

UBUNTU AND HUMAN RIGHTS IN AFRICA IN A GLOBAL COMMUNITY: RETHINKING AFRICAN CONCEPT OF JUSTICE

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Abstract

Respect for human life is the first and end of every human endeavour. Fundamental human rights constitute the hallmark, cornerstone and yardstick to measure Humanness. The progress, development and civilization of every region, continent or global community rested on observations, respect for human rights, dignity and personality. Africa with all its richness in natural resources, human resources and minerals resources is the least developed and underdeveloped continent in the world. All these are predicated on lack or deliberate, active, conscious and fully aggressive infringements on the fundamental rights of its people. There is an internally motivated wide and chronic violations of rights across Africa and this explains why Africans are scattered around the globe seeking greener pastures in terms of security, job opportunities, and decent living. The harsh treatment administered to the Africans makes them become somehow a threat to the global community in the sense that most Africans have fashioned different tactics of escaping poverty, insecurity, hunger, inhuman treatment and other state-sponsored terrorism to other parts of the world through illegal means. To discuss this precarious situation, Ubuntu philosophy was rethought therefore, the global community through the United Nations and its partners ought to ensure that human rights are respected, observed and upheld in every part of Africa this is the only way the world and Africa in particular can be at peace. We adopted the analytical method in carrying out our research

Keywords: Human Rights, Africa, Global Community, security, Development

Introduction

In a comparative analysis, both the interpretation and the enforcement of Ubuntu pose a momentous challenge in this fashionable locale arising from the increasing demands of people all over the world for their rights and justice. Ubuntu's concept of rights differs from the Western and other concepts of rights. There is a correlative reference to the place and role of rights in Ubuntu conceptualization. This understanding in the thought of Vernon if juxtaposed correctly with Ubuntu ideology holds sways that:

The idea of 'rights' might perhaps have been introduced directly into the basic justifying narrative by the following attractively simple route. In the narrative, the need to establish agreed criteria of legitimacy arose from the contraction of authenticity and the exclusion of extra-political truth (95).

Rights from this outlook especially 'human rights' are enforced by certain extra-political truths which are embodied in the concept of 'Ubuntu'. Therefore, this right correlative resonates with the power of morality that guides the operationality of the concept of our discourse.

Thus Augustine Shutte (2001) seriously engaged the concept 'Ubuntu' and say: "Our deepest moral obligation is to become more fully human. And this means entering more and more deeply into the community with others. ... So, an Ubuntu ethic focuses on self-realization, but is also communitarian" (30). To this assertion, Metz (2010) upholds that "a person is a person through other persons" making it discussable even in the field of philosophy. Although Ubuntu is an ideal or value rooted in South Africa, its attainment as a performative ethic of the human goes beyond its roots in African languages. Undoubtedly, it is a forward leap to flat antinomies in the conversations of societies and rights, since Ubuntu is not simply an indigenous or even African ideal but one that inversely calls for its universal justification leading to ethical reasoning more generally.

Ubuntu, then, at that point, as it is tended to as a lobbyist ethics of ideals and afterwards converted into law, assists with growing the thinking about a cutting edge overall set of laws' obligation to all-inclusiveness by developing conversations of what obligation it has towards the human person in its rights and dignity in a postcolonial country. Since Ubuntu professes to have widespread insignia, its significance as a perspective about law and equity isn't restricted to its accuracy of beginning yet becomes significant in any basic liberties talk that isn't limitedly established in Western European beliefs. Subsequently, it protects any individual who is genuinely grappling with human rights, postcolonial constitutionalism, and contending dreams of the relations between law and justice.

Based on conceptual assumptions, as captured in his "The African Ethic of Ubuntu" 8 September 2019-27 June 2020~ in *1000-Word Philosophy: An Introductory Anthology*, Metz succinctly says that "the word 'Ubuntu' is from some Southern African languages

which mean ‘humanness.’. To have Ubuntu is to be a person who is living a genuinely human way of life, whereas to lack Ubuntu is to be missing human excellence”. In furtherance, he states that “Black people indigenous to Africa commonly believe that one’s basic aim in life should be to exhibit Ubuntu, which is done by prizing communal relationships with other people”. In Ubuntu ideology, Bolden (2014) comparatively, gives an explanadum to show that:

Whilst the origins of Ubuntu are distinctly African parallels have been drawn with similar concepts in other societies, including the Chinese philosophy of Jen, the Filipino philosophy of Loob and the Russian concept of Obschina. Similar concepts are also illustrated in the writings of certain European philosophers such as Emmanuel Levinas and Paul Ricoeur although no comparable word exists in the English language (Bolden, 1-2).

Despite its variants, traces to other philosophies have been made and established as an ideology whose deposit can be found depending on its development.

Nature and Characteristics of Ubuntu Philosophy

It is unembroidered to say that ‘Ubuntu’ has taken a neo-transliteration of collective personality and collective morality. And thus, not essentially cultural or inconsequential concepts, germane to the identity of one group but rather an expression connected to a wider humanity. However, for Mbigi, it is not implicitly expressed in quite the same way elsewhere in the world but only in Africa (2). This implies that Ubuntu expresses values and behaviours that are not narrowly racial or purely sectional when practised in each society, even though, as received in our current discourse, Ubuntu is taken overtly as a uniquely African concept.

The word ‘Ubuntu’ is from some southern African languages and it means “humanness.” To have Ubuntu is to be a person who is living a genuinely human way of life, whereas to lack Ubuntu is to be missing human excellence. The concept of Ubuntu for Richard Bolden, “is an alternative to individualistic and utilitarian philosophies that tend to dominate in the West” (Bolden 1), which offers an expression of deeply-held African morals of one’s personhood being entrenched in one’s interconnectedness with others.

Ubuntu Philosophy of Moral theory for human rights and Dignity

As a Moral theory: The practice of Ubuntu in the past exclusively differs from the present. Thus, the onus lies on the generation to redefine accordingly to the ever-changing principles of objectivism. The reconstruction does not restrict itself to contemporary South African society, but African indigenous characteristics towards a more all-inclusive interpretation of Ubuntu considering our best current understandings of what is morally right and what is

morally wrong. To attain this, therefore, analytics philosophy should be employed for proper evaluation and reconstruction. Thus, Metz (2011):

A moral theory is roughly a principle purporting to indicate, by appeal to as few properties as possible, what all right actions have in common as distinct from wrong ones. What (if anything) do characteristically immoral acts such as lying, abusing, insulting, raping, kidnapping and breaking promises have in common by virtue of which they are wrong (Metz 536).

In moral philosophy, a right is therefore regarded as a privilege of individuals, who participate in the humanness of rational beings and/or because they are apolitical as citizens.

For Human rights

So we might wonder about the whole idea of human rights reading from different schools of thought; liberal, Marxist, libertarian and communitarian abounds according to Ukavwe (2017) when human rights are conceived particularly as “a tool in the hands of the individual to safeguard his self-interest against the claims of the and society” (185), it becomes necessary for the state to respect and promote it for equity and peaceful coexistence. This implies in Metz’s (2011) understanding that “one has a human right to something, insofar as all agents have a stringent duty to treat one in a certain way that obtains because of some quality one shares with (nearly) all other human beings and that must be fulfilled, even if not doing so would result in marginal gains in intrinsic value or somewhat fewer violations of this same duty in the long run (541). As interpreted above, Amartya Sen (2004), ruminates that “Human rights can be seen as primarily ethical demands... Like other ethical claims that demand acceptance, there is an implicit presumption in making pronouncements on human rights that the underlying ethical claims will survive open and informed scrutiny” (Sen 320), a right against others needless of their legal recognition.

For Human Dignity

Indeed, a survey of human rights shows that handling an individual as someone with dignity demonstrates a superlative non-instrumental importance. Despite this, a human rights violation is a defeat to treat and honour people’s special nature, and more often than not, make someone feel treated merely as a means to some creed “such as racial or religious purity or some prudentially selfish end” (Metz, 542). Human dignity is the foundational value of human rights since today has become the prevailing analysis among moral philosophers, jurisprudential scholars, and United Nations theorists, as domiciled in the German and South African Constitutional Courts.

To expressly articulate an African worldview, the revival of the traditional virtues known to be truly African values must be resuscitated as they form the ethical-religious being qua being of all there is in African ontology. On this conception of dignity, we shall look at two varied African worldviews as elementary to the conceptions of human dignity, namely: The Traditional and the Moral understanding.

Ubuntu Philosophy of Right as the Basis of Human Dignity

From Human Rights to Human Dignity: This conception of Ubuntu Philosophy of Right as the Basis of Human dignity take the motion from human rights to human dignity which explains the case of the good life as distinguished on two possible epicentres of human existence; as an animal and as a human. Thus, in the words of Alan Gewirth (1982): “We may assume, as true by definition, that human rights are rights that all persons have simply insofar as they are human” (Gewirth 41), and not contrary in likeness to a beast. And so, humans with such privilege necessarily should act according to the rights and dignity already ascended to by the state. This, Mogobe Ramose, adjudged that “one is enjoined, yes, commanded as it were, to become a human being” (52), while developing a philosophy on Ubuntu. This existentialism of Bhengu becomes more pronounced if someone is found a defaulter, then it is believed by many Africans that “He is not a person” or even “He is an animal” (27). The claim of being human by virtue of rationality in nature would be invoked so as not to be seen as one who lacks the humanness of existence and be termed an animal because he/she has failed to develop such valuable aspects peculiar to their nature.

Ubuntu Philosophy and Human Rights for the global community Rights to Liberties:

Every individual should enjoy unrestrained rights and freedoms (liberties) if they were to be happy and live a fulfilling social life. In the fundamental right of the UN General Assembly of 10th December 1948, the right to personality liberty entails that nobody should be arrested or detained without lawful justification. Thus, a person must have committed a crime before being arrested. In the opinion of Mill J. S in his Essay *On Liberty* state that, “over himself, over his own body and mind, the individual is sovereign” (4). The only way civil society can interfere with the rights or liberties of the individual in a society is where that person’s rights or actions pose a threat to the other person’s rights or harm the society entirely. On no condition should the happiness and fulfilment of individual liberty should be sacrificed at the altar of pleasing society at will. It should be noted that the individual is before society and that society existed only to serve the needs of individuals. To this extent, individual liberty should be safeguarded and secure tightly with the state apparatus. The other in society is meaningful only about the other individuals. Hence, what affects one person tends to upturn others as well because *I am because they are, and they are because I am*. The essence of Ubuntu is this connectedness of others to my being. Without the other life is meaningless and without me life is useless, thus right to liberty of others presupposes

my rights as well and guarantees peace and harmony of the world's system and operability.

Rights to Criminal Justice:

Justice is a social virtue that secures a good that concerns both the agent and his neighbour in the words of Francis O.C. Njoku, (76). This implies that an accused person or persons should not be presumed guilty unless he/she is given the right to a fair hearing first. It also means that the person should be given an open and public trial so that justice will be seen to be done by members of the public. Therefore, any accused person must and ought to be innocent of a case till it is proven otherwise. Criminal justice is distributive by nature and according to Aristotle, the just in distributive justice is a species of proportionality, for the proportion is equality of ratios (76). What this means is that everyone is entitled to receive exactly what their action deserves. A guilty person when convicted must only serve the term in the proportionality of his or her crime (s). Every criminal justice must have human face and value and thus avoid any form of degrading human dignity. It is imperative to draw the attention of legal jurists that justice in criminal cases should be impartial because miscarriage of justice can both be offensive to God and humanity in general. Every human being has dignity. The right to dignity of the human person is universal and fundamental. It is universal in the sense that every person irrespective of their social, political, cultural, and religious backgrounds carries the image and likeness of God on them. Therefore, the legal jurist must protect every individual against unjust torture, inhuman or degrading treatment, slavery or performance of forced labour, and on the other hand, it is fundamental in the sense that every individual wants to protect his innocence and thus, the legal jurist must ensure to be transparent and impartial in their adjudication of giving verdict on mere allegations without substantial claims and proofs. The carefulness required of a legal jurist has been likened to a pregnant woman prevented from taking some medical substances should that forced her into impromptu labour.

Rights to Distributive Liberty:

Every human is entitled to some inalienable rights irrespective of our human circumstances and association. Hence, "respect for the dignity of persons as individuals with the capacity for friendly relationships qua identity and solidarity accounts naturally for rights to liberty" (Metz 548). Personhood, however, is adjudged to have the following rights as enshrined in the Universal Declaration of Human Rights. Marks (2016) in his book *Human Rights: A Brief Introduction* holds thus:

The "International Bill of Human Rights" (consisting of the Universal Declaration of Human Rights [UDHR] of 1948, and two legally-binding treaties opened for signature in 1966, namely, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights), along with the other human rights treaties of the United Nations (UN) and regional

organizations, constitute the primary sources and reference points for what properly belongs in the category of human rights (Marks 4).

From the above comes the various rights we now hold onto these rights are therefore distributive to all peoples of the world. Philip Allott (1990) articulated the modification perspective of human rights and noted that there was, room for optimism on two grounds. (1) The idea of human rights having been thought, it cannot be unthought. It will not be replaced, unless by some idea which contains and surpasses it. (2) There are tenacious individuals and non-statal societies whose activity on behalf of the idea of human rights is not part of international relations but is part of a new process of international reality-forming (Allott 287).

These are all distributive. No government in the world has the moral justification to take away these rights arbitrarily without cogent reasons and of course to secure the goods of the general public. As a citizen of a country, it is your right to receive what is permissible by law to all citizens irrespective of your political, religious and ideological bent. You have the liberty to access public facilities and amenities just like all others without discrimination. Rights to distributive liberty entail gregarious enjoyment of the properties of the human species.

Impediments to the Realization of Ubuntu Moral Theory

Impediments to the realization of Ubuntu Moral theory refer to the factors that obstruct the effective protection and promotion of Ubuntu morality. Such factors include the role of individuals and community leaders, ineffective promotion of human rights by the appropriate bodies, negative impact of scientific progress, and discrimination among ethnicities.

The pursuit of narrow parochial political agendas by the government represents the greatest impediment to the full realization of human Ubuntu morality. While the dominant role of the state in human rights remains a fact today, it is important to know that as well as being a protector of human rights the state too is the fundamental human rights then there is room for disorder and conflict. For example, in Nigeria during elections the political rights of the citizens are abused by rigging the elections, those who emerged into office are not those voted by the people.

Repositioning Ubuntu for Communal Brotherhood

The conceptualization of Ubuntu connotes *African humanism* and *Personhood*. In African anthropology, the person is invariably inseparable from his or her community; the person is part and parcel of the community. This implies that without the community the individual is lost and without the individual, the community cannot exist. It is the communitarian nature

of the Africans that made it difficult if not impossible to have staunch atheists because it is absurd and repugnant for one single to stand out and proclaim his or her belief. This is evident in why Africans are crazily and notoriously religious.

Ubuntu as a concept has both moral and social dimensions. The moral dimension is the fact that each person is a human being worthy of respect and honour. Africans have respect for the sacredness of human life and respect for elders. There is a common saying that “Africans are their brother’s and sister’s keepers”. Although social reality and facts might make this assertion controversial because of its epistemic justification over glaring corruption at the nose and gross human rights abuses within the African setting. This notwithstanding, Ubuntu is a clarion call for reawakening and reexamination of the African cherished values and norms. The social dimension of Ubuntu is the fact that the individual becomes a person through the community. Thus, whatever we are given. These given denote our conformity to the values and standards raised by the community. It is the community that defines and points to us what is permissible and lawful and what is forbidden. In the opinion of John Mbiti as quoted in Michael Onyebuchi Eze, *Ubuntu / Botho: Ideology or Promise* says that in traditional life,

the individual does not and cannot exist alone except corporately. He owes this existence to other people [...] He is simply part of the whole. The community must therefore make, create, or produce the individual; for the individual depends on the corporate group [...] the individual can only say: “I am, because we are; and since we are therefore I am”. This is a cardinal point in the understanding of the African view of man (251).

In the same vein, the whole community is seen as the mother and father of every individual. Thus, the individual is wealthy if the community is wealthy and poor if the community is poor. The individual has his allegiance and respect for the community. The communal nature is best exemplified in the activity’s marriage rites, burial rites, naming ceremonies, the transition period from one stage to another and other festivities ranging from coronation, worship, businesses, etc. It is imperative to quickly note that the individual attachment and inseparability from the community do not in any way negate the autonomy of the person. The individual has freedom and rights within the African system even though the community is seen as supreme.

The best way to form and sustain a community is to first recognize the presence of otherness. A tree does not make a forest, nor can a forest exist without a tree. Both the tree and the forest must be. Without the tree, there can be no possibility of the forest. Thus, repositioning Ubuntu as a communal brotherhood entails and requires the consciousness of others and the willingness and readiness to protect and preserve their rights. Coming together to live a communal life requires certain toleration and respect for the other. As social and political beings, we are being of multiple interests and desires, hence there is a dire need to put into cognizance the peculiarities and interests of all in brackets.

Menkiti was quoted by Michael Onyebuchi Eze from extrapolating African sayings, proverbs and anthropological nuances to conclude that:

As far as Africans are concerned, the reality of the communal world takes precedence over the reality of the individual life histories [...] and this primacy is meant to apply not only ontologically, but also regarding epistemic accessibility. It is in rootedness in an ongoing human community that the individual comes to see himself as a man, and it is by first knowing this community as a stubborn perduring fact of the psychophysical world that the individual also comes to know himself as a durable, more or less permanent, fact of this world [...] That full personhood is not perceived as simply given at the very beginning of one's life but is attained after one is well along in society, indicates straight away that the older an individual gets the more of a person he becomes (248- 249).

The point is that the community is a starting point for every individual in the world. No one becomes a person in isolation. We are human because we come from human offspring. The human offspring is from the community and the community is from individual families. The sense of brotherhood is nurtured within the cradle of the community, the family. Each family is an extension of a larger society. Since parents are part and parcel of the community, they in turn form their children with the norms, customs and laws of the community in which they live, move and become human beings. Brotherhood should be seen and understood from the point of sharing, experiencing, giving, receiving and doing and having things in common. That's, whatever I have belongs to my brother, the other. Thus, within the community, we don't lay claim to things as a personal possession even though it is my property but sharing what we have with others and sharing with others what we don't have.

In the opinion of Kwasi Wiredu (1996), in his *Cultural Universals and Particulars: An African Perspective* asserts that in traditional African society, "the concept of a person is a social concept before it is anything else [...] personhood is not an automatic quality of the human individual; it is something to be achieved" (15). This means that the relationship of the individual with the community presupposes his humanness. It is the community that defines the individual and at the same, it is the community that protects and preserves the rights of the individual within the community. The communitarian nature of the African personality is tied down to the individual's obligations and responsibilities to his community. The quality of being human is achieved in the process of interrelationship with others in the community. Our uniqueness and goodness or humanness are shown by what we do for the community. When we help one person, we are in turn helping the community and when we help the community, we are helping the individual because the individual is part and parcel of the community.

Primacy is given to the community because the community is like a tree and the individuals are branches. Whatever affects the community necessarily affects all but not as individual cases.

Conclusion

Most governments in the world have come to realize the indispensability of people and individual rights from the local to the global community. The consciousness of the rights of others is the beginning and subject matter of setting up the justice system in such a way as to address any abuses or encroachments of people's rights and liberties. The state should be the vanguard to protect and safeguard the rights of all people irrespective of their class, social status, political affiliations, religious creeds and cultural backgrounds. The basis for government intervention in promoting and enforcing the rights of all people is on the ground that we are human beings and as human beings, we are born with inalienable rights that needed to be enjoyed and preserved. Furthermore, the government should ensure that justice is served to all and likewise, they should enforce the rights of all without discrimination of any kind.

Government should know that they existed because of human beings. For brotherhood to exist first they must be a person who can enter social intercourse with the other and this person is being with bundles of rights that ought to be respected, reverence and uphold. Therefore, it is imperative and germane for the government to be vigilant to ensure the equality of all to promote and preserve this brotherhood Ubuntu. Thus, without Ubuntu, there is no government. And so, Justice cannot be attained nor achieved.

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