishment which is not some form of denial of rights. Against this backdrop, the Yoruba place a premium on the right of individuals to defend themselves against accusation that may end in a miscarriage of justice. One-sided evidence must be avoided in dispute settlement and other juristic adjudication. A Yoruba proverb says: “Agb’ẹ̀jọ enìkan dá, àgbà ọ̀şikà” – he is wicked whoever passes judgment on the basis of one-sided evidence. Justice demands that individuals be accorded the right to tell their own side of the story, if the Yoruba proverb, “ìka tí ó ẹ̀ l’ọ̀ba ñgé” – the finger that offends is that which the king cuts – is anything to go by.

### Conclusion

The paper has argued that, in spite of the communitarian universe wherein the Yoruba culture exists, the recognition of human dignity makes accommodation for the idea of human rights. That they are not contained in any documents such as the American “Bill of Rights” or French “Rights of Man Declaration”, does not imply that human rights do not exist in the cultural consciousness of the Yoruba people. Neither are some scholars’ opinion that Africans are irredeemably communalistic, and thus, do not entertain individualism in their pattern of thought, representative of the Yoruba example. Such Yoruba proverbs as “B’íná ní jọ́ ní jọ́ ọ̀mọ ẹ̀ni, t’ara ẹ̀ni là á kọ gbọ̀n” – if there is an emergency, one rescues oneself first, before rescuing one’s child ; “Èyí wù ò wù mí ní kílì jé kí ọ̀mọ ìyá méjì pa’wó pọ ẹ̀ ìyàwó kan” – it might not interest you that which interests me; no wonder two sons of the same mother don’t contribute money to marry the same bride; “oko

kí je ti baba àt'omọ kí ó má l'álà” – A farmland does not belong to father and son without a boundary –; among others, are bold expressions of consciousness of individualism upon which the doctrine of human right may be built.

The paper submits that the Yoruba communitarian social structure does not preclude the possibility of belief in individualism. The relationship between the individuals and the community is symbiotic. The community, on the one hand, accords the individuals human dignity by ensuring a level playground for individuals to achieve their life projects. In providing a level playground, the community acts on the basic belief that the resources at everyone's disposal, albeit scarce, are sufficient to guarantee not only their survival but, more importantly, the fulfilment of their humanness. Interference in other people's lawful business thus becomes utterly unnecessary and morally culpable. Hence, the saying, “Ojú ọrun t'ẹyẹ ẹ fò láì fi ara kan'ra” – the sky is wide enough for birds to fly without hitting each other. The point here is that, an individual can be anything, so far as being so does not hinder others from being that which they have chosen for themselves too. On the other hand, individuals contribute to the good of the community by fulfilling their life projects. If community is formed through the mutual affiliation among individuals, then the flourishing of individuals implies the flourishing of the community, so that a community is good in greater or lesser degree as are its constituent members. It is only within a socio-cultural setting where the phenomenon of human rights exists, and is held in high esteem, that this social reciprocity is possible and plausible.

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