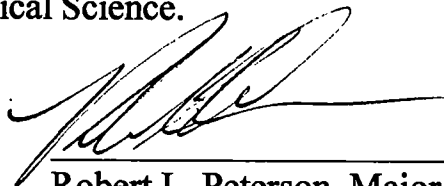


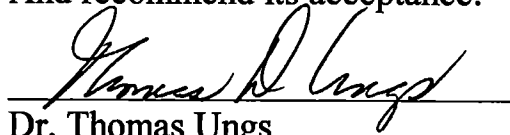
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Robert L. Peterson, Major Professor

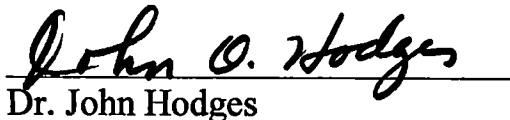
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Associate Vice Chancellor and
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**HUMAN RIGHTS IN AFRICA
THE CONFLICT OF IMPLEMENTATION**

**A Dissertation
Presented for the
Doctor of Philosophy Degree
The University of Tennessee, Knoxville**

**Richard Amoako Baah
August 1999**

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DEDICATION

This dissertation is dedicated to my wife and daughter for putting up
with me all these years for my multiple projects schemes and
always settling for less because of my plans, and countless
others who have supported me in various ways too many to list...

Rebecca Serwah Baah, Jane Amoako Baah,
Tom and Catherine Hutton, Anna S. Duku,
Mr. and Mrs. Tawfik Hanna, Tom Dotson,
Cecilia Darko, Charles Rodwell, all my children-Akos, Abby, Elsie, Fefe

and

to those who work for peace, and understanding for all
mankind through human rights and other means,
a better world is yet to come.

ACKNOWLEDGEMENTS

There are many people who have helped make this dissertation a reality. I would like first to thank Dr. Robert Peterson, for his probing questions, direction, and timely revisions and corrections of this dissertation, and the amicable way in which he did it despite his busy schedule.

I would also like to thank Dr. Thomas Unga, for his continued interest in my work, and the dedication he brought to bear on reviewing the dissertation; Dr. John Hodges, for his willingness to join my committee at the last minute and bring himself up to speed, and Dr. Robert Cunningham for all the years of academic support.

ABSTRACT

This dissertation is a case study to determine the problems of human rights implementation among the Akans of Ghana.

Using questionnaires constructed from the key tenets of the various human rights instruments, a field survey in five major Akan centers was carried out to determine the level of understanding and acceptance of these tenets.

Another group of respondents, 65 years or older were interviewed in an attempt to establish what the Akan socio-political orientation was before the United Nations Universal Declaration of Human Rights in 1948.

Personal interviews were conducted mainly with the older population in attempt to establish the Akan perception of human rights and human dignity.

The findings from the field research indicates either a fundamental lack of understanding of the key tenets of human rights or in many cases, a conflict of outlook of Akan cultural orientation and human rights principles.

From the review of literature on human rights in Africa, including the African Charter of Human and Peoples' Rights, and the information

gathered through the field research, it is concluded that Akans in particular and perhaps Africans in general either do not understand or accept the concept of human rights.

PREFACE

While many would agree with the goals of human rights, there seems to be disagreement on all levels of the human rights concept: philosophically, substantively, and conceptually. To complicate matters, some have argued about the relevance of human rights in Africa. Many human rights authors on Africa argue that human rights are not universal, but a western idea that should apply to non-western nations in a way that takes into consideration those nations' cultural, political, and economic development traditions.

Though the goals of human rights are to benefit mankind, the concept is not devoid of ideology and a particular social orientation. The ethos of the concept as formulated today in a world of disproportionate resources, avarice, competition and greed, makes it difficult to implement in certain societies. The intellectualization of the concept has made it easy for many to lose sight of the fact that human rights are supposed to protect and enhance human dignity. Hence, any debate on human rights should ultimately be linked to how best human dignity can be protected in a particular society, given the realities of that society, as opposed to an artificial imposition of a rigid regime on peoples who do not understand what the concept means.

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CHAPTER 1

INTRODUCTION

"There is none towards whom nature seems, at first sight, to have exercised more cruelty than towards man, in the numberless wants and necessities with which she has loaded him, and in the slender means which she affords to the relieving of these necessities."¹ So wrote David Hume in 1739. The physical deficiencies of man against his environment are compensated for by man's ability to reason. To be protected from his physical environment, man created society as a means of cooperating with one another to better cope with the elements. But the creation of society brings with it new problems. For, man not only needs protection from his physical environment, but also from man. The creation of society is by necessity a creation of government. The creation of government with authority to exercise power brings with it the possibility of abuse of power, especially against individual freedoms. The atrocities of

¹David Hume, Treaties of Human Nature (London: Dents, 1951), p. 191.

World War 11, especially by the Third Reich catapulted the concept of human rights to the forefront of human consciousness, largely as a means of preventing such atrocities in the future.

While many would agree with the goals of human rights, there seems to be disagreement on all levels of the human rights concept: philosophically, substantively, and conceptually. To complicate matters, some have argued about the relevance of human rights in Africa. Many human rights authors on Africa argue that human rights are not universal, but a western idea that should apply to non-western nations in a way that takes into consideration those nations' cultural, political, and economic development traditions.

Others argue that human rights are universal and should apply to Africa the same way they apply to western nations. For the proponents of universality, any talk of relativity in human rights implementation or enforcement undermines the very essence of the concept.

Some African authors have argued that the conceptual foundation of human rights is imperialistic and does not promote the welfare of Africans. Others

claim that Africans have had human rights all along, and that Africans don't need to be told about human rights.

This dissertation is an attempt to answer some of these questions.

However, due to resource limitation and the enormity of such an undertaking I have limited my inquiry to a case study about human rights in the Akan community of Ghana. My research will look at what human rights means to the Akans. A look at the Akans will serve as a window for looking at other societies in Africa especially because as one of the first African nations to gain independence an understanding of why human rights are not working in Ghana will help explain why they are not working in other countries. Since the Akans are the majority in the country, and since the political dynamics of the country are largely shaped by their cultural influence, a look at the Akans is to a large extent a look at Ghana. Though the Akan outlook, culture, and social structure may not mirror say, the Somali or the Moroccan, the Akans nonetheless share some fundamental values in terms of family structure, group identity and social relations with many African societies. Besides resource limitations, this group is under study also because being the largest group in the country, a look at their culture and beliefs will give us a better

understanding of why certain key decisions are made by the leaders of the country that may be contrary to the expectations of others from different cultures. Several attempts have been made in the past to understand why political leaders make certain decisions, good or bad, by a study of their personalities, which presupposes that the psychological orientation of the leaders are different from the group they came from. Human beings are a products of culture, hence, a study of the group is more likely to give us a better understanding of its leaders than the other way around.

Another consideration for studying the Akans is its size, which makes any findings a likely representation of other African societies than a study of a smaller group. My ability to speak the various Akan dialects of course makes it easy for me to translate questions and elicit information from respondents in the field research without losing the true meaning of the respondents answers.

The Akans constitute about sixty percent of Ghana's population of 14 million, occupying the upper middle section of the country down to the coast, west of the Volta River. They can be divided into five major groups: Fanti, Ashanti, Akim, Brong, and Akwapim. There is a large Akan population found in the Ivory Coast who used to be a part of the Brong group before European

demarcation of Ghana and Ivory Coast into two countries. Akan oral history has always maintained that the ancestors of the Akans migrated from the north of Africa. That much there is agreement on among historians, but where in the north is not certain. Some maintain that they were a part of an old Sudanic group that migrated south from the ancient Ghana empire to avoid the Moslem invasion and conversion to Islam.

According to Basil Freestone, the Akan migration started with the Moslem invasion of 'Ifrikia' (the region around Cathage) from which Africa was derived, which sent the Berbers south. After this there was a continuous conflict between the migrating Berbers and the Arabs for 350 years. Those who did not want to accept the Moslem faith migrated further south around 1000 AD, intermarrying with the original inhabitants of the land collectively known as the Guans. Today, the Guans are represented by the Anum, Asebu, Afutu, Kyerepong, Etsil, and Breku groups. The Ashantis were the last of the Akan groups to reach the forest belt, and their tradition gives an indication of what lengths they went to avoid Islamization. 'Til this day it is very uncommon to find Moslems among the Akans. In fact the Ashantis consider Islam and it's prescriptive order so alien to their own culture that an Ashanti

who converts to Islam is referred to as an 'Asante-kramo' (Ashanti-Moslem), insinuating an oxymoron.

To relate the Akan social outlook to the underlying ideology of human rights, an overview of the philosophical foundation of the concept will be explored, which will allow me to go back to the reasons for the development of the concept, highlight the original ideas behind it, and thereby separate these ideas from the modern concept, which is often enshrined in hopeless moral dogma. This in turn will allow me to evaluate how these ideas fit into the Akan moral precepts, political aspirations and human relations.

I shall pay particular attention to Locke's Second Treatise of Civil Government since the modern concept of human rights rests largely on his philosophical foundations. Though the idea of human rights have changed from its natural rights beginnings, the modern concept is based largely on Locke's philosophy of individualism, private property and limited government, which in turn has shaped and maintained human rights debate within these limits. The philosophical foundation has thus, created the ideological boundary of the concept, and hence, controls the ethos of human rights debate.

On the literature about human rights in Africa, I shall draw largely on the work of Rhoda Howard. First, in an attempt to highlight western reasons why human rights should be implemented in Africa as in the rest of the world. Second, whether or not these reasons are justified, and what impact the implementation under these conditions have had on protecting the rights of the individual. I shall also examine to what extent Howard's claim of universal applicability of human rights is based on prevailing conditions found in most of Africa, or on what should prevail in Africa. In other words, whether Howard is simply saying that human rights is good for Africa and then searches for justification for it.

The advantages of looking at one key scholar such as Howard on this issue is that being one of the major western scholars who advocates without reservation, that arguments in support of reviewing the human rights concept to fit the African realities are attempts by political elite to deny certain rights to their citizens, her views are likely to cover the whole spectrum of the argument in support of unmodified universal human rights implementation in Africa. I shall also draw on the analyses of the human rights concept by Jack Donnelley and R.J. Vincent.

The field research, though narrow in scope will confirm certain key Akan orientations and at the same time show to what extent Locke's philosophical foundations of the modern human rights doctrine is shared or understood by the Akans. It would be interesting to find out to what extent Americans understand human rights by using the same questionnaire administered in Ghana. But even if the findings in America provides a clear indication that Americans don't understand human rights as a concept, the impact of this would not be the same as the Akans not understanding human rights. The reason is that human rights philosophical values are at the core of the American democratic foundation, and the key tenets of human rights are incorporated into the American constitution. Since the Akans have no such tradition nor functioning constitution that incorporates human rights values at its foundation, lack of understanding of key human rights tenets is only part of the problem. The other part is the international community's expectations that human rights values would be encouraged and respected based on the assumption that these countries understand human rights. Perhaps this will help explain why Africans in general seem to be on a different wavelength from the West when it comes to human rights implementation. Hopefully by

looking at the Akans, we will gain a better understanding of why human rights is not working in many parts of Africa.

The Akan concept of human dignity will be formulated through information from the field research, and a differentiation of human dignity and human rights established; emphasizing that human rights are not an end unto themselves but a means of protecting human dignity. Thus any debate about human rights **should ultimately be linked to how best human dignity can be protected.**

BRIEF OUTLINE

Chapter 2 will deal with the development of human rights. I shall look at authors who contributed to the philosophical foundation of the modern human rights concept, such as Thomas Hobbes, John Locke and Rousseau; and others such as David Hume and who was opposed to the idea of the rights of the individual or social contract. This will highlight why and how the modern human rights concept developed, and why and how this socio-political outlook fits or does not fit the Akan outlook.

Chapter 3 will explore the modern concept of human rights.

Using the United Nations Universal Declaration of Human Rights as the substantive foundation of the modern concept, I shall look at authors like Jack Donnelly and R.J. Vincent for clarification of what the concept entails. This will allow me to evaluate the merits of the various human rights debates in Africa.

In chapter 4, I will analyze the problems associated with human rights implementation in developing nations.

I shall explore the indigenous Akan religious and socio-political orientation in chapter 5 to evaluate how well the ideology of human rights fit into them.

Chapter 6 will deal with the presentation of the field research to establish the extent of understanding of human rights principles among the Akans. The Akan concept of human dignity will also be presented.

In chapter 7 I shall explore the broad concept of human dignity and how it works in different societies.

The concluding chapter 8 will tie all the ideas presented in this paper and draw conclusions whether human rights as conceptualized today has worked well in Akan society, or whether something else is needed to make implementation of human rights more effective.

CHAPTER 2

DEVELOPMENT OF HUMAN RIGHTS

Western European belief in divinity of civil authority embodied in the king came under revision in the sixteenth century. At this point of its development, the theory was a defense of order and political stability against the perils of ever widening religious civil wars. The theory served mainly as a galvanizing tool for political sentiment, uniting the various religious factions around the king, and also as a rationalization of national pride and civic duty.² In France this led to the absolute monarchy of Louis XIV. In Britain, James I proclaimed that "the office of the king is a mystery into which neither lawyers nor philosophers may inquire."³

According to James I, kings "are breathing images of God upon earth."

²George H. Sabine, A History of Political Theory (Orlando: Holt Rinehart and Winston, 1973), p. 364.

³Ibid., p. 366.

*The state of monarchy is the supremest thing upon earth: for kings are not only God's lieutenants upon earth, and sit upon God's throne, but even by God himself they are called Gods. And so it follows of necessity, that kings were the authors and makers of the laws, and not the laws of the kings.*⁴

Thus, the foundation of British royal political absolutism was laid as a choice between complete submission to the king and anarchy. To buttress his position, James asserted that "kings existed before there were estate or ranks of men, before parliaments were held or laws made, and that even property in land existed only by the grant of the king."⁵ James had managed in a single assertion to declare that all social intercourse flows from the king! He thus set the stage for the eventual challenge and overthrow of royal absolutism.

The intellectual tool to fight the monarchy's claim of divinity and absolutism was natural law, which was believed to govern the world through providence, providing for justice through civil laws and equality of all men in the sight of God. This belief in nature for providing order in society was

⁴Ibid., p. 368.

⁵Ibid.

confirmed by the Apostle Paul when he pointed out that even those who have not received the Jewish law know what is right by nature:

For when the Gentile, which have not the law, do by nature the things contained in the law, these, having not the law, are a law unto themselves.
(Romans 2, 14)

The question of equality before God was also addressed by St. Paul, rejecting for the church differences of race and social position:

There is neither Jew nor Greek, there is neither bond nor free, there is neither male nor female, for ye are all one in Jesus Christ.
(Galatians 3, 28).

Many will agree that human rights is a modern expanded form of the classical natural law theory. Classical natural law theory was first based on nature; grounded in man's reasoning capabilities, dating as far back as Aristotelian times. According to Raymond Polin, it was the work of Hobbes and Locke that brought about a decisive turn in the philosophical and substantive tenets of the concept which in turn influences the modern discourse.⁶

⁶Raymond Polin, "the Rights of Man in Hobbes and Locke," in Political Theory and the Rights of Man, ed. D.D. Rapheal (Bloomington:

THOMAS HOBBS' CONTRIBUTION

The social contract theory had been around long before Hobbes came on the scene. This theory contained two elements: the contract by which society or government came into being and the conditions under which there was no society or government, otherwise known as the "state of nature." The concept of state of nature does not need further elaboration except that it is the state of human existence when there was no society or government, each person being king and judge unto himself.

Hobbes built his theory on what he considered a systematic and scientific foundation. According to Hobbes, every event is a motion, and all human interactions and natural phenomena can be explained by analyses of the complex appearances of these occurrences, bearing in mind that the underlying principle for their occurrence is motion. There are three main parts to this system of motion:

1. Body - geometry and mechanics.
2. Physiology and psychology of individual human beings.
3. The artificial body - society or the state.

From this scheme, there was no occurrence outside the laws of motion; all occurrences were merely complex cases of cause and effect, derived from geometry and mechanics. The science of geometry takes nothing for granted, it builds a complex model from simple derivatives, with each higher level built upon a proven lower level. Hobbes built his science of politics on this model; relying therefore on deductive psychology. Human behavior, including sensation, feeling, and thought, under this model is all a mode of motion. Thus, human life is controlled by psychological mechanisms, driven by maximization of desired outcome. Societies which arise from such human animals are resultants of their mutual actions and reaction upon each other, and not based on any moral imperative, justice or fairness.⁷

Derived from the scheme above, reality is manifested by motion of bodies, which is "transmitted through the sense organs to the central nervous system, where it 'appears' as sensation."⁸ The heart, which Hobbes assumed to be the

⁷Sabine, p. 426.

⁸Ibid., p. 427

center of all bodily functions and therefore referred to as the "vital motion," receives signals in pairs: desire and aversion. Depending on the heightening or repression of the vital motion, a sensation is perceived; desire representing that which is favorable to the vital processes; and aversion, manifested by a retraction from that which is unfavorable. From these two sensations all complex and remote emotions and motivations are derived. According to Hobbes, the living body is set instinctively to preserve or to heighten its vitality. This instinct is the foundation of all physiological activities of the body, the ultimate purpose of which is self-preservation.

By Hobbes' analysis the law of nature is the dictate of right reason, and right reason is that which brings favorable results, which translates into any course of action which brings about the preservation of one's life. The laws of nature then are at the same time the "principles of perfect prudence and of social morality."⁹ The foundation of atomized individualism is thus set as each individual pursues his own self interest. But the law of nature dictates to any rational being that one's life is better preserved in the long run through

⁹Ibid., p. 431.

peace than through violence and competition. Hence, "every man ought to endeavor peace, as far as he has hopes of attaining it."¹⁰ Coming together in a society is the most efficient way of achieving man's primary motivation for all his actions, -self preservation. But since man's actions are motivated by individual self-interest, government is created as a mediating force to keep man's actions in check. Thus the power of the state and the authority of the law were justified only because they maximized individual's security in society. The avarice of man dictates that whenever possible one will seek to maximize that which furthers his immediate self-interest even at the peril of the society. Hence, government is endowed with punitive power; for the fear of punishment is the motive for man's socialization. As Hobbes puts it:

*Covenants, without the sword, are but words, and of no strength to secure a man at all... .. The bonds of words are too weak to bridle men's ambition, avarice, anger, and other passions, without the fear of some coercive power.*¹¹

¹⁰Ibid.

¹¹Sabine, p. 433.

According to Hobbes, in order to live in society man has to cooperate with others. The primary motivation does not stem from any moral imperatives but from the fact that men are willing to do what they dislike to do, for fear of having to do that which they dislike even more. Though free and king unto himself, life in the state of nature is solitary, poor, nasty, brutish and short, since neither justice nor injustice exist in this state. To avoid this, men are willing to submit themselves to the sovereign, a "mortal God," whose authority is limited only by his power, and whose will is law. Self preservation for the individual, and obedience to the sovereign is the quid pro quo in Hobbes' society.

By Hobbes assertions, society is made up of individuals driven by greed through impulses, for which the mediating power of the sovereign is the only force that brings about peace. In fact obedience to the sovereign is also based on individual self-interest, as the sovereign is more likely to protect ones life better than each protecting himself. When the sovereign fails to protect the individual's life, that individual is under no obligation to obey the sovereign, and may give his allegiance to another sovereign who would protect his life.

The ideology of the isolated individualism and the spirit of "each for himself," is thus set in Hobbes society.

RELEVANCE TO THE RESEARCH

Though ahistorical, solely based on deductive reasoning, and shrouded in pseudo-scientific terminology and outlook, Hobbes' work is not entirely alien to the Akan socio-political outlook. With exceptions, especially of treating man as a mechanism driven by impulses based on motion, and ignoring the flaws in his so called scientific deductions, Akan society can identify with parts of the monarchical structure of Hobbes' England. Hence, many will accept at least the dynamics that brought about monarchical relations in society. However, Hobbes postulate of self-preservation does not fit the Akan notion of family ties; as the Akan, if need be is willing to sacrifice himself for the good of the family or clan. In fact it can be said that the Akan will be willing to sacrifice his life for less, as these Akan maxims indicate: "Better death than disgrace" or "nothing is as painful as disgrace."

Where Akan society differs from Hobbes' is the king's tenure and rights.

Yes, a king rules for life in Akan society, but only on condition that he abides by rules and norms of the society. The Akan king rules in concert with his elders and the queen mother. No major decisions can be made unilaterally by the king. This mode of decision making process is what has come to be called "palaver"-the process of building consensus on a given issue in order to reach a position that is agreeable to all concerned. That is not to say that the king never has his way, but a king who goes against the advice of his elders and brings peril to the community will likely be destooled. The elders who represent all important segments of the society have the power to remove the king. Though the king's position on an issue carries more weight, the input of the elders and the queen mother are critical, since they have more experience and are more likely not to deviate from traditional norms. Thus, in Akan society, the king is often seen as first among many equals, his will is not law, and his power in society is no where close to a "mortal God."

Hobbes' work about the origins of social and political relations remains a brilliant masterpiece. However, it encouraged people like Robert Filmer to assert that the king's power is "natural," derived from the natural authority of parents; Adam being the first king! "Present kings are, or are to be reputed,

next heir to Adam”¹² In response to Filmer’s absurd assertions John Locke wrote The Second Treatise on Civil Government.

JOHN LOCKE’S CONTRIBUTION

Locke starts his book, "The Second Treatise on Civil Government" by answering Filmer’s assertions about the king’s “natural” right to rule. First, he asserts that Adam had no monarchical powers over his children. Second, if he had, his heirs had no right to it. Third, if his heirs had a right to rule, the right of succession could not be determined, considering how long it has been from Adam’s time. Besides, “the power of a magistrate over a subject may be distinguished from that of a father over his children.”¹³ Political power, Locke writes,

is a right of making laws, with penalties of death, and consequently all less penalties for the regulating and preserving of property, and of employing the force of the community in the execution of such laws, and

¹²Ibid., p. 474.

¹³John Locke, The Second Treatise On Civil Government, (New York: Prometheus, 1986), p. 7.

*in the defense of the commonwealth from foreign injury, and all this only for the public good.*¹⁴

To properly explain political power, Locke introduces the concept of 'the state of nature.' By Locke's account, life in the state of nature is contrary to Hobbes' condition of "war of every man against every man," it is

*a state of equality, wherein all the power and jurisdiction is reciprocal, no man having more than another, there being nothing more evident than that creature of the same species and rank, promiscuously born to all the same advantages of nature, and the use of the same faculties, should also be equal one amongst another, without subordination or subjection, unless the lord and master of them all should, by any manifest declaration of his will, set one above another, and confer on him, by an evident and clear appointment, an undoubted right to dominion and sovereignty.*¹⁵

The state of nature is governed by the law of nature which through reasoning obliges everyone that "being all equal and independent, no one ought to harm another in his life, health, liberty or possessions."¹⁶

¹⁴Ibid., p. 8.

¹⁵Ibid.

¹⁶Ibid., p. 9.

But the state of nature is not devoid of man's avarice and greed. Retribution or redress of grievances, since each in the state of nature is judge unto himself, justice is a matter of self help. By the law of nature,

"Whoso sheddeth man's blood, by man shall his blood be shed." And Cain was so fully convinced that every one had a right to destroy such a criminal, that, after the murder of his brother, he cries out, "Every one that findeth me shall slay me," so plain was it writ in the hearts of all mankind.¹⁷

Since men may be judges in their own case, it is easy to imagine that "he who was so unjust as to do his brother an injury will scarce be so just as to condemn himself for it...God hath certainly appointed government to restrain the partiality and violence of men, that civil government is the proper remedy for the inconveniences of the state of nature."¹⁸

¹⁷Locke, p. 12.

¹⁸Ibid., p. 13.

According to Locke, all princes and rulers of the world are in the state of nature. To escape the state of nature requires a special arrangement in social relations:

*For it is not every compact that puts an end to the state of nature between men, but only this one of agreeing together mutually to enter into one community, and make one body politic; other promises and compact men may make one with another, and yet still be in the state of nature.*¹⁹ (my emphasis)

Though man in the state of nature is in absolute control of his person and property, “equal to the greatest and subject to nobody,”²⁰ the enjoyment of his freedom is uncertain and subject to the invasion of others. This condition “of uncertainty and continual dangers,” makes him “willing to join in society with others who are already united, or have a mind to unite for the mutual

¹⁹Ibid., p. 14.

²⁰Ibid., p. 69.

preservation of their lives, liberties and estates, which I call by the general name -property.”²¹

Since man had his rights in the state of nature prior to entering society, and since it was for the preservation of these rights that man entered society, “the great and chief end, therefore, of men uniting into commonwealths and putting themselves under government, is the preservation of property.”²²

RELEVANCE TO THE RESEARCH

One can see quite clearly that the philosophical foundation of the modern human rights concept is largely based on the work of John Locke. Aside from the inconsistencies and contradictions in Locke's assertions, his description of the state of nature flies in the face of historical evidence. If the state of nature was one of harmony as Locke describes it, why would there be a need for the establishment of government? It will not suffice for Locke to brand the

²¹Ibid., p. 70.

²²Ibid.

reasons for the establishment of government as the alleviation of mere inconveniences. For, if these inconveniences were great enough to compel men to come together into society, relinquishing their previous condition of perfect freedom, and willingly subjecting themselves to the will of the majority, then they must not have been mere inconveniences but a threat to their very existence. For, "if an individual's rights are really indefeasible, it is no better for him to be deprived of them by a majority than by a single tyrant!"²³ Not only does historical evidence not support the social contract theory, but it also bears out the fact that the state of nature may have been closer to Hobbes' view of "war of every man against every man."

Locke bases the foundation of his argument on Judeo-Christian religion, yet he went to a great extent to make his work appear grounded in sound philosophical principles. He could as well have stated that God wants us to live together in harmony. On citing Cain's complaint as evidence of natural right principles at work, Locke neglected to say that the state of nature upon

²³Sabine, p. 492.

which his natural rights depended did not come from the creator devoid of laws, and the laws were certainly not from nature but from God. The same God gave us the Ten Commandments and teaches us to love our neighbor as ourselves. But the very religion upon which Locke's foundation is based would have defeated his purpose. For, the Bible to a large extent supports the king's right to rule, as the Apostle Paul had declared, and years later reiterated by Saint Augustine that "the powers that be are ordained of God."²⁴ For these reasons Locke had to introduce the idea of the state of nature, which according to him is governed by reasoning.

It is natural for a lion to kill, a lion that behaves like a goat is unnatural! Human nature consists of good and bad. In all acts of bodily functions, man is not different from other animals. It is reasoning, and hence, the capacity to make rational choices that separates man from animals. The part of human nature that society deems desirable, is called good. The other part, sometimes referred to as the lower human nature, which is appetitive, possessive, and

²⁴Romans, 13 : 1.

often diabolical is called bad. But a bad choice is just as natural as a good choice, and a desirous choice is not necessarily always good. Children are born with both natural traits. Before the ills of society can be learned by a baby, it gets jealous when its mother picks up another baby. It is natural for man to breath, eat, drink, sleep, and die. These are acts dictated by nature. All other moral attributes are a matter of convention and conveniences.

According to Locke, it is the law of nature that guides man to a state of reasonableness and civility. But the law of nature is not like a written constitution that one can consult from time to time, but a law written in the hearts of men. That which brings about harmony in human existence is what Locke calls natural. But it is also natural for man to be selfish, greedy, malicious, pretentious, murderous, etc., in fact, by historical accounts, man has proven to be more of what Locke calls unnatural than natural!

Locke's work is a stealthy attempt to move from assertions based on religious foundation to conclusions based on secular philosophical first principles. The premise based on faith, the conclusion accepted as fact!

Though the following statement has been quoted earlier, because it drives at the core of human rights as it relates to developing nations, and hence the work at hand, it has to be quoted again for further exploration.

*It is not every compact that puts an end to the state of nature between men, but only this one of agreeing together mutually to enter into one community, and make one body politic; other promises and compacts men may make one with another, and yet still remain in the state of nature.*²⁵

By Locke's account, any government that did not come into being by people "agreeing together mutually to enter into one community, and make one body politic," is still in the state of nature. By this assertion, all nations that are not democratic are still in the state of nature. **Men in the state of nature cannot demand rights as each is king unto himself in this state!**

Without dwelling on the obvious contradictions of Locke's assertions that the state of nature is one of perfect freedom and at the same time "full of fear and continual dangers,"²⁶ analysis of Locke's statement above brings to light

²⁵Locke, p. 14.

²⁶Ibid., p. 69.

a profound implication of attempts to implement human rights in societies that are not democratic. Since these non democratic societies, including the Akans are still technically in the state of nature, human rights cannot be expected in them. The conditions outlined by Locke in order to get out of the state of nature, which still exist today in the modern human rights foundation, dictates that since human rights are universal, the rights of the individual should form the foundation of any modern polity. Yet, in many traditional/communal societies including the Akans, the rights of the individual are often secondary to the rights of the larger unit- family, clan, tribe etc. Certain rights may exist in these societies, but they are not as envisioned by the modern human rights concept.

To implement human rights with its philosophical foundation based on Locke's assertions means that conditions that foster democracy have to be present. Though all societies undergo some form of authoritarian rule at one time or another, those that are democratic will find it relatively easier to implement human rights principles. In other words, democratic institutions and principles are preconditions for the proper implementation of human rights as conceptualized today. That is not to say that human rights are not

needed in non-democratic societies. In fact, the goals of human rights makes them more needed in non-democratic societies than democratic ones.

Without social and structural change in developing nations the push for implementation of human rights in them can be liken to a Band-Aid on a cancerous wound. The Band-Aid may help prevent infection of the wound but the patient will surely die from cancer. The watchful eyes of various human rights organizations may prevent blatant abuses, but to really solve the problem demands other commitment from the international community besides words. Like the cancer patient, chemotherapy or radiation is what is called for.

The enjoyment of property as outlined by Locke can only be realized in a liberal democracy. For, an economic system that allows individual autonomy in the market place, built on the premise that government exists to protect rights cannot be complimented by any other political system but liberal democracy. For Locke, the economics of society orders its political arrangement. But liberal democracy by definition, cannot exist without a free market capitalist system. Hence, the charge by many that the push for human

rights in non-western nations is a push for political, and by implication economic ideological change is not without merit.

Locke had sought to minimize his capitalist inclinations and the importance of property acquisition in his state of nature by saying that “it is very clear that God, as King David says (Psalm cxv. 16), ‘has given the earth to the children of men,’ given to mankind in common.”²⁷ He goes on to say that,

*He that employed his pains about any of the spontaneous products of nature as any way to alter them from the state of nature put them in, by placing any of his labour on them, did thereby acquire a property in them; but if they perish in his possession without their due use-if the fruits rotted in the venison putrified before he could spend it, he offended against the common law of nature, and was liable to be punished.*²⁸

Locke’s introduction of egalitarian principles in the state of nature soon vanishes by his assertion that:

if he would give his nuts for a piece of metal, pleased with its colour, or exchange his sheep for shells, or wool for a sparkling pebble or a diamond, and keep those by him all his life, he invaded not the right of

²⁷Ibid., p. 19.

²⁸Ibid., p. 25

others...it is plain that the consent of men have agreed to a disproportionate and unequal possession of the earth.²⁹

It is not clear what the consequences of “invading the rights of others” through this capital acquisition are. Since there is no government and each individual is lord unto himself, how did this arrangement come about and who sees to its enforcement? Since Locke is working from the assumption that man is good by nature, and hence men “share in common” in the state of nature, this self regulating and harmonious existence is possible. But if the picture Locke paints in the state of nature is true, there would be no vice in society, and hence, no need for civil government.

It is surprising that Locke’s work, -unsystematic, ahistorical and empirically unsubstantiated would receive the magnitude of acceptance it has, to the extent that it forms the core of the philosophical foundation of human rights.

²⁹Ibid., p. 29

Locke's assertion that "in the beginning, all the world was America," should alert anyone who has no hidden agenda that the America the pilgrims found was neither in the beginning nor in the state of nature. Native Americans had lived here for thousands of years, and the pilgrims who came were not the direct descendants of Adam and Eve, but capitalists from Europe who wanted a better life! Since the premise upon which Locke builds his theory is fundamentally flawed, his conclusions are also flawed. By Locke's own account, the foundation of capital and material accumulation was laid in the state of nature, a fundamental contradiction!

JEAN JACQUES ROUSSEAU'S CONTRIBUTION

Rousseau rejected part of the political philosophy of both Hobbes and Locke, which to him seemed to suggest that a fully formed individual with power and ability to calculate situations to maximize his interests, a desire for happiness (in isolation), communicate with other men, and finally to form a government, could be possible outside of society. To him society is itself the moralizing agent of man. It is the moralizing capacity of society that turns an otherwise uncivilized and isolated being into a citizen. The development of

“the general will” in the Social Contract was a further attempt by Rousseau to diminish the importance of isolated individualism in social relations.

Rousseau’s contribution to the modern human right concept lies in his expansion of the idea of “social contract.” This idea lies at the core of human rights doctrine which asserts that since man had certain rights before the formation of society, society does not grant these rights, and hence, cannot take them away. This idea goes back to Locke and Hobbes. The contract between man and society is that man agrees to join society, provided society agrees to respect man’s rights.

Rousseau’s search for the ideal social relations is summed up thus:

The problem is to find a form of association which will defend and protect with the whole common force the person and goods of each associate, and in which each, while uniting himself with all, may still obey himself alone, and remain as free as before.³⁰

Obviously, what Rousseau is searching for is impossible to attain. For, once a man enters into society, in order for the society to work, he surrenders some

³⁰Sabine, p. 540

of his rights to society, and hence cannot “obey himself alone, and remain as free as before.” One can’t have his cake and eat it.

DAVID HUME’S CONTRIBUTION

Hume’s *Treatise of Human Nature* was written in response to Locke’s *Second Treatise on Civil Government*. The goal of Hume’s essay was to show, among other things, the flaws in Locke’s argument especially as it relates to natural law and the subsequent claim of rights based on it.

First, he undertook to analyze the meaning of “reason” as was used in the natural law debate. He admitted that there are certain comparisons of ideas found only in limited parts of mathematics which yield truths that states that if a premise is accepted based on a known fact or otherwise taken for granted, a conclusion follows. But apart from the experience of finding two ideas together, it is impossible to infer causation, and that no comparison of ideas can prove a matter of fact.³¹ In most of the natural law debate the reference

³¹Lee Cameron McDonald, Western Political Theory, (San Diego: Harcourt Brace Jovanovich, 1968), p. 403.

is not to reason but to some human convention, or propensity. Reasoning in itself dictates no particular way of acting, it may bring to bear the cause and effect of various possibilities, but the results of any particular choice of action remains to be seen as acceptable or not to human standards. "Reason is and ought to be the slave of passions and can never pretend to any other office than to serve and obey them"³²

In the essay, "Of the Origin of Government," Hume asserts, contrary to Hobbes' reasons for human actions, that "man born in a family is compelled to maintain society from necessity, from natural inclination and habit."³³

To lay to rest the contractualist argument of mutual consent, Hume grants that there may have been an initial consent for primitives to band together for physical protection. But "no compact or agreement, it is evident, was

³²Sabine, p. 551.

³³Ibid., p. 552.

expressly formed for general submission, an idea far beyond the comprehension of savages.”³⁴ In most parts of the world, he asserts,

*“were you to preach that political connections are founded altogether on voluntary consent or mutual promise, the magistrate would soon imprison you as seditious....societies are founded originally either on usurpation or conquest or both, without any pretence as a fair consent or voluntary subjection of the people.”*³⁵

CONCLUSION

This chapter has highlighted the sources and the original reasons for the development of human rights. The reasons behind the formulation of the concept, namely, the wresting of power away from absolute monarchy in Europe by the middle class in the seventeenth century, to a large extent shaped the development of the concept into what we have today. The question now is: does the developmental history of the concept, in terms of culture and tradition have a direct bearing on what the concept seeks to

³⁴McDonald, p. 403.

³⁵Ibid.

accomplish? The answer is clearly, yes. The drive to take power away from the monarchy made it easy for many to reject Hobbes' work, which though not empirically based, nonetheless is systematic, intellectually and logically more sound than Locke's. However, the conclusion Hobbes arrived at was the "wrong" conclusion for the middle class. The foundation of Locke's work, though flawed and riddled with conflicting assumptions had the "correct" conclusion. As such it was possible for many to accept Locke's ideas without the critical scrutiny they deserved. Indeed people like Burke, Hume and Marx disagreed with Locke and with good reasons. However, after three centuries of revisions and re-examination, Westerners still cling to Locke's ideas not because of their intellectual or moral merits, but because they further a particular social structure that is appealing to the middle class majority.

Locke's Second Treatise of Civil Government is more of an economic rather than a social arrangement. It is a clever but indirect way of asserting that the economic order of a society directs all other social relations, as Marx later asserted in different terms.

Neither Hobbes, Locke, nor Rousseau were able to ground human rights in a solid foundation. The illusory quest for human rights grounding prompted Bentham to refer to it as “nonsense upon stilts.” According to R.J. Vincent, even if human rights make sense, they “start political theory in the wrong place: duty is the firm ground, or the principle of utility. And starting in the wrong place, they remain there: they are negative rather than positive, divisive instead of uniting, abstract where they ought to be concrete.”³⁶

The history of Akan social development is entirely different from the history of seventeenth century Europe, as such, its social outlook and expectations are different. As mentioned earlier, Akan kings ruled with the advise and consent of others, and could be destooled if found to be in violation of certain traditional norms. As such, there never was a need to take power away from the monarchy since it did not have absolute power to start with. Secondly, the unit upon which social order was based was not the

³⁶R.J. Vincent, Human Rights And International Relations, (Cambridge: Cambridge University Press, 1986), p. 35.

individual but the group. It is therefore not surprising that the Akan social outlook with respect to the individual's relationship with society would be markedly different from that of the West.

Separation of political rights from other rights in the human rights concept will show that while it is morally right for one to respect another's life or even property, it is not necessarily morally wrong for one to rule without the consent of the majority. By historical accounts democratic governments have tended to be legalistic not moralistic.

CHAPTER 3

WHAT ARE HUMAN RIGHTS?

Though the framers of the 1948 United Nations Universal Declaration of Human rights did not purposefully define what human rights are, they showed why we have them and upon what they are based:

*Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.*³⁷

The United Nations International Covenant on Civil and Political Rights of 1966 reiterated what human rights are based on, stating that “these rights derive from the inherent dignity of the human person.”³⁸

Clearly the above statement indicates that human beings have certain rights because of our inherent dignity, and in order to protect this dignity, we have

³⁷United Nations Universal Declaration of Human Rights (1948), in Human Rights Reader, ed. Walter Laqueur and Barry Rubin, (Houston: Meridian, 1979), p. 197.

³⁸*Ibid.*, p. 215.

human rights. Hence, the primary purpose of human rights is to protect human dignity. However, ever since this declaration was made, there has been a debate as to what these rights are. The disagreement threatens to undermine the very essence of human rights, as academics, politicians and field agents argue about exactly what the rights are.

Several definitions of human rights have emerged over the years, including 'need-base' and 'constructivist' definitions. A closer look at these definitions indicates that they are not based on philosophical first principles but rather predicated upon an intermediary premise. As such, these cannot form the primary definition of human rights. Their usefulness lies in the implementation of the concept. For example, a basic needs definition of human rights, according to Abraham Maslow, is "the minimum requisites for health and the avoidance of illness."³⁹ This definition, though relevant to the goals of human rights, in the sense that it affirms goals of human dignity, does

³⁹Jack Donnelly, The Concept of Human Rights, (London: Croom Helm, 1985), p. 29.

not in any way enhance the philosophical grounding of the concept; it could very well be a public health objective statement.

Constructivist definitions of human rights, like the basic needs definition above, “aim to establish and guarantee the conditions necessary for the development of the human person envisioned in the underlying moral theory of human nature, thereby bringing into being that type of person.”⁴⁰ Again this definition does not relate to the philosophical grounding of the concept, it explains the aims of human rights.

According to Jack Donnelly, human rights are:

*...universal rights/titles held equally by all simply because they are human beings... [It] is one distinctive approach to securing human dignity. Human rights refers to a particular social practice, not just any system of political right or an institutionally unspecified commitment to realize human dignity; it is one particular way in which the realization of widely shared values may be sought.*⁴¹

⁴⁰Ibid., p. 32.

⁴¹Ibid., p. 51.

By Donnelly's assertions, which are largely supported by the United Nations Declarations and other available literature on the subject, human rights are not only teleological but deontological as well. In fact, the deontological nature of human rights is preeminent over the teleological aspect of it. As stated above by Donnelly, the deontological nature of human rights "refers to a particular social practice, not just any system of political rights or an institutionally unspecified commitment to realize human dignity." Thus, although Islam may mandate the state to do all it can to enhance human dignity, we cannot then say that human rights are a part of Islam. In this case the teleology of Islam and human rights coincide, but the deontology of Islam may very well be in violation of certain human rights principles. In addition, what happens if certain Islamic dictates violate human rights? For example, Saudi Arabia's claim of following Islamic law by amputating the arm of a thief is a clear violation of article 3 of the Universal Declaration which states: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."

Some have argued that the death penalty is also a violation of article 3 above and yet executions are carried out in the United States on almost

regular basis. I will posit that the actual execution of a convicted murderer, if all legal safeguards are followed in terms of fairness and pursuit of real justice, as opposed to prosecutors seeking to score political points by withholding information that will otherwise vindicate the accused, is not a punishment but an act to safeguard public safety and to administer social justice. Perhaps the agony of waiting years, sometimes decades before the execution is the real punishment. The mental anguish of knowing that one's life will end on a specific date may be too much to bear especially if that date is set by somebody else. Apart from the above consideration, a person on death row is not much different from others in prison. For one to be punished, one has to experience pain. Since the actual execution takes such a short time, if done properly, the executed if he experiences pain will be a small price to pay for a short time for taking another's life. If the conviction of a murderer is done without the social prejudices of race and economic status, the death penalty may be unusual, but it certainly is not cruel, inhuman, nor degrading!

HUMAN RIGHTS DISCOURSE IN AFRICA

African authors like Kwasi Wiredu and Francis Deng have attempted to draw parallels between certain indigenous African traditions that enhance human dignity, and the primary objective of human rights of protecting human dignity, and thus claim that Africans have had human rights all along. In contrast, Donnelly asserts that, 'traditional societies, wherever located seem to have had no place for human rights!'⁴²

RHODA HOWARD

Among the Western authors of human rights in Africa, none stands out now about the claim of universal applicability of human rights in Africa more than Rhoda Howard. Her work on human rights in Africa makes her the primary source of a western perspective and concerns about human rights in Africa. Perhaps through Howard's work I shall be able to explain the flaws of the human rights doctrine as it relates to Akan society, and hence, open a

⁴²Ibid.

window for understanding why the human rights concept is so problematic in many parts of Africa.

Howard approaches human rights in Africa systematically by first attempting to establish that African societies are no longer traditional or communal oriented as they used to be. Then she talks about Africa's post colonial leaders, most of whom were educated in the West, which presumably exposed them to western democratic ideals. Finally, the movement away from communalism means that Africans need human rights more than ever since the old order of communalism that afforded them protection from society is quickly being replaced by modernism and individualism.⁴³

I shall look at each of these assertion and analyze to what extent they are supported by available evidence.

In her book, Human Rights in Commonwealth Africa, Howard states that,

⁴³ Rhoda E. Howard, Human Rights in Commonwealth Africa, (Totowa: Rowman and Littlefield, 1986), p. 1- 36.

*"the original nationalist elites of the colonies were educated in Britain or the United States, where in many cases they developed a commitment to the democratic ideals of the western world;... ..In addition, the British had made some pretense of setting up a judicial system in the colonies that reflected the basic rule of law. Thus Commonwealth Africa is a group of Third World nations which at least in their ideals, resemble western democracies."*⁴⁴

Whatever evidence Howard has for making the assertion that the nationalist elite of the colonies developed a commitment to the democratic ideals of the western world has not been shown. In fact the political landscape of almost all African countries during the post colonial era indicates the opposite of her assertion. In the chaotic and often volatile political climate of Africa's post colonial era, most of these so-called democratic ideals quickly degenerated into authoritarian rule.

As Howard herself stated earlier, "the British had made some pretense of setting up a judicial system in the colonies that reflected the basic rule of law." A pretense of setting up a judicial system worked well for the British interest, affording them flexibility in dealing with colonials, but never going

⁴⁴Ibid., p. 1

to the next step of institutionalizing democratic ideals for the colonies to develop a political culture based on them. To do so would have been counter productive to British interest. Hence, none of these countries really had a democratic political culture.

A resemblance of democratic ideals in a specific political period in any developing nation does not necessarily translate into institutionalized democratic principles and governance. In almost all cases, the adoption of the Westminster parliamentary or the French presidential systems were preconditions for granting of independence in the colonies. The acceptance of these systems meant that private property, no matter how ill-gotten by colonial nationals or companies was not subject to seizure, and that the dependency ties between colonizer and colonials would be maintained. The post-colonial leaders of Africa did not have a choice but to accept these conditions. They did what they had to do to gain independence.

Shortly after the above assertion, Howard showed her frustration with these same African leaders by asking, "if the frequent assertions that capitalist or Western countries deny the concept of economic rights is merely a

misreading of the political history of welfare capitalist states? Or is it instead a convenient rhetorical device for justifying self-serving denials of civil and political rights by African ruling class?"⁴⁵ Since Howard agrees that the answer is the latter, it stands to reason that her earlier assertion that the original nationalist elite developed a commitment to the democratic ideals of the West is inaccurate. Hence, the justification for implementation of human rights in Africa as espoused by the West is without foundation.

Another means of justifying human rights implementation in Africa is the extent to which African society has changed. According to Howard, the emergence of a small bourgeoisie is an indication of Africans willingness and acceptance of change. As she puts it: "the speed with which these social classes have emerged indicates how readily culture can change in the face of new opportunities for individualism and profit."⁴⁶ She goes on to say that: "The obverse of the myth of communalism in Africa is the existence of a

⁴⁵Ibid., p. 4.

⁴⁶Ibid., p. 23.

competitive, profit-oriented, individualistic society, ...traditional' African society has given way to just such a 'modern' society."⁴⁷

First, no change can occur in any polity, so drastic as to reorient that polity from one of group based traditionalism, riddled with abject poverty, to one of liberal democratic modernism, based on individualism and profit, in such a short period of time, considering most African countries gained independence after 1959.

Karl Deutsch and many others have defined modernization as "a comprehensive, systemic process in which societies change fundamentally and across the board from an approximation of the traditional model to an approximation of the modern model."⁴⁸ Further more, the process of modernization may produce what dependency theorists have called the

⁴⁷Ibid., p. 27.

⁴⁸Samuel P. Huntington, "The Goals of Development" in Understanding Political Development, ed. Myron Weiner and Samuel P. Huntington, (Boston: Little Brown, 1987), p. 6.

center-periphery model,-the idea that modernization can create a dual economy. Also, the diversity of cultures around the world means that modernization can "produce as many cultures as there are societies."⁴⁹ If the process of modernization can create more than one culture, then Howard's appeal to that process as basis for human rights universality is not convincing. Cultural similarities do exist in the world today, but according to Vincent, "the extent of it is the measure of westernization and not of modernization. It is a species of imperialism, a charge the West seeks to avoid by calling it a world social process, or modernization."⁵⁰ This is not to say that these Commonwealth nations are still as traditional as they were at independence.

⁴⁹Vincent, p. 50.

⁵⁰Ibid., p. 51.

Though they have moved away from their various traditional starting points, they are nowhere close to modern.

Second, looking at the Commonwealth Africa that Howard uses as an example shows that few, if any of these countries can be said to approximate anything close to a modern democratic society with political institutions that incorporate human rights principles as part of its political foundation. In most, if not all the Commonwealth African countries, feudalistic institutions still persist. Chieftaincy is still a functioning part of the political order of all the countries under consideration. Unlike European monarchies that have become purely ceremonial institutions, chieftaincy in Africa still forms a part of the political order, settling issues involving land dispute, inheritance rights etc. It goes without saying that chiefs are not elected. A society that has chieftaincy as part of its political order, coupled with a superficial mimicry of Western political system, of which most practitioners either don't understand their workings or refuse to follow its dictates whenever convenient, and as poverty stricken cannot be considered modern.

If human rights evolved from natural rights, and natural rights evolved as a revolt against divine rights of kings, then the feudal remnants in Africa should

in no way be a part of the political order in which human rights, as conceptualized in the West, are to be implemented. By Locke's assessment, and since modern human rights are largely based on his philosophical foundation, any polity that did not come into being by consent of the citizens

is still in a state of nature. Yes, all societies at one time or another were in the state of nature, but, the West has moved closer to Locke's ideals than the rest of the world. Military dictatorship and chieftaincy cannot exist in a modern polity where citizens are supposed to elect their leaders. The changes that have taken place in Africa are mainly in the urban centers, but the majority of Africans live in the rural areas. African societies today still remain largely traditional. Howard's assertion that commonwealth Africa has become "modern" is without merit.

According to Howard, African communalists claim "that human rights are irrelevant in Africa, since they are grounded in individual claims against the

state or society, while people in Africa do not normally view themselves as individuals.”⁵¹

A single person, whether found in Alaska or Zambia cannot be anything but an individual. The claim by Africans that they are group oriented does not preclude all levels of individuality. Individualism does exist in all African societies, it is the ethos of individualism in the West that Africans reject. As Asmarom Legesse puts it, “no aspect of Western civilization makes an African more uncomfortable than the concept of the sacralized individual whose private wars against society are celebrated.”⁵²

I will now turn to Howard’s assertion that African communalists claim that because Africans are group based, human rights are irrelevant.

⁵¹Rhoda E. Howard, “Group Versus Individual Identity in the African Debate on Human Rights” in Human Rights in Africa, ed. Abdallahi Ahmed An-Na’im and Francis Deng, (Washington D.C: Brookings, 1990) 162

⁵²Ibid.

On any issue one cares to talk about, there are bound to be extremists views to be encountered. If the majority of the so-called African communalists make the assertion that human rights are irrelevant in Africa, then Howard would be justified in her effort to show that human rights are indeed relevant in Africa as elsewhere in the world. However, this is not the case. None of the sources Howard cites actually made the claim that human rights are irrelevant in Africa. For example, Fasil Nahum argues that: "African humanism does not alienate the individual by seeing him as an entity all by himself, having an existence more or less independent of society....The individual does not stand in contradiction to society but as part of it. Neither should he be considered as alienated from and at war with society."⁵³

Another example cited by Howard was Olusola Ojo's assertion that "the African assumes harmony, not divergence of interests...and are more inclined

⁵³Ibid.

to think of their obligations to other members of society rather than their claims against them.”⁵⁴

In both examples above, as in Legesse’s assertion, no one actually claimed that human rights are irrelevant in Africa. The concern of these Africans is the conceptualization of human rights by the West only in terms of liberal individualism. On first glance it would appear that the protection of the individuals in aggregation would translate into the protection of the group. This assumption requires a special society with a certain level of political maturity and material affluence- conditions found in Western liberal democracies, but nonexistent in Africa. As George Brenkert puts it “The strengths of liberal freedom lies in its concern for the protection of the individual from the forces of government and society.”⁵⁵ He goes on to say

⁵⁴Ibid.

⁵⁵George G. Brenkert, Political Freedom, (London: Routledge, 1991), p. 66.

however, that "liberal freedom has painted a picture of society in which other people, as well as our social and political institutions are constant threat. It has fostered the separation and isolation of individuals rather than their union."⁵⁶ I am sure no one will accuse Brenkert of being a communalist.

If Howard's push for implementation of human rights in Africa as espoused by the West were based on the above assumptions, they have been proven not to be credible. I am in no way saying that human rights are not needed in Africa, my disagreement with her is about the conceptualization and implementation of human rights, not whether or not they are needed. The trouble with a moral issue like human rights is that people tend to support it not because of its functional merits, but because it is a good thing.

⁵⁶Ibid.

While some of Howard's assertions border on ethnocentrism, while others are well founded. For example, Claude Ake's claim that "rights...are not very interesting in the context of African realities....the right to peaceful assembly, free speech and thought, fair trials, etc....appeal to people with a full stomach."⁵⁷ This is what Howard has dubbed "The Full-Belly Thesis." She rejects it as many scholars do by asking whether these hungry people will have human rights when they need them.⁵⁸ The daily struggle to survive in the harsh African environment does not preclude human rights for poor people. In fact, they need them the most.

⁵⁷Howard, "Group Versus Individual Identity," p. 180.

⁵⁸Ibid.

POLLIS AND SCHWAB

On the other side from Howard on the human rights discourse in Africa is Pollis and Schwab. In their article, "Human Rights: A Western Construct

With Limited Applicability," they claim, among other things that

*the Western political philosophy upon which the (UN) Charter and the declaration are based provides only one particular interpretation of human rights, and that this western notion may not be successfully applicable to non-Western areas....efforts to enforce the provisions of the Universal Declaration of Human Rights in states that do not accept its underlying values are bound to fail.*⁵⁹

Among human rights advocates many agree with Pollis and Schwab on this particular aspect of the concept. It seems the above argument is the same as the one made by the so-called African communalists. Pollis and Schwab point

⁵⁹Adamantia Pollis and Peter Schwab, "Human Rights: A Western Construct With Limited Applicability," in Human Rights Cultural and Ideological Perspectives, ed. Adamantia Pollis and Peter Schwab, (New York: Praeger, 1979), p. 1.

out that the philosophic and ideological changes of the seventeenth and eighteenth centuries Europe with respect to rights were accompanied by “radical socioeconomic transformations and changing social values.” In Western Europe feudalism collapsed, along with extended family ties as the Industrial Revolution brought about urbanization and mobility.⁶⁰ With these differences in historical and cultural development, Pollis and Schwab ask:

*Whether there is a universal consensus regarding the Western definition of human rights based on natural rights or whether there are alternative conceptions of human dignity that merit consideration.*⁶¹

In answering the above question, they posit that the philosophical foundation of human rights can be traced directly to the historical experiences of France, England, and the United States, and that “the Declaration is predicated on the assumption that Western values are paramount and ought to

⁶⁰ Ibid., p. 3.

⁶¹ Ibid., p. 4.

be extended to the non-Western world.”⁶² It is this charge of ethnocentrism, bordering on outright imperialism that is leveled against Rhoda Howard.

Regarding why African nations signed on to the Universal Declaration, Pollis and Schwab assert that “for British colonies the Westminster model, including its provisions for individual rights, became practically the sine qua non for independence.”⁶³ After independence, “the colonial experience of economic exploitation gave credence to the notion of human dignity as consisting of economic rights rather than civil or political rights....Thus the state was to replace traditional group identities but to retain the same supremacy as traditional groups”⁶⁴ in ensuring dignity. Pollis and Schwab try to justify suspension of human rights in the face of the difficulties of nation

⁶²Ibid., p. 8.

⁶³ Ibid., p. 7.

⁶⁴Ibid., p. 9.

building. As they put it: "Democratic political institutions were to be sacrificed to some future time, while economic development was to be concentrated upon."⁶⁵ They cite as an example the need for national unity bringing about the adoption of a one-party state. Using Ghana as an example, they cite Nkrumah's rationale for one-party state: "the Convention People's Party (CPP) is Ghana and Ghana is the CPP."⁶⁶ What Pollis and Schwab failed to add was that the CPP was Nkrumah, which means Ghana was Nkrumah! As it turned out, Ghana soon became a one man dictatorship. Fundamental principles such as those found in the Universal Declaration, whether couched in terms of the group or individual are supposed to be a part of the founding principles of a nation. To sacrifice these for a future time is to build a nation without a solid foundation but based on personalities. The chaos found in Africa today attests to that.

⁶⁵Ibid., p. 11.

⁶⁶Ibid., p. 10.

OTHERS

Many authors have written about human rights in Africa and since many agree on the key issues like the problems of human rights universality and implementation vis-avis the African socio-political structure, omission of a particular author is not an indication of the importance of the author's work but the convergence of their key ideas with others.

The argument about Africa's poor record on human rights, though related to the work at hand, only deserves a brief mention since it deals with why Africa's record is poor and not whether or not Africans accept human rights. Many defenders of the so-called "nation building" thesis, for which S. K. B. Asante and Keba M'Baye are noted, defend the suspension of human rights on the basis that:

African governments are confronted with a situation in which the very existence of their respective nations has yet to be established as a meaningful concept. Development is further bedeviled by poverty, disease and illiteracy and a serious dearth of human and material resources. On this fragile foundation, the leaders of an emergent African nation are charged with accomplishing at least four herculean tasks in their lifetime. First, to forge the bonds of unity and nationhood and to foster wider loyalties beyond parochial, tribal or regional confines. Second, to convert a subsistent economy into a modern cash economy without unleashing social turbulence and economic chaos. Third, to industrialize the country and to introduce a sophisticated system of agriculture. Fourth, to erase

poverty, disease and illiteracy, raise the standard of living of the people, and in short create a modern state...⁶⁷

In light of the problems of nation building, Asante contends that a newly emerging African nation "cannot afford the luxury of limited government... A bill of rights...might well impede not only social and economic progress but also national unity."⁶⁸ By his assertions even the judiciary should be in the hands of the ruling government. As he puts it: "the courts should not be entrusted with the awesome responsibility of determining the extent to which individual rights must give way to the wider considerations of social progress; that responsibility properly belongs to political leaders responsible to the electorate."⁶⁹

⁶⁷James Silk, "Traditional Culture and the Prospect for Human Rights in Africa," in Human Rights in Africa, ed. Abdallahi Ahmed An-Na'im and Francis Deng, (Washington D.C: Brookings, 1990) p. 296.

⁶⁸Ibid., p. 297

⁶⁹Ibid.

The foundation of Asante's nation building is obviously on quicksand. Granted that most African governments immediately after independence came to power through the electorate, it is also true that one man one vote quickly became one man one vote one time. Without exceptions, African governments who came to power immediately after independence soon became authoritarian, either through outright subversion of the law or through parliamentary dictatorship by virtue of the ruling party's majority. For example, the parliament of Ghana amended the constitution to make Nkrumah president for life, a blatant violation of the underlying principle of democracy. In short, what Asante is advocating is a benevolent dictatorship, if ever there was one. The trouble is that authoritarian regimes lose any semblance of benevolence when it comes to the question of retention of political power. In view of this, for Asante to invoke the authority of the electorate as defense of a regime's dictates begs the question.

Though Ebiasah agrees with Asante on the problems of nation building, he rejects the argument that violations of human rights can be justified through

them. As he puts it: "detention of political opponent cannot hasten the development of the African people..."⁷⁰

There are authors who claim that 'the philosophy and conceptions of human rights existed in other cultures besides Western Europe.'⁷¹ According to Wai, "it is not often remembered that traditional African societies supported and practiced human rights."⁷² Along the same lines, Kwesi Wiredu's claim that the Akan recognition of the right of a newborn to be nursed, the rights of an adult to a plot of land, etc., is "a veritable harvest of human rights."⁷³

⁷⁰Ibid., p. 302.

⁷¹Issa Shivji, The Concept of Human Rights in Africa, (London: Codesria, 1989), p. 10.

⁷²Pollis and Schwab, p. 116.

⁷³Kwesi Wiredu, "An Akan Perspective on Human Rights," in Human Rights in Africa, ed. Abdallahi Ahmed An-Na'im and Francis Deng, (Washington D.C: Brookings, 1990) p. 257.

There can be no higher responsibility of a mother than to nurse her new born. To label that as the baby's right is to confuse a natural maternal duty with human rights. I cannot find any culture in human history that condones a mother's refusal to nurse a newborn baby. Obviously what Wiredu is alluding to is some Western mothers choice of feeding a baby with formula instead of breast milk.

Wiredu contends that an Akan adult has a rights to a plot of land. Even if this contention, though not substantiated by present Akan society, is accepted, it is not pertinent to human rights, but a matter of Akan traditional law. The above contention I'm sure, does not include foreigner, but applies only to members of the group in whose name the land is held in common by reason of decent. As stated earlier, human rights as contained in the Universal Declaration is a Western idea that refers to a particular approach to securing human dignity. As Donnelly puts it, human rights

"refers to a particular social practice, not just any system of political rights or an institutionally unspecified commitment to realize human

dignity; it is one particular way in which the realization of a widely shared human values (human dignity) may be sought."⁷⁴

The claim by Wiredu and Wai that African societies have had human rights all along is the authors' confusion of African societies indigenous means of administering social justice, or a means of securing human dignity among a particular people, with the concept of human rights. Once again, "traditional societies, wherever located seem to have had no place for human rights."⁷⁵

By following the evolution of the modern human rights concept, there is little or no room for one to argue that the concept is not a Western idea. There may be parallels of the concept in other cultures, after all, human beings share certain common moral values. The question at this point is whether African governments, at least those who originally signed the Universal Declaration understood the concept, or whether at the time of independence it was the expedient thing to do?

⁷⁴Donnelly, p. 51.

⁷⁵Ibid.

As asserted earlier by Pollis and Schwab, in the British colonies the Westminster model with its protection of individual rights became the sine qua non for independence. Be that as it may, the claim by authors like Wiredu, Wai, and many others that Africans have had human rights all along seems to indicate lack of understanding of the philosophical foundation of the concept as contained in the Universal Declaration. A look at the African Charter on Human and Peoples' Rights will bring this to light and perhaps help explain why Africans seem to be at divergence with the West on the question of human rights implementation and applicability.

AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS

No African nation that endorsed the Universal Declaration has protested or rejected either the substance or the philosophy of human rights. As such, it can be assumed that the signatories accept the concept. In fact, the African Charter acknowledges the Universal Declaration, as stated in its preamble: "having due regard to the Charter of the United Nations and the Universal

Declaration of Human Rights.”⁷⁶ However, the very existence of an African Charter, different in applicability and orientation suggests that perhaps the Africans did not agree with all the tenets of the Universal Declaration, and that the African Charter provided the forum for voicing these disagreements.

According to the African Charter, the major disagreement lies not in the content of the instrument but in the prioritization of rights. For example, while the Universal Declaration is predicated upon the protection of the individual and his or her civil and political rights, the African Charter states in its preamble:

*convinced that it is henceforth essential to pay particular attention to the right to development and that civil and political rights cannot be dissociated from economic, social and cultural rights in their conceptions as well as universality and that the satisfaction of economic, social and cultural rights is a guarantee for the enjoyment of civil and political rights.*⁷⁷

⁷⁶Paul Sieghart, The Lawful Rights of Mankind, (Oxford: Oxford University press, 1986), p. 231.

⁷⁷ Ibid.

As Vincent observes, "the tendency of the African thought is to turn the western list upside down. Collective rights are first in importance, second comes economic and social rights, and third civil and political rights."⁷⁸

The prioritization of these rights does not necessarily mean that some rights have to be suspended or violated in order to secure other rights, only that "particular attention" be paid to certain rights more than others. However, on reading the African Charter, it becomes immediately clear that not only are civil and political rights subordinated to economic and other rights, but that civil and political rights are granted at the discretion of the existing regime, as indicated by the charter's content.

Article 8 reads:

*Freedom of conscience, the profession and free practice of religion, shall be guaranteed. No one may, subject to law and order, be submitted to measures restricting the exercise of these freedoms.*⁷⁹

⁷⁸Vincent, p. 40.

⁷⁹Sieghart, p. 233.

The political history of most, if not all African countries since independence has been one of upheavals and turmoil. Since the era of independence in the 1960s, most African regimes have ruled dictatorially. If African regimes do not come to power democratically or otherwise with the consent of the citizens, the proviso- "subject to law and order" in article 8, provides a wide cover for any violation or suspension of human rights the regime deems fit to undertake at any time. The proviso clause allows the regime to take away with one hand what it has given with the other hand. Since human rights principles cannot form a part of the foundation of the laws of most unelected regimes, by the simple fact that they will undermine the legitimacy, and hence, the authority of the regime, an appeal to the laws of such a regime to protect human rights begs the question. Human rights by its conceptualization is supposed to take precedence over civil law. As such, for human rights to be protected, civil law, whether enacted by a legislature or an unelected regime cannot be subordinated to the dictates of that regime. Yet, this is exactly what is found in the African Charter.

Few African countries can claim to be democratic, though all have some democratic principles enshrined in their constitutions, that is if they have one

at all. Most governments are either authoritarian or military dictatorships. As such, laws in most countries do not emanate from an elected legislature but from regimes whose political survival takes precedence over the interest of the country. In such conditions, civil laws are often nonexistent, and the regime's will is expressed in the form of decrees. To predicate the freedom of religion as stated in article 8, on the laws of a regime that came to power by force of arms is tantamount to granting the freedom of religion at the discretion of the regime.

Article 9, #2 reads: "Every individual shall have the right to express and disseminate his opinions within the law."

What if the decree of Sergeant Kontempt's regime for this week has abolished any form of political expression that does not favor the regime?

Article 10, #1 reads: "Everyone shall have the right to free association provided that he abides by the law".

It is well known that one of the first decrees of a military regime is to impose a curfew, for fear of a counter coup. In such an atmosphere, one can associate only with groups that support the regime, that is if that person does not want to vanish the next evening.

Articles 12: 1, 2, 4; 13: 1, 3; 14, all contain provisos that subordinate human rights to the dictates of the regime in power. By the content of the African Charter, I will assert that its framers did not understand human rights as espoused by the West. For, no other explanation will suffice to justify the subordination of human rights to the dictates of a regime. Granted, no regime is foolish enough to sign an instrument that will subvert its own survival by making human rights take precedence over its decrees, the easiest way to get around this problem is either not having a charter at all, or not respecting the Universal Declaration. As the case was with the American constitution on the question of Black equality, the instrument was not flawed but the dictates were not respected until the 1960s when the civil rights laws were enacted.

Perhaps the framers did not see the flaws in the African Charter. This is not likely since the charter went through several drafting stages before it was submitted to the various governments for ratification. Surely if the framers understood the philosophical foundation of human rights the flaws would have been detected. Since they were not detected, and since African governments still look to the charter as a standard for human rights appraisal whenever convenient, I will assume that what I consider flaws in the charter

were not, and are still not considered as such by many Africans. Hence, my contention that the framers of the African Charter and indeed Africans in general do not understand human rights as espoused by the West is therefore confirmed.

Lack of action on the part of the OAU concerning governmental abuse of it's citizens go to support my contention above. For example, the OAU refused to intervene on issues of human atrocities in the Biafran war on the grounds that it was an internal affair. Since there is no land left in the world that is not a part of a sovereign state, violations of human rights are always going to be an internal affair! When the expulsion of Asians in Uganda was brought before the United Nations, Nigeria actually argued that the Ugandan situation was not related to human rights! Ironically, Nigeria leads the intervention effort in the Liberian civil war.

CHAPTER 4

CONFLICT OF IMPLEMENTATION

The tracing of human rights evolution from its natural rights beginning to the modern human rights concept has shown the following:

1. The concept evolved due to a specific social change in England, France, and the United States. It is therefore a western idea with characteristic western social values and expectations.
2. By its conceptualization human rights is not culturally relative.
3. Though applicable in all cultures but limited in implementation in some by reason of its western cultural outlook, human rights works best in an affluent liberal democracy.
4. If 2 and 3 are accepted, then the implementation of human rights in cultures that are neither democratic nor liberal presents a problem.
5. If nothing is done about 4, and human rights are pushed without regards to other elements in different societies, are we making human rights an end unto themselves instead of a means of protecting human dignity?

Item 1 does not need any further elaboration since it has been well established in the previous pages that the concept of human rights is a western idea.

There is a long standing debate about cultural relativity of human rights, especially in traditional societies. By its conceptualization human rights cannot be culturally relative. The Universal Declaration specifies a special way of protecting human dignity since it became obvious by the atrocities of the past that the previous modes of protecting human dignity which were based on the cultural dictates of a particular society had not worked. A new world order was born in 1948 in which the protection of human dignity ceased to be relative to a particular culture or society, but by a henceforth institutionally specified mode and standard by which the whole world was to be held accountable. This new mode and standard of protecting human dignity is what is called human rights. As stated in the Universal Declaration:

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge, ... The General Assembly proclaims this Universal Declaration of human rights as a common standard of achievement for all peoples and all nations ... shall strive by teaching and education to promote respect for these rights and freedoms..⁸⁰

⁸⁰Ibid., p. 172

Nations may choose not to promote respect for human rights, but it is quite another thing to demand different standards of implementation or enforcement when the instrument clearly proclaims one standard. If the claim of relativity is accepted, then there may be no need for human rights since different cultures have different ways of securing human dignity. Perhaps the interchange of the concept of human dignity with human rights in most academic literature and use by politicians around the world has resulted in the conceptual confusion of both. This confusion is easy to understand since the Universal Declaration grounds human rights in human dignity; it is because human beings have dignity that we have human rights. This is clearly stated in the United Nations International Covenant: "These rights derive from the inherent dignity of the human person."⁸¹ If the purpose of human rights is to protect human dignity, then Africans and indeed other societies around the world do not have to look to the West for guidance as to how to achieve it; human dignity exists in all cultures of the world. But it is the difference in standard of protecting human dignity which failed during World War II. that

⁸¹ Ibid., p. 178.

brought about the need for a universal standard, proclaimed in the preamble of the Universal Declaration as "a common standard of achievement for all peoples and all nations." This new standard is what is called human rights. Therefore no country that is signatory to the Universal Declaration and other human rights instruments can claim a difference in standard of implementation or enforcement. For that to happen the instrument itself will have to be amended.

By the evolution of human rights, item 3 has been largely borne out by the literature presented in this dissertation and hence, will not be elaborated upon further.

If items 2 and 3 are accepted, then the applicability of human rights in societies that are neither democratic, liberal, nor affluent presents a special problem. Since it has been shown that human rights are not culturally relative, and that the whole world is held to the same standard, and since it is widely agreed that human rights work best in an affluent liberal democracy, does it not follow that in order to implement human rights in non-western societies there should be a corresponding push to move these societies at the least closer to a model of liberal democracy? Besides, the existence of rampant

human rights violations in Africa, suggests that the indigenous mode of protecting human dignity has not worked, and a new mode is needed. Further, since African societies are communal based, and human rights are individualistic based, the socio-political conditions in Africa either do not foster or are in direct conflict with human rights principles. To implement human rights as they exist today, in societies whose social norms may be in conflict with human rights principles is at best a bandage on a cancerous wound and at worst an abdication of intellectual and moral responsibility. Concrete changes on the international level need to take place to make these societies more in line with conditions that foster respect for individual human rights, or a flexibility of human rights implementation must be sought. I shall return to this issue in the concluding chapter.

Some have argued that the push for human rights in non democratic societies is in itself a push in the direction of democracy and human decency. Supporters of this position point to Germany, Italy and Japan as examples of how the incorporation of human rights principles in the constitutions of these countries has resulted in the creation of liberal democracies in them. But this explanation is not adequate, as the evidence from other nations, especially

those that are non-western who have incorporated human rights principles in their constitutions have not shown the same results. Beside, these were the Axis powers that were defeated in World War II., and were forced to accept these changes as part of their surrender terms. Another reason for the relatively easy transition for these countries into liberal democracies was that their economies and societies were relatively modern.

Proponents of "nation building" thesis support the contention that modernization is directly related to human rights goals, but argue that modernization goals should take precedence over human rights concerns until a later date, considering the multiplicity of problems in nation building. The problem of what comes first, modernity or human rights cannot be resolved here. Some have argued that the two can go hand in hand. Whatever position one takes, it is quite obvious that some goals of human rights coincide with that of modernization.

For example, the availability of economic opportunities that modernization brings allows the individual to break free of social and political bonds he or she deems undesirable. In this way the individual can sever old ties and build new ones with all the fulfillment of life as before. Lack of individual

economic opportunities removes the above possibility, as often, land and property are held in the name of the group. Hence, any economic opportunity an individual gets has to have some input from the group. Where there are virtually no economic opportunities, coupled with the prevailing social structure in traditional societies, the implementation of human rights as they exist today will help speed up social disintegration as the old social order is undermined or destroyed without an alternative order to replace it. The result is confusion. In addition, The state as an institution is a recent phenomenon in African politics. In Africa as in other developing nations, political institutions did not evolve with social growth but were inherited from former colonial powers. Without real preparation for eventual take-over by the natives, the newly installed government became the sole initiator of meaningful economic activity, in terms of infrastructure and international trade. As governments grew to spur modernization and social change, so did governmental abuse of power and citizens apathy for change.

In many African countries, paternalism on the part of the government is still the norm, as citizens have become used to it, or have given up any hope of change. Though some of the pioneers of African self-rule knew what

modern government entailed, a great majority of African leaders did not understand the concept of modern government. Yet Africans embraced modern government because that was the only means a territory could be recognized as an independent state. In most cases, political and economic fortunes were to be made by supporting immediate self-rule. As soon as international recognition of these territories was attained, politics quickly drifted back into the traditional mode -chieftaincy. Often, the head of state became the paramount chief, and other leaders like ministers became sub-chiefs. The classic example is Mobutu's Zaire.

If the West is sincere about human rights, then supporting meaningful modernization goals, especially in terms of social institutions is indirectly supporting human rights goals. If no corresponding structural and social adjustments are made in non western nations and human rights are pushed in them, are we not making human rights an end in themselves instead of a means of protecting human dignity?

Rhoda Howard and other zealots for human rights implementation in Africa lose sight of the fact that human rights are needed to protect human dignity. Though few would argue that there is a better mode of protecting human

dignity than through human rights, under certain conditions, the push for human rights without consideration for other elements in the society may defeat the human rights goal of protecting human dignity. The following story will illustrate this dilemma.

An American heard of a little girl in a developing nation who was sent to the city to live with a family because her parents were too poor to take care of her. Two of the child's siblings had died of malnutrition and disease. Even though the child is intelligent and wanted to go to school, she was not able to since she had to take care of the host family's daily preparations for school and work. Though she could have done her work and still gone to school, the host mother decided that she needed her at home. The child has no time for herself and for all practical purposes is an unpaid servant.

The American decided to write to the host mother and offer to send some money so that the child could at least go to school. I pointed out to him that unless he was willing to support the child into adulthood, his generous and kind gesture was likely to harm the girl than help her. If this offer was made, it would imply that the woman was been unkind to the child, or at least was not doing enough. I pointed out to my friend that the woman did not want to adopt a daughter, if she did I'm sure it wouldn't be this poor girl. As far as she was concerned, the services of the child were quid pro quo for her upkeep. To avoid any further complications, the woman would likely not accept my friend's "help." She is likely to send the child back to her parents to save face and brand the parent as being ungrateful, as many poor parents would consider themselves lucky for the woman to take their child. If this happens, the child would be in a worse situation than before, and might suffer the same fate as her siblings. If my friend was prepared to support the child at her village on a long term basis, then he could go ahead with the initial offer to help her schooling. If not, as bad as he felt for the girl, he should leave her alone. I also pointed out to my friend that there was no school at the child's village, the very reason why he wanted to help the girl.

An attempt to help the girl may actually leave her worse off than before. Developing nations have to grapple with tough decisions such as these on a daily basis. When resources are limited, and rights are resources, second best may be the only practical choice.

The above illustration is in no way an advocacy for maintenance of the status quo in Africa. Only that as noble as the goals of human rights are, they are only a part of a multitude of goals that nations must achieve, and that treating human rights as an end in themselves may defeat their purpose. After all human rights or any other rights cannot exist in a state of anarchy.

Developing nations must create and maintain law and order, with the institutions to enforce them before rights can be said to have any meaning.

According to Monte Palmer, political systems in developing nations

must be in a position to control or regulate the population and resources of the state. Strikes, riots, insurrections, and other forms of civil disorder correlates poorly with economic growth. Specifically, civil unrest in developing areas has resulted in the wholesale flight of investment capital to foreign capital markets, stagnated production, disrupted educational programs, diverted government resources into security rather than development projects, and generally depressed overall efficiency of the economic system.⁸²

⁸²Monte Palmer, The Dilemmas of Political Development, (Itasca: F.E.Peacock, 1985), p. 4.

The path of development is indeed a balancing act. Goals must be prioritized and resources diverted where it is most effective. While the human rights zealots present development as if operating an airplane in auto-pilot mode, where systems work together as designed, I will contend that it is more like a perpetual turbulence where one is in a constant state of emergency, scrambling to control an aircraft out of control, and if lucky, one may enjoy a crash landing in the end!

If the above development argument has any merit, then we cannot dismiss outright the claim by some developing nations that if Western nations are sincere about human rights goals then they should also support modernization and democratic goals as well. "Primo vivendi deinde philosophare" (First you eat then you philosophize).⁸³ As Claude Ake puts it, "rights...are not very interesting in the context of African realities...(they) appeal to people with a full stomach." ⁸⁴

⁸³ Seneca De Brevitate vitae XV111

⁸⁴Howard, "Group Versus individual Identity" p. 180

Implementation of human rights in a condition of social flux may curtail the abuse of power, but without the complementary change in social structure it is tantamount to destroying the existing mechanism that offers a level of dignity to members of the society without an alternative system to replace it.

CHAPTER 5

AKAN SOCIO-POLITICAL ORIENTATION BEFORE COLONIZATION

My search for an unadulterated Akan culture and outlook relies heavily on the work of J.B Danquah. Though other limited sources are available, it is the work of Danquah that speaks to the spirit and outlook of the Akans without. Since almost all the other sources are by westerners, they are invariably presented through the eyes of westerners. In his book, *The Akan Doctrine of God*, Danquah asserts that

True culture is ethical not material...Hence, among the Akans the 'tool' of their civilization is almost indiscoverable: it is with them, a matter of spirit...Everything else has value only in its relation to the ideal of the great ancestor (God) as the 'tool' of their culture. Here, all are for each; for all are of the ancestor of the family, be he a Chief or Emperor, or merely a patriarch...In the end we will find that the quest for God in Akanland is a quest of their culture, their politics, their economics and the spirit of their art and life.⁸⁵

⁸⁵J.B. Danquah, *The Akan Doctrine of God*, (London: Lutterworth, 1944), p. 3-4.

The notion that Akan culture is almost undiscoverable by westerners is apparent in the fact that more and more, the work of the so-called pioneers are being discredited or otherwise revised as they often were ethnocentric or outright racist in outlook. Ordinarily, modern scholars are able to a large extent to correct some of these 'mistakes' by systematic analyses and anthropological evidence. But what happens when the subject covered is itself anthropological in nature and does not lend itself to modern scrutiny, either because the evidence is no longer in existence, or as in this case, present conditions do not foster the same outcome by reason of western influence.

For example Rattray calls the Akan God the 'sky god,' claiming simply that the source of this interpretation came from the 'natives.' An anthropological investigation of a core religious issue of a people such as 'God,' should not be based on 'the man in the street interpretation,' unless the investigator is either not serious, or by prejudice does not expect anything more. In his own Christian religion, the 'skygod' is called God of Heaven, but Rattray could not bring himself to accept that the people he had branded savages, could on their

own evolve a religious belief that is monotheist and in many ways resembles his own. This is the point lamented by Danquah as he writes:

It is well known that for nearly 2000 years at least ...among the Europeans...the idea of a heavenly or celestial God, located at a certain distance in the sky, has been a fixed one among these nations. And they always called this God the heavenly God, the Celestial God, or God of heaven. How anthropologists hailing from these countries came to locate another class of gods, skyscape, or sky-ward "highgods" in Africa, and among "natives" races generally, must be merely a curious geographical and psychological study.... The same sad story might be written of an Akan who, taking up a study of native European languages and cultures, came to discover that the word God for the Supreme Being was a Teutonic word derived from Guth or Gud or Goth or Ghen, which in turn, is derived from a Sanscrit root, ghue, to invoke, to pour, the latter being the sense in which the word was used by the ancient Teutonic races in sacrificial offerings. Now, if any Akan anthropologist in Europe was, for this reason, to call the Teutonic God a "Pouring God," would not research student pick a quarrel with him for mistaking the root of a word for its present usage or meaning?⁸⁶

Europeans tended to dismiss anything of worth that is not gold or otherwise materially beneficial to Europe, but which contradicts the European's racial bias, by claiming that that idea must have been borrowed.

⁸⁶ Ibid., p. 34.

As Danquah puts it, "it is painful, sometimes, to encounter learned men and civilized anthropologists who refuse to believe that the non-European, non-Moslem or non-Aryan, or lately, non-Japanese, races are capable of any originality which is not merely primitive"⁸⁷

The most popular way to discredit Akan originality was to attribute any sophisticated or original idea to "Moslem influence." Though evidence clearly suggests that the Akan concept of God the Father, or the Great Ancestor is nowhere to be found in Islam, and that for an Akan to be described as a Moslem is seen by Akans as an oxymoron, just as it would be for a black man to be described as a member of the Klu Klux Khan, many western missionaries and scholars still persist in this outlook. According to Danquah, "if there is any tenet which the Akan-Ashanti most particularly despise it is the tenet of Islam, and if there is any race the Akan-Ashanti ever looked down upon, it is the West African race which professes Islam... The Moslems

⁸⁷Ibid., p. 104.

live in the Akan country mostly as servants or workmen and as peddlers of dubious charms and talismans and fortune tellers."⁸⁸

As Danquah stated earlier, and also confirmed by my field research, the quest for God in Akanland is a quest for their culture, politics, economics, art and spiritual life. As such I 'm forced to deal at length with issues of Akan theology in an attempt to discover the Akan socio-psychological outlook on human relations and expectations, which in turn speaks to human rights. Unlike the West where various compartmentalization of society is possible, to get the true spirit of most traditional societies takes more than just a short visit and mere outward observation. It requires a total immersion in the culture. This requirement is what makes studies about traditional societies anthropological in nature. Thus, a relatively short visit by a sociologist or political scientist to study a narrowly defined subject often does not capture the spirit of the subject.

⁸⁸Ibid., p. 105-106.

According to Danquah, in a society where the family is the chief ideal, honor and dignity, not just for the individual but the family are the highest virtues. In such a society what is right, just, good, and what is done are determined by tradition. Tradition in turn evolved from the will of God, through the Great Ancestors. The will of God ultimately translates into doing what is right, just, and good by one's neighbor. Akan society thus, is one where religion and everyday life are fused together to the extent that all important actions are supposed to conform to the will of God. This fusion of social action and religion originates from the Akan theology of man's relations with God.

Reincarnation is at the foundation of Akan theology. Man's mission on earth is to do God's will. Each individual is in direct touch with the source of his origination which is God. Each man comes from God, ordained and endowed with a specific path (nkrabea), along which the spirit of God with which he was endowed (honhom) can be found. Within the honhom is the essence of being (hyebea, pronounced shebia), which allows the soul to go back to God when revealed. It is only through goodness, i.e., doing the will of God that one can come to know his nkrabea. Doing good allows the soul

(okra) to permeate the being or personality (sunsum), bringing forth the inner spirit, honhom, which cannot be stained by any outside manifestations, and in which the hyebea can be revealed, as illustrated by figure 1.

Until the mission of goodness is fulfilled as dictated by the original nkrabea, the individual would be reborn indefinitely. Like the concept of karma in Buddhist philosophy, one's deeds in life are cumulative, which determines to what extent the nkrabea has been fulfilled. The fulfillment may take several lifetimes to achieve, with each reincarnation supposedly

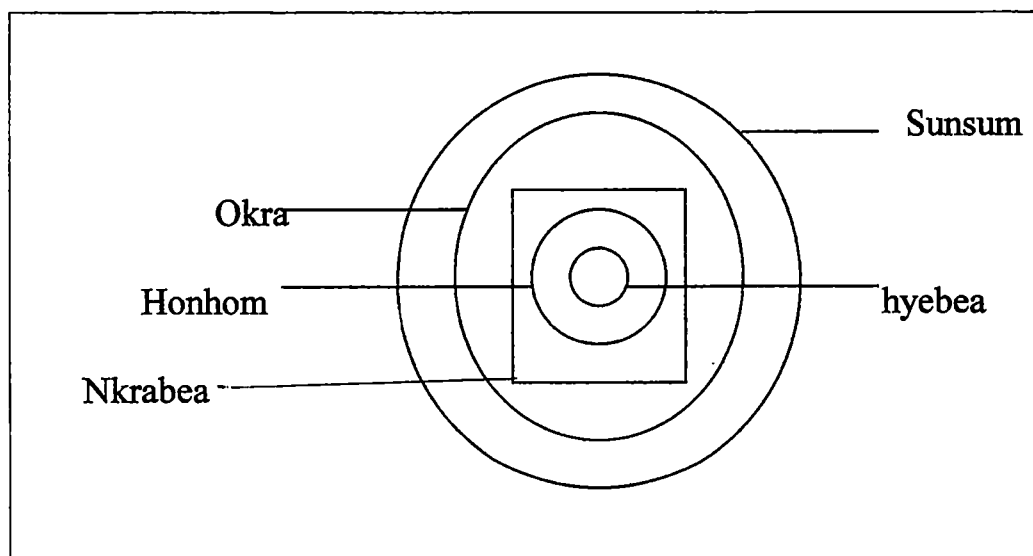


Figure 1. Model of Akan Human Spirituality.

Source: Construction based on Danquah's description and confirmed by field research

bringing the soul (okra) closer in touch with the being (sunsum). The final stage of one's existence comes when the okra has taken over the sunsum to the extent that the evils of life no longer have an affect on the being. After this the soul returns to God unblemished and permanently. A person at such a stage is assumed to have been around for quite a while through reincarnation and is thus accorded reverence. He is considered a great ancestor, whose life becomes an example for others to follow.⁸⁹ Perhaps this is what Rattray was referring to when he said: "they have undoubtedly an innate leaning towards the acknowledgement of one of their members as a judge, a leader, a chief, a King."⁹⁰

Doing good to one's neighbor translates into doing good for one's self. As the Akan adage goes: wo ye' bone a wo ye' fa, wo ye' papa a wo ye' fa (if you do good, you do it for yourself, if you do bad, you do it for yourself). Through the above reasoning, the purpose of life for the Akan is **beneficence**.

⁸⁹ Ibid., p. 82-89.

⁹⁰ R.S. Rattray, Ashanti Law and Constitution, (New York: Negro University Press, 1969), p. 286.

As such, the Akan finds it impossible to detach God from his every action. In contradiction to the western idea of separation of church and state, the Akan thought is rooted in the concept that all human actions should conform to the will of God. As Westermann puts it,

*it is recognized that the principle of good and evil are rooted in God, his will is that man should be good and He hates evil-doing. But the Akan acceptance of this doctrine is no more than a platonic acknowledgement, it is not a sanction which guides him in his actions. Moral obligations are rooted in social bonds, not in God.*⁹¹

What Westermann did not grasp in his observation is that the trust in, and fear of God is such an integral part of the Akan psyche that all social relations stem from the dictates of God. Recognizing that God's will is intended for the good of man, and not for the good of God, it stands to reason for the Akan to root all moral obligations in social bonds and not in God. For the will of God in the end translates into man doing right in society. What good is it to believe in God and hate your fellow man? By this reasoning the will of God

⁹¹ Danquah, p. 14.

takes precedence over all social arrangements by man. According to Danquah, "it is a higher kind of morality which seeks to do good for its own sake, and not for the sake, or on account of, divine approbation, in the form of rewards and punishments or otherwise. The morality which is done to please can be very superficial sometimes."⁹²

Many find it difficult to reconcile the prior existence of the institution of slavery in this environment of supposed kindness and harmony. Though slavery in any form is deplorable and unjustifiable, a close examination of that institution as it existed in Akan and that found in plantation America will show why the Akans did not see slavery as a contradiction of beneficence. Slavery in Akan was a matter of luck and circumstance, not of poor birth or race. This ties in with the idea that whatever station one finds himself at, not only is one supposed to learn something from that experience, but others through interaction with him are supposed to learn too. Beneficence is twice blest; it blesseth him that gives and him that receives.

⁹² Ibid.

The most common mode of slavery was through pawning. This was a custom by which a person became a temporary 'slave' of another as a pledge for debt. Though freedom was obtainable at anytime by the payment of the debt plus interest, this was often not done. This was partly due to the high interest on the principal and also because the pawns, being well treated were not dissatisfied with their lot. Slavery in West Africa was aptly described by Mary Kingsley as "a state of servitude guarded by rights" ⁹³

Slavery through conquest was limited, but the treatment of these slaves were often better than the pawns, as royal members of the conquered were sometimes allowed to marry into the Akan royal family. In most cases slaves were quickly assimilated into a family with little or no differentiation between the slave and the free. There were instances of former slaves rising to prominence or position of leadership among the Ashantis; it is said that some of the tall Ashanti kings had slave ancestry! Indeed, in Akanland it is considered slanderous for one to call another a slave or descendant of a slave even when that is so. As Claridge points out, "it was about the mildest form

⁹³Rattray, p. 38.

of slavery that could exist, having but few objectionable features and bearing no comparison with conditions that had prevailed in the days of the slave Trade proper."⁹⁴

But traditions that allowed for society to operate harmoniously to the extent of accepting slaves as their own also resisted change. A society that operates mainly by tradition and custom does not lend itself to critical re-examination. Behavior is based on tradition, not logic or expediency. By the Akan tradition, doing good becomes an end in itself, and children are socialized as such, often without explanation as to the root of it. This attribute impressed even Rattray so greatly that he stated that the Akan

*was, originally, essentially a peace-loving person. Within the kindred group, it is not improbable that he came as near to the keeping of the golden rule as many people in a much higher grade of culture. There is not a trace of the vendetta. This is more remarkable, because corporate responsibility for every act was an established principle which survived even the advent of a powerful central public authority as the administrator of public justice.*⁹⁵

⁹⁴ W. Walton Claridge, A History of the Gold Coast and Ashanti, Vol. II., (London: Frank Cass, 1964), p. 177.

⁹⁵ Rattray, p. 285-286.

An isolated homogeneous society can operate mainly by tradition, but any society that has contact with others is subject to change and cannot operate by tradition alone. By Akan traditional norms, there is a certain level of egalitarianism, but deference is accorded the elders by virtue of their experience, and the wise by virtue of their insight and the harmony they bring to the society. As in most traditional societies, the elders and the wise seldom include women and the young. As such women are not held on the same level as men. Often, important decisions are made without the input of a single female. Children are supposed to be obedient to their elders, even in cases where the elders may be clearly in the wrong. The danger with this situation is that there is little or no activism on issues that affect women and children. For, those who can bring about change do not suffer the "injustice" complained about, and often the status quo is maintained.

Another problem with Akan thought is that, what is right, just, and done are dictated by tradition, laid down by the Great Ancestors and passed on from generation to generation. Accordingly, there was no differentiation of what is morally right and what is legally right. In fact before the advent of colonization, the two were the same, as indicated by Rattray: "what we might

call a 'crime', was another way of saying he had been guilty of a sin or, as the Ashanti themselves term such offences, the commission of an act 'hated by the Tribe' (Oman Akyiwadie)."⁹⁶ The introduction of Western legalism has created a conflict that persists to this day.

Legality in Western societies is structured, often divorced of religious doctrine. However, in matters of justice and fairness, most laws have a certain level of moral force behind them. But there are many laws that depend entirely on technicalities or social considerations other than morality. When the Akan is faced with a choice of what the law says and what is morally right, without exception, morality always supercedes legality. In a homogeneous society this may not present a problem. However, the Akans are but one of many groups who form the modern state of Ghana. What is morally acceptable to one group may not be for the others. What happens in the end is that laws are obeyed or enforced depending on the locality and often based on their moral force, and not on their legality. This outlook is so

⁹⁶ Ibid., p. 287.

pervasive that many westerners consider or would consider the Akans a lawless bunch. But a close examination of the Akan thought will show that the Akan tradition and outlook leaves him little or no choice in this matter. Simply put, when man's law conflicts with morality, which ultimately is God's law, God's law takes precedence.

This mode of social outlook ultimately translates into one of duties and obligations, as each individual in society knows what is expected in terms of rewards and punishment. In fact the meaning of the word "rights," as used in human rights does not exist in Akan language. "Right" in Akan could mean the opposite of wrong, or the opposite of left. 'Right' as used in 'human rights' comes close to meaning "what is one's due." By this translation it becomes obvious that in Akan culture, one has a right only when certain deeds are done. However, since humans are a special creation of God, all are due a certain minimum level of existence, and no human deed entitles one to take another's life.

The introduction of human rights in Akanland presents a special problem in terms of how the concept fits into the Akan outlook and the structure of the Akan society. Akans would agree with human rights tenets that advocate

human dignity. The other parts of human rights that deal with such abstractions as people having 'rights simply for being human,' and the emphasis on individualism are problematic.

For example, the Western political system has introduced the concept of one man one vote, which presumes equality of all. Though the Akan would agree to the equality of all human beings on philosophical grounds and in the eyes of God, that does not mean that all have equal say in matters of social importance. Some in society have more experience or wisdom than others. As such their views on important issues in society should carry more weight than others. Just as the prime minister under the Westminster model is *primus inter pares*, so are the elders and the wise first among equals in the Akans. If the majority accept the leadership of the elders and the wise in society, then there is no need to put the issue to the ballot. Besides, most important decisions are arrived at through the so-called palaver methods, which means that all concerned in a particular issue under consideration come to some sort of agreement before a policy is adopted. As Rattray put it, the Akan "love of thrashing out a dispute and settling it by forensic rather than by lethal weapons...we find that redress for the injured and punishment for the

offender were undertaken by the popularly elected 'house-father' (elder of the clan), and not by a process of unlimited self-redress."⁹⁷

Danquah asserts that the "knowledge which the community acquires or possesses over the processes of nature, is...destined to be used by the community for the furtherance of its own good in order that men of the community should live well."⁹⁸ Before the advent of western formal education, the knowledge that helped the community mostly came from the wise and the experienced, usually through age. The adoption of western electoral system and rights without the corresponding structural and institutional changes has created much confusion and does little to benefit the Akan. In fact in some ways the introduction of western ideas may be detrimental to the Akan well being. As Westermann asserts: "his religion helped him to maintain life, to overcome hardships and, in his own modest

⁹⁷ Ibid., p. 286.

⁹⁸ Danquah, p. 90.

way and within the narrow circuit of his life, to live well...It was for man a way of life and of comfort."⁹⁹

The superficial adoption of western values in the form of abstract rights with its accompanying individualism and self-indulgence, which ultimately rests on self initiative and availability or creation of economic opportunities will not work in a poor traditional society in which opportunities if they exist, lack the necessary social impetus to bloom. The switch from religion as a means of coping with the hardships of life to that of individual self reliance in a situation of abject poverty translates into going from a bad situation to worse, on the individual level. On the social level, the institutions that are supposed to make the new order work, are either nonexistent or non-operational. In short, traditional societies simply do not conform to the social order that human rights as conceptualized today entails.

On the question of conformity to the Akan way of life, the individual has a right to do whatever he wants provided it is not a criminal offense. As Danquah puts it, you "can be or do anything else you like provided you do

⁹⁹ Ibid., p. 124.

not lay claim to a share in the society of man and to belong to a human family."¹⁰⁰ Additionally, if the chief ideal of Akan society is the family and the purpose of life, beneficence, then the introduction of individual rights with its celebrated self indulgence and greed in opposition to the family or the group goes contrary to the Akan sense of being. As Rattray acknowledged long ago,

We have been too much pains to ignore the value of their own past beliefs, and to hasten to destroy them. Instead of endeavouring to show the African all he really owes to his past, we have knocked the bottom out of his world before he was quite ready to grasp the fact that we had come, not to destroy the lessons of his own immemorial teachings, but to show him that our creed aimed at very similar results, but by a method which helps the individual to become master of his own fate and of his own soul.¹⁰¹

If Rattray was aware of Akan theology, he would have realized that even his honest attempt to correct some of the past mistakes of destroying African thought and outlook, still misses the point. By Akan theology, no man is a

¹⁰⁰ Ibid., p.182

¹⁰¹ Rattray, p. 291.

master of his own soul! As it was in the past, the implementation of human rights in Akanland as they exist today is nothing short of a call for the total abandonment of Akan values for western ones, as will be confirmed by the field research.

CHAPTER 6

DATA PRESENTATION AND ANALYSIS

PART I: QUESTIONNAIRE ON HUMAN RIGHTS

Though the scope of this field research is narrow, the findings serve an important purpose of confirming some of the assertions made in this paper. The data collected in this research were drawn from major Akan centers of Ghana: Kumasi, Cape Coast, Sunyani, Accra, and Koforidua. Though the sample is small due to resource limitations, I hope the responses shed light on Akan perceptions of certain key components of human rights and human dignity.

The employment of Guttman scaling in this research will serve two purposes. First it will show the extent to which our respondents hold individualism as a core tenet of human rights. Second, it will establish a level of unidimensionality in my responses relating to individualism, thus showing consistency or confusion on the part of the respondent.

Guttman technique assumes that certain attitudes are related to one another in such a way that holding one necessarily means holding others that are less

intense than the former. In the application in figure 2, constructed from the United Nations Universal Declaration, I am constrained by the necessity to relate the questionnaire to real life situations in Akan culture with respect to individualism. As such one may argue the intensity of one question as compared to the preceding one. As can be seen in the Guttman scaling in table 1.0 below, at least five respondents were chosen from each of the five centers listed above, making sure the respondent was an Akan. Those who admitted not having any knowledge about human rights were excluded from

<u>Please indicate whether you agree or disagree with each of the following statements:</u> 1. Human rights are rights accorded an individual simply for being human 2. Human rights are primarily concerned with the rights of the individual 3. Since the aggregate of individual rights protect all in society, the rights of the individual as a unit in society shall be supreme. 4. If the rights of the individual conflict with the good of the group, the rights of the individual shall take precedence. 5. Traditions that subordinates individual rights and aspirations to that of the group (clan village, etc.) must be changed. 6. The individual must be free to act in matters that affect his or her personal life. 7. In matters involving private individual relations such as marriage, and private property disposal, the individual shall be the sole decision maker even at the objection of groups like elders, clan, tribe, etc.

Figure 2. Questionnaire 1

TABLE 1.0 Distribution of Guttman Scale Responses

<i>Item</i> 1	<i>Item</i> 2	<i>Item</i> 3	<i>Item</i> 4	<i>Item</i> 5	<i>Item</i> 6	<i>Item</i> 7	<i>i</i>	<i>Error</i> (e)	<i>i(e)</i>	
Score										
+	+	+	+	+	+	+	3			7
+	+	+	+	+	+	-	5	1	5	6
+	+	+	-	+	+	+	1	1	1	6
+	+	+	+	-	+	-	6	2	12	5
+	+	+	-	+	+	-	4	2	8	5
+	+	-	+	+	+	-	1	2	2	5
+	+	+	-	-	+	-	6	3	18	4
+	+	-	-	-	+	-	1	4	4	3

$$\text{Guttman coefficient of reproducibility (CR)} = 1 - \frac{i(e)}{n(N)}$$

where n = the number of items

e = the number of errors in each line

i = the number of respondents

N = the total number of cases

$$C = \frac{1 - 50}{27 \times 7} = 0.74$$

the interview. In some cases, especially in Kumasi, specific examples relating to the questions being asked were given to clarify the question. In most cases, the questions were asked in the local Akan dialect.

A₃ Guttman coefficient of 0.74, as compared to 1.0 being the highest number for unidimensionality is a clear indication of nonreproducibility and therefore lack of unidimensionality. The coefficient together with the large number of errors indicate that the responses are not mere inconsistencies but

an indication of fundamental conflict in my respondents answers. Another way of explaining the data is that though my respondents believe in individuality as a core tenet of human rights, they did not believe in it enough to re-orient their cultural outlook. When there is a conflict between traditional practices that subordinate individualism to the group, they chose tradition, as indicated by items 5 and 7 above.

QUESTIONNAIRE 2

The following questionnaire in figure 3 was administered in the Akan centers listed above to test respondents familiarity with certain key tenets of human rights. All statements are based upon human rights dictates as found in the United Nations Universal Declaration of human rights.

The data seems to provide a general outlook of Akan perceptions and expectations of certain key tenets of human rights. Table 3.0 shows that of the ten items in the questionnaire, respondents find agreement with only two of these key tenets of human rights. The average respondent score of 31.8

PLEASE INDICATE WHETHER YOU STRONGLY AGREE, AGREE, UNDECIDED, DISAGREE, OR STRONGLY DISAGREE WITH THE FOLLOWING STATEMENTS.

- 1. Human rights are rights a government confers on its people. ***
- 2. The right to peaceful assembly shall be at the discretion of the government. ***
- 3. Everyone shall have the right to freedom of expression: this shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through other media of his choice.**
- 4. Children and young persons should be protected from economic and social exploitation.**
- 5. Child labor should be prohibited and punishable by law.**
- 6. To maintain law and order governments sometimes have to suspend human rights.***
- 7. Torture by government agents is prohibited except in cases where evidence suggests that the application of torture on suspected terrorists will enhance public safety. ***
- 8. Men and women of full age, without limitation due to race, nationality or religion, have the right to marry and to found a family.**
- 9. Men and women are entitled to equal rights as to marriage, during marriage and at its dissolution.**
- 10. Different cultures may practice different versions of human rights. ***

Figure 3. Questionnaire 2

Total number of respondents 39

Response Scores:

Strongly agree 5	Agree 4	Undecided 3
Disagree 2	Strongly disagree 1	

Statements that are framed opposite to human rights principles, indicated by * shall have reverse scores. For example statement 1 scores shall be Strongly disagree (5), Disagree (4), Undecided (3), Agree (2), and Strongly agree (1).

compared to human rights tenet score of 50.0 indicates that in general Akans take the position of neutrality, instead of agreement on issues of human rights. Some particular responses are more revealing of our respondents expectations than others. For example, 54% of our respondents agree with the statement that "human rights are rights a government confers on its people." This is a fundamental lack of knowledge or understanding of human rights principles. If we add the undecided respondents in this item the disagreement to this key human rights tenet rises to 61.5%. This seems to confirm our earlier assertion that Africans in general, and Akans in particular do not understand human rights. Another example that will support this assertion are questions 4 and 5. When asked whether children and young persons should be protected against economic and social exploitation, 100% of our respondents were in agreement. However, 69% of our respondents were either undecided or in disagreement with the statement that child labor should be prohibited and punishable by law. Perhaps the explanation to this dichotomy is that though the respondents agree with the idea of protecting children from exploitation, they do not see children working to help support the family as exploitation. Parents in many parts of the world have no choice

but to enlist the help of their children to support the family. When rights conflict with the realities of life in developing countries, there is no debate as to which takes precedent. As Ake puts it, "rights...are not very interesting in the context of African realities...the right to peaceful assembly, free speech and thought, fair trials etc...appeal to people with a full stomach."¹⁰²

Item 10 in table 2.0 and 3.0 also confirms the above assertion. When asked whether different cultures may practice different versions of human rights, the Likert approximate item response score shows our respondents to be undecided. In fact the individual item response shows that a majority of our respondents agree that different cultures may practice different versions of human rights, as reflected by the various scores in table 2.0 and 3.0. Again, a fundamental disagreement with universality as a key provision of human rights principles. There may be several explanations for these responses, ranging from disagreement with key tenets of human rights principles to confusion or lack of knowledge of the concept of human rights. Though it

¹⁰²Howard, Group Versus Individual Identity, p. 180.

TABLE 2.0 Distribution of Likert Scale Responses to questionnaire 2

Item		Number of Respondents					Item Score				Total
		SA	A	U	D	SD	SA	A	U		
1.*	4	21	3	10	1	4	42	9	40	5	100
2.*	-	11	3	18	7	-	22	9	72	35	138
3.	-	10	2	25	2	-	40	6	50	2	98
4.	8	31	-	-	-	40	124	-	-	-	164
5.	-	12	8	15	4	-	48	24	30	4	106
6.*	-	12	15	11	1	-	24	45	44	5	118
7.*	-	11	11	13	4	-	22	33	52	20	127
8.	1	38	-	-	-	5	152	-	-	-	157
9.	1	18	6	12	2	5	76	18	24	2	125
10.*	-	18	11	10	-	-	36	33	40	-	<u>109</u>
TOTAL							1242				

Item Score = respondents x response score

Average item score (AIS) = $\frac{\text{total item score}}{39}$

TABLE 3.0 Comparison of Scores

Item	AIS	HR Item Score	HR Response	Approximate Item Response
1.*	2.6	5	Strongly disagree	Undecided
2.*	3.5	5	Strongly disagree	Agree/Undecided
3.	2.5	5	Strongly agree	Undecided/Disagree
4.	4.2	5	Strongly agree	Agree
5.	2.7	5	Strongly agree	Undecided
6.*	3.0	5	Strongly disagree	Undecided
7.*	3.2	5	Strongly disagree	Undecided
8.	4.0	5	Strongly agree	Agree
9.	3.2	5	Strongly agree	Undecided
10.*	2.8	5	Strongly disagree	Undecided

HR tenets score = $5 \times 10 = 50$

Average respondent score = $\frac{1242}{39} = 31.8$

would be impossible to ascertain why some responses conflict with human rights principles, they still confirm the assertion that the Akan social and cultural outlook is fundamentally at odds with certain human rights principle.

QUESTIONNAIRE 3

To test the level of acceptance of the rights of the individual and individualism in general as a core tenet of human rights, the following questionnaire in figure 4 was administered to 26 people in the key Akan centers. The data for questionnaire 3 in figure 4 and table 4.0 indicates a conflict or ambivalence on the part of our respondents. They seem to agree with general statements of individualism made in isolation, but when these statements are applied to real life situation, they disagree. For example, 92% of our respondents in item 3 agree that the rights of the individual should be supreme. Yet, the very next question which applies this statement against the good of a group, shows almost half of the same respondents in disagreement. The same can be said about items 6 and 7. While 96% of our respondent agree that the individual must be free to act in matters that affect his or her personal life, 86% disagree that the individual shall have the right to make

Please indicate whether you agree or disagree with each of the following statement

- 1. Human rights are rights accorded an individual simply for being human**
- 2. Human rights are primarily concerned with the rights of the individual**
- 3. Since the aggregate of individual rights protects all in society the rights of the individual as a unit in society shall be supreme**
- 4. If the rights of the individual conflict with the good of the group, the rights of the individual shall take precedence.**
- 5. Traditions that subordinate individual rights to that of the group (extended family, clan, village, etc.), must be changed.**
- 6. The individual must be free to act in matters that affect his or her personal life.**
- 7. In matters involving private individual relations such as marriage, and private property disposal the individual shall have the right to make decisions even at the objections of groups like elders, clan, village etc.**

Figure 4. Questionnaire 3.

Table 4.0 Distribution of response to questionnaire 3

Item	Percentage who Agree	Percentage who Disagree
1.	100	0
2.	100	0
3.	92	8
4.	56	44
5.	52	48
6.	96	4
7.	14	86

inheritance laws, we took pains to explain to our respondents that in item 7 decisions about matters such as marriage and private property over the objections of groups like elders and clan. When there is a conflict between human rights principles and cultural tradition, our respondents have consistently sided with tradition. Because of the complications of Akan personal property meant property acquired by the individual, not one inherited from the extended family.

By Akan law, property inherited from the extended family cannot be disposed of except in cases of hardship and with the consent of key extended family members. For instance, a father cannot bequeath a land that was inherited from his uncle to his son by Ashanti law. Extended family property that is inherited, is not the heir's property to dispose of as he pleases. This complicated arrangement stems from group ownership of property. For example, the Ashantis are matrilineal and hence, property stays on the side of the mother. However, personal property that excludes all family ownership can be passed on to whomever one pleases. Other Akan groups are patrilineal, which allows for property to be passed on from father to son. In both cases the heir is more of a custodian than a new owner of the property.

PART II: QUESTIONNAIRE ON HUMAN DIGNITY

The following open ended questions were put to 20 respondents ranging from age 62 to 91. The ideal age for this group as of 1996 was at least 65 years old. The reasoning for this is that a person who was at least 16 years old at the time of the United Nations Declaration of Human Rights would have already formed his or her socio-psychological orientation of human relations from indigenous Akan traditional culture and hence, would be minimally influenced by human rights principles.

It is further assumed that such a person is likely to define or explain the concept of human dignity from the Akan perspective with little or no influence from western ideas of human rights. Ideas from this group in conjunction with others form the basis of the Akan concept of human dignity. For example, in item 1 below, though there is 100% agreement to the question, different respondents gave different reasons for their agreement, ranging from "the inviolability of human beings" to "human's innate ability to recognize what is right." I must admit that the omission of God or religion from the responses posed such a difficult problem for all our respondents that

we had to constantly remind them of it. In fact two of our respondents threw us out of their homes for not believing in God. One asked whether any human being in this world is so stupid as to think there is no God. We had to explain that our project was an intellectual exercise that applies to all peoples of the world, believers and unbelievers of God alike. Figure 5 and table 5.0 are very important due to the fact that the respondents' ideas and responses form the core of our definition and explanation of human dignity, which hopefully will set it apart from the concept of human rights

Though the responses are tabulated in table 5, other responses that give deeper meaning to certain concepts cannot be tabulated. I hope to convey these ideas in the definition and explanation of human dignity.

Analysis of questionnaire 4 and table 5 will define the parameters of the Akan concept of human dignity. Our respondents agree 100% that there is a certain minimum standard of human well-being that society must maintain. This is the cognitive minimum standard in a given society that allows the individual to live and function as a human being.

Eighty eight percent of our respondents agree that human rights, statutory law, and religion do not completely address how human beings

1. Is there a certain minimum standard of human well-being that society has to maintain?
2. Are there other ideas of human relations that have not been addressed by the Principles of human rights, is outside the domain of statutory law, and not a matter of religion?
3. Are the ideas in #2 universal or indigenous to a particular culture?
4. How do these ideas add to the well-being of man?
5. Can you give a name to these ideas so as to connote what they do for human Beings
6. Can society take away the attribute in question 5?
7. Should some in society have more rights than others?

Figure 5. Questionnaire 4

TABLE 5.0 Response Distribution to Questionnaire 3

Item	Response
1.	yes - 100%
2.	yes - 88% don't know - 12%
3.	universal - 92% indigenous - 8%
4.	human progress; peace; civility; harmony; posterity; goodness of man.
5.	human dignity - 56%; preservation of man, goodness of man, brotherhood of man, peace among men, progress of humanity, etc. - 32%; don't know 12%.
6.	no - 100%
7.	yes - 52% no - 48%

should be treated in society. Many of our respondents in this category agree that the three social institutions above work only when society already exists. For society to exist, human dignity is the defining moral force that allows human beings a certain minimum autonomy upon which the three mentioned institutions can build.

Almost all our respondents agreed that the ideas in item 2 are universal, pointing out that they are attributes of all human beings, and cannot be taken away by society as indicated in item 6. The birth and nursing of a baby by the mother sets in motion the minimum autonomy mentioned above. The maternal or parental protection of a baby in terms of providing nourishment and prevention of physical harm, equips the baby's brain with the idea of a certain level of importance unto itself, not necessarily because he belongs to that mother or parents but because he is human. The baby soon learns, for example that the family dog, chicken, or cow is not accorded the same importance. Fifty six percent of our respondents specifically called the idea under consideration human dignity. With the exception of the twelve percent who could not give a name, the names given by the other respondents connote something close to human dignity, as indicated in item 4 of table 5.

CHAPTER 7

HUMAN DIGNITY

There are certain minimum needs that a person has to have in order to live like a human being. When these minimum needs are met, human beings are said to have dignity. These needs are stated in article 22 of the United Nations Declaration of Human Rights: "...economic, social and cultural rights indispensable for his dignity and the free development of his personality."¹⁰³ The purpose of human rights is to protect this dignity, as stated in the United Nations International Covenant: "these rights derive from the inherent dignity of the human person."¹⁰⁴

For human rights to work the first order needs that bring dignity must be satisfied. However, most poor people around the world are engaged in a daily struggle to secure these minimum needs. One who does not have these

¹⁰³Human Rights Reader, p. 201.

¹⁰⁴Paul Sieghart, p. 178.

minimum needs or is constantly fighting to maintain them would find the second level protection for human beings, which is human rights, nothing but empty words. As stated by Seneca in the early stages of Christianity, "a hungry people listens not to reason, nor cares for justice, nor is bent by any prayers."¹⁰⁵

Americans have taken for granted the importance of food in human life. In a nation preoccupied by dieting, cutback in food intake means, not adding eggs or butter to one's breakfast, or having a "chicken Mc-lean" sandwich instead of a "triple Whopper." In many developing nations the major preoccupation of many people is the acquisition of food. For many families, coming up with one square meal a day is an accomplishment. For these people, cutback of food intake means starvation and sickness.

When Patrick Henry said "give me liberty or give me death," I'm sure he did not envision a slow and painful death by starvation or disease. His was a quick death by firing squad or hanging. People without hope for the future

¹⁰⁵Seneca.

who have been in a prolonged deprived situation for the bare necessities of life cannot demand liberty or death, under such conditions food is more important than freedom.

The United Nations Universal Declaration was predicated upon the assumption that dignity already existed in the world (western world?). Hence, the adoption of human rights was to protect this dignity. Contrary to western assumptions, and due to the nature of dignity itself, many societies around the world have not yet transcended the threshold of development for which a certain level of dignity is maintained and in which human rights would be meaningful. The Akan concept of human dignity will shed light on why the implementation of human rights is problematic in traditional societies.

MEANINGS OF DIGNITY - PART 1

According to Herbert Spiegelberg, the concept of human dignity as a standing phrase and its equivalents in other languages is quite new. Not until the Enlightenment period did we see such a phrase as "dignity of man." Though the concept of human dignity may be recent, the idea has been around for a long time. In Judeo-Christian religion, the fact that God had

made man in his own image was the source of man's dignity. While Sophocles' praise of man as the most wonderful of God's creation may be an unfounded assessment of man, no other creature, at least those that we know about, has the faculties and abilities that come close to man's. Even after the original sin, for which the Christian Middle Ages called for humility due to man's corruptibility, the idea of man as the image of God was maintained.¹⁰⁶ If the concept of human dignity is based on religion, then there is no need for a philosophical foundation for it. However, since the world does not have one religious faith, and some may not even believe in the existence of God, then just as in the case of human rights, a secular grounding for human dignity has to be sought.

Many authors assume that the words 'human' and 'dignity' are common everyday usage words and hence, well understood by all. As such many do

¹⁰⁶Herbert Spiegelberg, "Human Dignity: A Challenge to Contemporary Philosophy," in Human Dignity this Century and the Next, ed. Rubin Gotesky and Ervin Laszlo (New York: Gordon and Breach, 1970) p. 42- 43.

not bother to define or elaborate on human dignity as a concept. Often, the concept of human dignity is interchanged with human rights as if the two are the same. Besides, those who have defined human dignity do not agree on its meaning. For example, Herbert Spiegelberg defines human dignity as: "the worth of a person who is worth being for his own sake, regardless of his usefulness for another. It is because of his worth that he is worthy of personal respect."¹⁰⁷ Though this definition helps in highlighting the fact that one's dignity does not originate from one's usefulness to society or the performance of a duty, it is simply circuitous. If one is not worth something, one would not be worthy!

Rhoda Howard defines human dignity as "the particular cultural understanding of the inner moral worth of the human person and his or her political relations with society." ¹⁰⁸ She goes on to say that human dignity,

¹⁰⁷ Ibid., p. 59.

¹⁰⁸ Rhoda Howard, "Dignity, Community and Human Rights," in Human Rights in Cross-Cultural Perspectives, ed. Abdullahi Ahmed An-Na'im, (Philadelphia: University of Pennsylvania Press, 1990), p. 59.

unlike human rights is not a claim that one can assert against society but rather "something that is granted at birth or on incorporation into the community as a concomitant of one's particular ascribed status, or that accumulates and is earned during the life of an adult who adheres to his or her society's values, customs and norms...In many preliterate societies, individuals who chose not to earn such dignity, who consistently violated instead of obeying the underlying social norms, were cast out through exile or through conversion into slavery ."109

As lamented by Danquah earlier, Howard's definition and explanation of human dignity is a classic example of a westerner living in a traditional society for a relatively short period and using her observation of certain outward manifestations or superficial inquiry about certain cultural matters to define the core tenet of that culture. As it often happened in the past, Howard's observation misses the mark!

Obviously, Howard is using her experience and observations in certain African cultures to define and explain human dignity. But all humanity has

109Ibid.

dignity as exemplified by the various pronouncements by the United Nations in its human rights instruments. Hence, the definition and explanation of human dignity should not be confined to only traditional societies in Africa but should be formulated to conform to the world at large, as I hope to do shortly.

Contrary to Howard's assertions, the Akan concept of human dignity is not ascriptive, society does not give it to the individual; hence, society cannot take it away. It is not earned as one would earn say, wages; it is found in all societies not just traditional ones. By Howard's own definition of human dignity as "the inner moral worth of a human person," I wonder how society can give to or take away such an attribute from a person. The banishment of an individual from a community is a punishment for violation of the community's social code and should not be construed as an equivalence to removal of one's dignity. For example, Moses' banishment by Pharaoh cannot be said to be equivalent to his dignity being taken away.

Howard's claim that human dignity is "something that is granted at birth or on incorporation into the community as a concomitant of one's particular ascribed status," is sheer nonsense. An indigenous practice of initiation by a

particular tribe in a particular part of Africa cannot be used to define or explain a phenomenon that applies to all humanity. I wonder how human dignity is "granted" at birth say, in Knoxville, Tennessee. What Howard is alluding to is not human dignity, but perhaps a rite of passage into society by a small and relatively homogenous traditional units in certain parts of Africa.

Howard has spent a lot of effort trying to convince us that "traditional African society has given way to ... a 'modern society'"¹¹⁰ In any such 'modern society,' banishment would not only be illegal, since crimes are supposed to be tried in a court of law, but also contrary to human rights principles which Howard is zealously pushing in Africa. In the eyes of the West, Soviet dissidents who were allowed to leave the Soviet Union had more principles than those who stayed, when it came to preservation of human dignity, yet by Howard's asserts that these dissidents, by being thrown out of their own country would no longer have their dignity.

¹¹⁰Howard, Human Rights in Commonwealth Africa, p. 27.

According to Howard and Donnelly, concepts of human dignity in communitarian societies are not rooted in the notion of human rights, and that "communitarian societies are antithetical to the implementation and maintenance of human rights because they deny the autonomy of the individual, the irreducible moral equality of all individuals, and the possibility of conflict between the community's interests and the legitimate interests of the individual."¹¹¹

The evolution of human rights from natural rights beginnings to its prominence after World War II has been discussed earlier. Human beings had natural rights because they had dignity. By United Nations declarations, historical evidence, and simple logic, it has also been established that human dignity is prior to human rights. For, the modern human rights concept was officially recognized in 1948 to protect human dignity. As such the concept of

¹¹¹Rhoda E. Howard and Jack Donnelly, "Human Dignity, Human Rights and Political Regimes," in Universal Human Rights in Theory and Practice, ed. Jack , (Ithaca: Cornell University Press, 1989), p. 75

human dignity cannot be rooted in human rights, but the concept of human rights must be rooted in human dignity!

The debate about the interest of the individual versus that of the community as stated by Howard and Donnelly has been going on for a long time. In the context of this research, I will only say that except in an environment of blatant disregard for the individual's security and prosperity by a governing unit, living in a situation of extreme poverty and despair as found in many developing nations, "the good of the people is the chief law."¹¹² The individual does not live outside of society. As Howard and Donnelly acknowledge, "in traditional societies, most people had a defined, secure, and (within its own terms) dignified place in society...one might even argue that the traditional conception of human dignity is superior to that of liberalism."¹¹³ Since traditional societies are also communitarian, I am glad to hear Howard and Donnelly acknowledge that communitarian societies are

¹¹²Marcus Cicero

¹¹³Donnelly and Howard, p. 76.

antithetical to the implementation and maintenance of human rights. The two statements by Donnelly and Howard cut to the core of problems relating to human rights implementation in traditional societies.

If, as stated by Donnelly and Howard, "in traditional societies most people had a defined, secure, and (within its own terms) dignified place in society," for which "one might argue that the traditional conception of human dignity is superior to liberalism," and if as they also claim, "communitarian societies are antithetical to the implementation and maintenance of human rights," why are traditional societies being pushed through the medium of human rights to adopt liberalism?

Howard has argued forcefully elsewhere that African countries cannot claim to be tradition oriented, due to many different factors. But evidence in this research and other sources affirm that African countries are not modern. The existing problem in traditional societies demands not a total wreckage of the old dynamics of human dignity for which human rights will surely do if not implemented properly, but an adjustment of the existing order to conform to a changing world. Surely human rights are the medium needed for this adjustment, but not in the rigid form as they exist today.

MEANINGS OF DIGNITY - PART II

Due to linguistic limitations the word 'dignity' has often been used as a synonym for respect. For example, if we say the prisoner accepted his punishment with dignity, there is no clear and precise picture as to what the prisoner did, but we can surmise that he did not breakdown and cry, or ask for mercy or anything along those lines. We can guess that he most likely was ready to face the consequences for his wrongful deed, having accepted the verdict and not showing contempt for the law. In this scenario, dignity could mean brave, honest, or principled. A person who has such qualities, 'one who would stand up like a man,' though a convict, is accorded respect because not all human beings can exhibit such qualities under such circumstances. This attribute can be found in all men but to differing degrees. Dignity used this way has the connotation of respect.

The meaning of human dignity upon which rights are based and for which human rights is supposed to protect has a different meaning from above.

According to Allan Gewirth, human dignity

"signifies a kind of intrinsic worth that belongs equally to human beings as such, constituted by certain intrinsically valuable aspects of

being human. This is a necessary, not a contingent, feature of all humans; it is permanent and unchanging, not transitory or changeable;...it sets certain limits to how humans may justifiably be treated."¹¹⁴

Gewirth's definition of human dignity comes close to the Akan concept, and how I intend to use it in this dissertation. There is a special attribute of humans that grounds their dignity. For example, if one says 'even in the face of certain death, the prisoner never acknowledged his captors rights to enslave him but marched to his death with dignity;' while there may be a variation of mental pictures from one person to another, we all have an idea of the situation being described. Here, dignity is more than just respect. The actions of the prisoner go deeper than ordinary contempt for his captors. His resolve to adhere to his beliefs originates from his psychological fortitude that goes beyond social or rational conventions, one over which the prisoner alone has control. This inner realm of individual autonomy, an attribute of all

¹¹⁴Alan Gewirth, "Human Dignity as the Basis of Rights," in The Constitution of Rights, ed. Michael J. Meyer and William A. Parent, (Ithaca: Cornell University Press, 1992), p. 12.

human beings may vary from one person to another but is the basis upon which human dignity is built. The statement: "you can have my body but you will never have me," suggests that even in the deplorable situation of rape, there is a certain part of the human person that the victim controls. This part is not just psychological but spiritual as well. It is this realm of inner sanctity of humans that dignity is built on. Since no human being has ever created another human, as contrasted with say, the invention of robots, no human has the right to prevent another from his potential by denial of certain fundamental needs. Certain needs when denied the individual reduce him to an animal-like existence, and destroy that which makes him human. The acceptance of each individual as an autonomous being, morally and potentially equal to all others is what grounds dignity for humans, which in turn demands that certain basic needs be at his disposal.

In the discussion above, the availability of other words to convey our mental picture would help explain what is meant by human dignity.

Unfortunately, the limitations of our vocabulary, and sometimes the inability to convey a precise idea by words alone forces us to use 'dignity' as the appropriate word that brings us closest to our mental picture. In the case

above, we understand what we mean by 'dignity' even though the description does not exactly match the mental picture. Perhaps a small list of words would help differentiate this difference.

Connotations of dignity as intrinsic worth	Connotations of dignity as worthy of respect
Irreducible	Honor
Inviolable	Esteem
Undebasable	Principled
Unassailable	Majestic
Sanctity	Bravery

Though the list above does not speak to the full meaning of human dignity as I wish to convey, it helps to narrow the scope of my description. As stated earlier by Howard, human dignity is not a claim against society, but it is the very attribute of humans that makes society possible. Human dignity sets the minimum standard by which human beings may be justifiably treated. Though human dignity is not a claim against society, society can enhance it. Metaphorically speaking, human dignity is like gold. It can be dulled, shined, shaped, or melted, but in the end it still remains gold.

The dignity of man demands that a human being should not be allowed to be reduced to an animal-like existence. It is this same cognition that allows

for even the most primitive cultures of the world to bury their dead when other animals are disposed of in different ways. In fact, even in death the dignity of man is still not effaced as the spiritual aspect of human dignity is maintained. This attribute of human dignity is what makes desecration of graves and any form of disrespect for the dead repugnant to humans. Human dignity is not mere respect for a person because he is human; it is an innate psychological expectation as to how human beings are to be treated; an unspecified but cognitive moral standard in human existence. Indeed it is this inherent attachment of moral value to man that human rights is supposed to protect.

HUMAN DIGNITY AS A CONSTRUCT

In his article on "Humanist Ethics and the Meaning of human dignity,"¹¹⁵ Abraham Edel treats human dignity as a 'construct,' comparable to the

¹¹⁵Abraham Edel, "Humanist Ethics and the Meaning of Human Dignity," in Moral Problems in Contemporary Society, ed. Paul Kurt, (Englewood Cliffs: Prentice Hall, 1969), p. 227-240.

construct 'atom' in the physical sciences. In so doing he rejects the mere linguistic analysis of the concept which has brought about its semantic confusion and the philosophical interpretation of human dignity as a "Platonic essence" or "phenomenological quality."¹¹⁶ Though some of Edel's assertions are difficult to decipher from their philosophical abstractions and disciplinary jargon, the treatment of human dignity as a construct would be helpful in this undertaking.

Many have raised questions about the usefulness of treating a social phenomenon as a construct. For example, Spiegelberg raises the question that the treatment of human dignity as a construct "seems to imply that prior to construction nothing definite corresponds to the phrase....Is it creation out of nothing or out of ingredients from experience?"¹¹⁷

To treat human dignity as a construct is not to claim its first use. Once again it is due to our linguistic limitations that a dual connotational meaning of the word 'dignity' has persisted which has resulted in the conceptual ambiguity of

¹¹⁶Spiegelberg, p. 51.

¹¹⁷Ibid., p. 52.

human dignity. The idea of something being so small as to be indivisible had been around long before the construct 'atom' was conceptualized. Hence, one cannot claim that before the conceptualization there was no atomic matter; subatomic matter that was discovered twenty years ago had been in existence since the beginning of time!

As to Spiegelberg's second concern, the use of human dignity as a construct is indeed out of ingredients from experience.

A certain idea may exist in society without much importance attached to it until such an idea is used in connection with an important event which then propels it into the public forum for re-evaluation and acceptance in a way that did not exist before. Such was the case of the American revolution.

Years after the American Declaration of Independence, perhaps a little annoyed at the fame of the principal author of the document, John Adams remarked that the Declaration "contained no new ideas, that it is a commonplace compilation, its sentiments hackneyed in Congress for two years before." Jefferson pleaded guilty, responding that the purpose was "not to find out new principles or new arguments never before thought of, not

merely to say things which had never been said before, but to place before mankind the common sense of the subject in terms so plain and firm as to command their assent." It was intended, he said "to give that expression the proper tone and spirit called for by the occasion."¹¹⁸

The treatment of human dignity as a construct will allow for the breakdown of the concept into components thereby making it clearer to explain the different parts that make up the concept. This fosters operationalization of the concept which also sets parameters around any variable being considered. I hope this will give the concept of human dignity the proper tone and spirit called for by this occasion.

CONSTITUTION OF HUMAN DIGNITY

Article 22 of the United Nations Declaration of Human Rights states:

Everyone as a member of society, has the right to social security and is entitled to realization, through national effort and international

¹¹⁸Thomas Jefferson, Letter to Henry Lee, May 8, 1825, in The Political Writings Thomas Jefferson, ed. Edward Dumbauld, (Indianapolis: Bobbs-Merril, 1955), p. 8.

*cooperation and in accordance with the organization and resources of each state, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.*¹¹⁹

The statement that economic, social and cultural rights are indispensable for one's dignity forms the foundation of my analysis of human dignity. Though the framers did not explain exactly what they meant by article 22, I hope my analysis brings to light a deeper meaning of the statement above.

OPERATIONAL DEFINITION AND EXPLANATION

Human dignity as intrinsic worth shall be operationalized as a certain minimum level of physical, emotional and spiritual well-being needed for human existence that allows the individual exclusive control of certain primordial actions independent of others. A minimum standard of existence that affirms the essence of being which in turn differentiates human life from bare animal existence.

¹¹⁹ Human Rights Reader, p. 201.

To bring my discussion to the individual level, I have substituted 'physical' needs for 'economic;' 'emotional,' for 'social;' and 'spiritual' for 'cultural;' corresponding to article 22 of the United Nations Declaration.

The three variables that make up human dignity are unspecified but cognitively accepted minimum standard of human existence in a particular society, based on the "development" of that society. Here, "development" shall be operationalized as the economic, social and cultural dynamics that make a particular society work. The levels of these three variables may differ from one society to another, some having higher levels of all three, others a mixture, and yet others lower levels of all three. The minimum threshold is what is important in a given society, to the extent that one cannot say a society with higher levels of all three variables has more dignity than one with lower levels.

An average person living in a developing nation might have a higher level of emotional well-being due to the prevalence of the extended family structure which offers a network of support and a sense of belonging; but a lower level of physical well-being due to the harsh physical conditions of everyday life and the constant struggle for survival. Conversely, an average

person living in a developed nation like the United States might have a higher level of physical well-being due to the relative ease of physical existence, but a lower level of emotional well-being due to the structure of developed societies with its resultant isolation and alienation of the individual.

In both situations above, human dignity is maintained if the minimum threshold levels of physical or emotional well-being are maintained. For example, a picture of a severely starving person due to war or famine is a clear indication of debasement of that person's dignity. Though this person still has dignity, the minimum threshold level of one or more variables may have been crossed. It is only through the actions of society or other individuals that the levels may be 'corrected.'

The easiest examples of debasement of human dignity are of course torture and rape. In fact one can argue that rape is a form of torture. Even in the committing of such crimes, the perpetrator, if in tune with his own dignity will experience the pain of his victim unless through some irrational justification as found in situations of war, 'ethnic cleansing,' racial prejudice or outright criminality is able to block that shared human psychological experience.

RELATIVITY OF HUMAN DIGNITY

The minimum threshold levels of human dignity can be raised through development within a given society. As human beings develop intellectually, spiritually, and technologically, the threshold levels rise. Within different societies what would have sufficed as the minimum threshold levels twenty years ago may not suffice today. As the dynamics of society change in terms of decreases or increases in the threshold variables, so do human expectations and aspirations. The result is that members of a particular society, according to their level of development may unconsciously raise the minimum threshold levels of one or more or all of the variables. Usually when the physical variable is raised, the other two would lag behind. In some developing nations where negative economic growth has occurred, the emotional and spiritual variables may rise while the physical variable lags far behind, sometimes below a prior level. Human dignity is still maintained as the lowering of the physical level is compensated for by the 'rising' of the spiritual and emotional levels. This rise is not measurable but an adjustment of the psychological orientation of the people involved, made possible by the natural resiliency of human beings to adjust and adapt to differing situations.

Though all three variables mentioned are important for the maintenance of one's dignity, the physical variable has an important effect in spurring human action to 'correct' a human situation that is deemed unacceptable. Due to the outward manifestations of the physical variable, more attention is paid to that than the other two. The exception to this would be people who have made a conscious decision to adopt a religious or spiritual existence. For these people the physical variable would be a certain minimum that gives them sustenance or a degree of comfort. Since their physical threshold level is by choice, no perception of debasement is experienced.

The continued condition of extreme poverty in many developing nations has also spurred some national governments to sacrifice the other two variables in order to raise the physical variable. Often, this low physical threshold level is accompanied by a sense of inferiority. Many developmentalists and nationalist leaders like Mao Zedong, Kwame Nkrumah, Fidel Castro etc. have this psychological outlook. The condition of poverty is often blamed on the international economic order, economic and physical exploitation of one society by another, and local mismanagement and corruption. The means to 'correct' the situation has taken the form of

revolutions, coups d'état, nationalization of the economy, etc. For these governments, the physical threshold level of their societies compared to others is so low as to give them a sense that their society's threshold level is debased.

If the physical threshold level of a society is perceived by its leaders to be too low in comparison with other societies, as to give them a sense of debasement, then the priority of the government would be to raise that level. Under such circumstances, human rights would be seen as a luxury that has little or no applicability in the society. Since human rights are supposed to protect human dignity, the first order of business for these governments will be to increase the level of the physical threshold. Only when this is achieved can human rights be applied to safeguard the existing human dignity.

Relativity of human dignity allows for differing degrees of cultural and traditional practices that people from different cultures may find offensive. For example, in primitive societies where nudity is the norm, as found with many Amazonian Indians, members of the society will not consider nudity in any form a perversion nor degradation of the person. Though some may consider nudists in America as perverts, and nudity in public as offensive and

an affront to human dignity, that outlook is dictated by the cultural orientation of Americans.

If the purpose of human rights is to protect human dignity, and as has been shown in this research, human dignity is relative to the particular society under consideration, why do we have a uniform standard of human rights, when in fact certain human rights principles may actually undermine or conflict with certain human dignity orientations that human rights are supposed to protect?

CHAPTER 8

CONCLUSION

In tracing the evolution of the modern concept of human rights, it has been established that the social conditions that existed in Europe which necessitated the need for human rights have never existed in Akanland. It has also been established that the social conditions that foster human rights implementation are still non-existent in Akan society today. By Locke's assertions, especially since the modern human rights concept rests mainly on his philosophical ideas, Akan society as it exists today is still in "the state of nature." In this state, rights do not exist!

Attempts to explain that Commonwealth Africa has become modern and hence receptive to human rights implementation has been largely discredited by the evidence presented in this research.

Authors who claim that Africans have had human rights all along have been shown to be mistaken by the evidence presented, as confirmed by

Donnelly's statement that "traditional societies, wherever located seem to have had no place for human rights."¹²⁰

Analysis of the African Charter on Human and Peoples Rights has shown fundamental contradictions with human rights principles which confirms the assertion that Africans in general and Akans in particular either do not accept human rights as formulated or do not understand the philosophical foundations of it. It has also been established through the field research that Akans do not accept certain major tenets of human rights. The Akan seems to accept those parts of human rights principles that coincide with the Akan conception of human dignity. Hence, the prior assertion that what Akans are alluding to when they talk about human rights is human dignity is confirmed.

It has been argued that though human dignity is an attribute of all humanity, its dynamics varies from one society to another. As such, the implementation of human rights without consideration for other social dynamics may in some cases be counter productive. Human rights are not an end unto themselves but

¹²⁰ Donnelly, p. 51.

a means to protect human dignity. Implementation of human rights in traditional societies without the corresponding structural change across the board, actually defeats the goal of human rights, as the social order that accorded any level of minimal protection based on the society's dynamics of human dignity are destroyed without a new order to replace it. On the other hand, one has to be wary when using culture and tradition as a basis for preserving the status quo. Since culture embodies all attributes of a society, good and bad, an appeal to it becomes tautological.

Cultural practices that run counter to basic human rights principles such as child pawning (giving away a child as collateral for a debt owed by the family), child marriages, caste system, and female circumcision should not be condoned on the grounds of protecting that society's cultural integrity. Many of these practices are born of ignorance and poverty. Though they are human rights issues, effective change will come about through education and social advancement rather than through human rights pronouncements. For example, female circumcision, appropriately referred to as clitoral mutilation has been in the news lately.

Though a human rights issue, female circumcision is more a cultural-religious issue than anything else. If female circumcision is medically unnecessary, so is male circumcision. Though I do not condone these practices, it should be said that the public outrage about this issue in America stems from the fact that female circumcision is not practiced here. In many parts of the world, especially in Islamic societies, the practice is the norm. Investigation of the purpose of female circumcision has shown among other things that supporters of this practice, mainly men and older women seem to think that it prevents girls from being sexually promiscuous or active at an early age.

This practice is a cultural issue born of ignorance. Education and availability of economic opportunities in these areas would do more to stop these practices than anything else. Parents with the financial means are more likely to educate their teenage daughter than to give her in marriage. The argument that economic and social development goals cannot be divorced from human rights principles is affirmed by the example above.

Lack of political and legal institutions in developing nations to prevent the abuse of the freedoms envisioned by human rights presents a problem. For

example, in order for the level of individualism inherent in human rights to work, there must be institutions to mediate between competing parties who heretofore may have cooperated for the same goals. The court system should be ready to take over functions that are performed by elders and others in traditional societies. To implement human rights with its inherent liberalism in societies where these institutions are non existent is a direct imposition of western liberalism on these societies, and tantamount to making a bad situation worse.

Human rights as conceptualized now serve to assert the dignity and inviolability of the individual by promoting autonomy of the individual and freedom from dependence upon the benevolence of others. But one who wants to be free from the benevolence of others is one who has the means or the potential to exist independent of others. In the human community, especially one with limited resources, mutual assistance and benevolence are the mediating forces that bring about harmony, which in turn fosters moderation, tolerance and concern for one's fellow man.

According to Jack Donnelly, human rights "is one distinctive approach to securing human dignity. Human rights refers to a particular social practice,

not just any system of political right or an institutionally unspecified commitment to realize human dignity; it is one particular way in which the realization of widely shared values may be sought."¹²¹

This distinctive approach to securing human dignity is found only in western societies. Other societies including the Akans have evolved different approaches, perhaps not as effective, but that which have sustained and maintained human dignity within them.

Often, it is argued that human rights is the only means that accords a certain level of protection for people in desperate situations. The examples given are genocide in Burundi and Bosnia. Murder in any society is a criminal offense punishable by law. In fact criminal prosecution of a murderer is a stronger deterrent than a claim of human rights violation. When murder is committed by a governing body, there are still avenues to bring the guilty party to justice. Even in times of war, there are still standards of behavior that must be adhered to. War crimes tribunals enforce this standard. Crimes

¹²¹ Ibid., p. 42.

against humanity have been leveled against government leaders, though not as often as needed due to international political considerations. If the world is unwilling to enforce a universal criminal code and bring leaders of atrocities to justice, when there are already international laws present to prosecute such abuses, an appeal to the philosophical concept of human rights, which many in developing nations either don't accept or understand is certainly not going to solve the problem.

If the purpose of human rights is to protect human dignity, then different approaches of human rights should be formulated to protect the different dynamics for human dignity found in different societies, not only that found in liberal ones.

If we are not to engage in intellectualism and a neat categorization of human freedoms which are but a game of empty words for most of the world's peoples, we must find effective ways of solving the ongoing human suffering by whatever means possible and not be trapped by one idea which happens to fit well with western societies. According to Virginia Leary, "the most egregious violations of human dignity are the degrading poverty and inhumane conditions of life of millions of individuals, giving rise to a growing

conviction that any conception of human rights must encompass economic and social rights.¹²²

In most developing nations where extreme poverty exists, food is more important than freedom, and the means to feed people more important than engaging in "cosmetic democracy." The enforcement of rights cost money, due process of the law cost money. Poverty, though not an excuse for abuse of power, prevents certain democratic processes from operating when desperate situations call for the allocation of resources to areas where it does the most good. For example, which is more important if choices have to be made; immunization of children or providing a public defender for the accused? Education of police about human rights or education of school children? These are the realities that poor countries have to face on a regular basis. Tough choices that seem to sustain society from day to day, instead of

¹²² Virginia A. Leary, "Postliberal Stand in Western Human Rights Theory," in Human Rights in Cross-Cultural Perspectives, ed. Abdullahi An-Na'im, (Philadelphia: University of Philadelphia Press, 1990), p. 108

a systematic plan to move the society from an approximation of a traditional model to one of modernity.

A specific social arrangement in any given society creates a certain cultural orientation that orders the psychological priorities of that society. The orientation for liberal societies seems to be independence, individual achievement, and material comfort. It is this cultural ideology that orders certain parental patterns such as teaching a child at a very early age to be independent. This is manifested in household living arrangements, with the child sleeping in his own room, and in schools and sports where individual abilities and achievements are recorded in details which further spurs even more individualism. Those who are not able to measure up to this standard are sometimes called "losers."

The cultural orientation of Akan society is family cohesion, group participation and beneficence. This is manifested by Akan social arrangements, which emphasize the group, not the individual, and the theology which teaches that beneficence is the essence of being. This cultural ideology orders that children stay very close to their parents as exemplified by the relatively lengthy period of nursing by mothers or children sleeping

with parents until a relatively older age. In any human intercourse, cooperation instead of autonomy is the norm. For the Akan, to raise a child to be independent of others is to dampen the spirit of cooperation and compassion and to bring out selfishness and greed which are parts of human nature. In Akan cultural ideology there are no "losers." For, it is through others that "winners" emerge; the shared experience is twice blest, it is supposed to mold the character of both "winners" and "losers" alike.

The modern concept of human rights is predicated upon the capitalist ideology that assumes that free competition and choice by the individual, guided by the unseen hand of the market will in the end benefit all in a world bounded by limited resources, but in which man is preoccupied with the acquisition of disproportionate and unequal possession of the fruits of the earth. In this atmosphere, the rich get richer, and the poor get poorer. Yet the moral strength of human rights is based on the fact that it will foster a certain level of brotherhood among all men. What we have today is brotherhood without love!

Part of the implementation problems of human rights stem from its conceptual framework. Since all civil societies have laws to govern human

relations, human rights to a large extent is to protect citizen against the abuse of power by the governing unit. Yet, it is this same unit that is supposed to enforce human rights. The fox is charged with protecting the chicken coop! The other problem of implementation and enforcement stem from the international order of territorial integrity and sovereignty. It was because the fox was found to ravage his own chicken coop that universal human rights were instituted; still, the fox is in charge. Since nations are unwilling to surrender their sovereignty for various reasons, perhaps an international regime similar to the United Nations Human Rights Commission with enforcement powers should be established. This will be the beginning of resolving the conflict between the dictates of human rights concept and sovereignty problems associated with enforcement. Or perhaps the present human rights doctrine already assumes that member states that have ratified the document surrender their sovereignty in matters dealing with human rights? These issues of implementation have to be dealt with clearly and effectively in order for human rights to do what they were created to do.

I hope that by this work, others, especially in Africa, will be spurred to carry out similar research to find out the extent to which Africans in different

societies understand human rights principles and to what extent these principles can or cannot be implemented in these societies. The policy implications of this are quite evident. If foreign aid, international trade, and diplomatic relations are tied to human rights implementation and enforcement, then it is paramount that all involved in the international community understand what human rights are, and hence, what is expected of them, and not just what they are expected to do because of pressure from others.

While human rights advocacy merits support, it should be followed by concrete action that will alleviate the suffering of millions, not just in situations of armed conflict, but in all others that entail human suffering. While advocating human rights implementation, the richer nations feel no obligation to help the poorer nations though in many situations that is the only way suffering can be averted. There is a serious flaw in the international order that prevents the concept of human rights from working the way it is supposed to. If nations are sovereign, but with vast disparities in wealth and resources, how can the citizens of a poor nation be expected to have the same

rights as those of a rich nation. Yet we don't have any problem pushing full speed ahead with human rights implementation.

Perhaps with the exception of genocide or extreme famine human rights talk is supposed to be taken only on the philosophical level. This is one possibility that explains the confusion that surrounds the human rights concept. The world knows what the problem is; we know what it will take to solve it; but we don't have the will to solve it, yet we talk about it as if that will solve it; once a while when the suffering puts us to shame, we do the barest minimum to alleviate it, and then continue to talk!

While the moral merits of human rights are not in dispute, their universality and implementation in certain societies are problematic. Until these problems are properly resolved, **human rights will remain a fictitious abstraction based on western liberal ideas and aspirations with capitalist ideological overtones; imposed on mankind with no regard for cultural and religious differences, or economic and political maturity; and are expected to work in a real world of competition, avarice and greed.**

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APPENDIX

UNIVERSAL DECLARATION OF HUMAN RIGHTS

PREAMBLE

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for the observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore,

The General Assembly

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this declaration constantly in mind, shall strive by teaching and education to promote respect for their rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self governing or under any other limitation of sovereignty.

Article 3

Everyone has the right to life, liberty and security of person.

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defense.

2. No one can be held guilty of any penal offence on account of any act or omission did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12

No one shall be subjected to arbitrary interference with his privacy family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13

1. Everyone has the right to freedom of movement and residence within the borders of each State.

2. Everyone has the right to leave any country, including his own, and to return to his country.

Article 14

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.

2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purpose and principles of the United Nations.

Article 15

1. Everyone has the right to a nationality.

2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16

1. Men and women of full age, without any limitation to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

2. Marriage shall be entered only with the free and full consent of the intending spouses.

3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20

1. Everyone has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.

Article 21

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right of equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22

Everyone, as a member of the society, has the right to social security and is entitled to realization, through national effort and international cooperation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23

1. Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.

3. Everyone who works has the right to just and favorable remuneration ensuring himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

4. Everyone has the right to form and join trade unions for the protection of his interest.

Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25

1. Everyone has the right to a standard living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

3. Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in the scientific advancement and its benefits

2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28

Everyone is entitled to the social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.

2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any rights and freedoms set forth herein.

INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

PREAMBLE

The State Parties to the present Covenant,
Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

Agree upon the following articles:

PART 1

Article 1

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

3. The State Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

PART II

Article 2

1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provision of the present Covenant, to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in the present Covenant.

3. Each State Party to the present Covenant undertakes:

(a) To ensure that any person whose rights and freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

(b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by legal system of the State, and to develop the possibilities of judicial remedy;

(c) To ensure that the competent authorities shall enforce such remedies when granted.

Article 3

The State Parties to the present Covenant undertake to ensure the equal rights of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

Article 4

1. In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the State Parties to the present Covenant may take measures derogating from obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the grounds of race, color, sex, language, religion or social origin.

2. No derogation from articles 6, 7, 8 (paragraph 1 and 2), 11, 15, 16 and 18 may be made under this provision.

3. Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other State Parties to the present Covenant,

through the intermediary of the Secretary General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.

Article 5

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.

2. There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any State Party to the present Covenant pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

PART III

Article 6

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

2. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention of the crimes of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court.

3. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment on the crime of Genocide.

4. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.

5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.

6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.

Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

Article 8

1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.

2. No one shall be held servitude.

3. (a) No one shall be required to perform forced or compulsory labor.

(b) Paragraph 3 (a) shall not be held to preclude, in countries where imprisonment with hard labor may be imposed as a punishment for a crime, the performance of hard labor in pursuance of a sentence to such punishment by a competent court.

(c) For the purpose of this paragraph the term "forced or compulsory labor" shall not include:

(i) Any work or service, not referred to in subparagraph (b), normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention;

(ii) Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors;

(iii) Any service exacted in cases of emergency or calamity threatening the life or well-being of the community.

(iv) Any work or service which forms part of normal civil obligations.

Article 9

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.

4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

Article 10

1. All persons deprived of their liberty shall be treated with humanity and with respect for the Inherent dignity of the human person.

2. (a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons;

(b) Accused juvenile persons shall be separated from adults and brought as speedy as possible for adjudication.

3. The penitentiary system shall compromise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

Article 11

No one shall be imprisoned merely on the ground of inability to fulfill a contractual obligation.

Article 12

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to chose his residence.

2. Everyone shall be free to leave any country, including his own.

3. The above mentioned rights shall not be subjected to any restriction except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.

4. No one shall be arbitrarily deprived of the right to enter his own country.

Article 13

An alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority.

Article 14

1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The Press and the public mat be excluded from all or part of the trial for reasons of morals, public order (ordre public) or national security in a democratic society, or when the interest of the private lives of

the parties so requires, or to the extent strictly necessary in the opinion of court in special circumstances where publicity would prejudice the interest of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.

3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:

- (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;
- (b) To have adequate time and facilities for the preparation of his defence and communicate with counsel of his own choosing;
- (c) To be tried without undue delay;
- (d) To be tried in his presence and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance of this right; and to have legal assistance assigned to him, in any case where the interest of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;
- (e) To examine, or have examined, the witness against him and to obtain the attendance and examination of witness on his behalf under the same conditions as witness against him;
- (f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;
- (g) Not to be compelled to testify against himself or to confess guilty.

4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.

5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.

6. When a person has by a final decision being convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

7. No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

Article 15

1. No one shall be held guilty for any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international

law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of the lighter penalty, the offender shall benefit thereby.

2. Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.

Article 16

Everyone shall have the right to recognition everywhere as a person before the law.

Article 17

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, home, or correspondence, nor to unlawful attacks on his honor and reputation.

2. Everyone has the right to the protection of the law against such interference or attacks.

Article 18

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or adopt a religion or belief of his choice, and freedom, either individual or in community with others and in public or private, to manifest his religion or belief worship, observance, practice and teaching.

2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

3. Freedom to manifest one's religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Article 19

1. Everyone shall have the right to hold opinions without interference.

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in point, in the form of art, or through any other media of his choice.

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as provided by law and are necessary;

(a) For respect of the rights and reputation of others;

(b) For the protection of national security or of public order (*ordre public*), or of public health or morals.

Article 20

1. Any propaganda for war shall be prohibited by law.
2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

Article 21

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law, and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 22

1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.
2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interest of national security or public safety, public order (*ordre public*), the protection of public health or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.
3. Nothing in this article shall authorize State Parties to the international Labor Organization of 1948 concerning freedom of Association and protection of the Right to Organized to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice, the guarantees provided for in the Convention.

Article 23

- 1 The family is the natural and fundamental group unit of society and is entitled to protection by society and the state.
2. The right of men and women of marriageable age to marry and to found a family shall be recognize.
3. No marriage shall be entered into without the free and full consent of the intending spouses.
4. States Parties to the present Covenant shall take appropriate steps to ensure equalities of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provisions shall be made for the necessary protection of any children.

Article 24

1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.
2. Every child shall be registered immediately after birth and shall have a name.
3. Every child has the right to acquire a nationality.

Article 25

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

- (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;
- (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
- (c) To have access, on general terms of equality, to public service in his country.

Article 26

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 27

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.

Article 47

Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.

AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS

PREAMBLE

The African States of the Organization of African Unity, parties to the present Convention entitled "African Charter on Human and Peoples' Rights,"

*Recalling Decision 115 (XVI) of the Assembly of Heads of State and Government at its Sixteenth Ordinary Session held in Monrovia, Liberia, from 17 to 20 July 1979 on the preparation of "a preliminary draft of an African Charter on Human and Peoples' providing *inter alia* for the establishment of bodies to promote and protect human and peoples' rights;"*

Considering the Charter of the Organization of African Unity, which stipulates that "freedom, equality, justice and dignity are essential objectives for the achievement of the legitimate aspirations of the African peoples;"

Reaffirming the pledge they solemnly made in Article 2 of the said Charter to eradicate all forms of colonialism from Africa and to promote international cooperation having due regard to the Charter of the United Nations and the Universal Declaration of Human Rights;

Taking into consideration the virtues of their historical tradition and the values of African civilization which should inspire and characterize their reflection on the concept of human and peoples' rights;

Recognizing on the one hand, that fundamental human rights stem from the attributes of human beings, which justifies their national and international protection and on the other hand that the realities and respect of peoples' rights should necessarily guarantee human rights;

Considering that the enjoyment of rights and freedoms also implies the performance of duties on the part of everyone;

Convinced that it is henceforth essential to pay particular attention to the right to development and that civil and political rights cannot be dissociated from economic, social and cultural rights in their conception as well as universality and that the satisfaction of economic, social and cultural rights is a guarantee for the enjoyment of civil and political rights;

Conscious of their duty to achieve the total liberation of Africa, the peoples of which are still struggling for their dignity and genuine independence, and undertaking to eliminate colonialism, neo-colonialism, apartheid, Zionism and to dismantle aggressive foreign military bases and all forms of discrimination, particularly those based on race, ethnic group, colour, sex, language, religion or political opinion;

Reaffirming their adherence to the principles of human and peoples' rights and freedoms contained in the declarations, conventions and other instruments adopted by the Organization of African Unity, the movement of Non-Aligned Countries and the United Nations;

Firmly convinced of the duty to promote and protect human and peoples' rights and freedoms, taking into account the importance traditionally attached to these rights and freedoms in Africa;
Have agreed as follows:

PART 1 - RIGHTS AND DUTIES

CHAPTER 1 – HUMAN AND PEOPLES' RIGHTS

Article 1

The member States of the Organization of African Unity parties to the present Charter shall recognize the rights, duties and freedoms enshrined in this Charter and shall undertake to adopt legislative or other measures to give effect to them.

Article 2

Every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, sex, ethnic group, colour, language, religion, political or any other opinion, national and social origin, fortune, birth or other status.

Article 3

1. Every individual shall be equal before the law.
2. Every individual shall be entitled to equal protection of the law.

Article 4

Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of the person. No one may be arbitrarily deprived of this right.

Article 5

Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man, particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment, shall be prohibited.

Article 6

Every individual shall have the right to liberty and to the security of his person. No one may be deprived of his freedom except for reasons and conditions previously laid down by law. In particular, no one may be arbitrarily arrested or detained.

Article 7

1. Every individual shall have the right to have his cause heard. This comprises:

- (a) the right to appeal to a competent national organs against acts violating his fundamental rights as recognized and guaranteed by conventions, laws, regulations and customs in force;
 - (b) the right to be presumed innocent until proved guilty by a competent court or tribunal;
 - (c) the right to defense, including the right to be defended by counsel of his choice;
 - (d) the right to be tried within a reasonable time by an impartial court or tribunal.
2. No one may be condemned for an act or omission which did not constitute a legally punishable offence at the time it was committed. No penalty may be inflicted for an offence for which no provision was made at the time it was committed. Punishment is personal and can be imposed only on the offender.

Article 8

Freedom of conscience. the profession and free practice of religion, shall be guaranteed. No one may subject to law and order, be submitted to measures restricting the exercise of these freedoms.

Article 9

- 1. Every individual shall have the right to receive information.
- 2. Every individual shall have the right to express and disseminate his opinions within he law.

Article 10

- 1. Every individual shall have the right to free association provided that he abides by the law.
- 2. Subject to the obligation of solidarity provided for in Article 29 no one may be compelled to join an association.

Article 11

Every individual shall have the right to assemble freely with others. The exercise of this right shall be subject only to necessary restrictions provided by the law, in particular those enacted in the interest of national security, safety, health, ethics and the rights and freedoms of others.

Article 12

- 1. Every individual shall have the right to freedom of movement and residence within the borders of a State provided he abides by the law.
- 2. Every individual shall have the right to leave any country including his own, and to return to his country. This right may only be subject to restrictions provided for by the law for the protection of national security, law and order, public health or morality.

3. Every individual shall have the right, when persecuted, to seek and obtain asylum in other countries in accordance with the laws of those countries and international conventions.

4. A non-national legally admitted in a territory of a State Party to the present Charter, may only be expelled from it by virtue of a decision taken in accordance with the law.

5. The mass expulsion of non-nationals shall be prohibited. Mass expulsion shall be that which is aimed at national, racial, ethnic or religious groups.

Article 13

1. Every citizen shall have the right to freely participate in the government of his country, either directly or through freely chosen representatives, in accordance with the provisions of the law.

2. Every citizen shall have the right of equal access to the public service of his country.

3. Every individual shall have the right of access to public property and services, in strict equality of all persons before the law.

Article 14

The to property shall be guaranteed. It may only be encroached upon in the interest of public need or in the general interest of the community and in accordance with the provisions of appropriate laws.

Article 15

Every individual shall have the right to work under equitable and satisfactory conditions and shall receive equal pay for equal work.

Article 16

1. Every individual shall have the right to enjoy the best attainable state of physical and mental health.

2. States Parties to the present Charter shall take the necessary measures to protect the health of their people and to ensure that they receive medical attention when they are sick.

Article 17

1. Every individual shall have the right to education.

2. Every individual may freely take part in the cultural life of his community.

3. The promotion and protection of morals and traditional values recognized by the community shall be the duty of the State.

Article 18

1. The family shall be the natural unit and basis of society. It shall be protected by the State.

2. The State shall have the duty to assist the family which is the custodian of morals and traditional values recognized by the community.

3. The State shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions.

4. The aged and the disabled shall also have the right to special measures of protection in keeping with their physical or moral needs.

Article 19

All peoples shall be equal; they shall enjoy the same respect and shall have the same rights. Nothing shall justify the domination of a people by another.

Article 20

1. All peoples shall have the right to existence. They shall have the unquestionable and inalienable right to self-determination. They shall freely determine their political status and shall pursue their economic and social development according to the policy they have freely chosen.

2. Colonized or oppressed peoples shall have the right to free themselves from the bonds of domination by resorting to any means recognized by the international community.

3. All peoples shall have the right to the assistance of the State Parties to the present Charter in their liberation struggle against foreign domination, be it political, economic or cultural.

Article 21

1. All peoples shall freely dispose of their wealth and natural resources. This right shall be exercised in the exclusive interest of the people. In no case shall a people be deprived of it.

2. In case of spoliation the dispossessed people shall have the right to the lawful recovery of its property as well as to an adequate compensation.

3. The free disposal of wealth and natural resources shall be exercised without prejudice to the obligation of promoting international economic cooperation based on mutual respect, equitable exchange and the principles of international law.

4. States Parties to the present Charter shall individually and collectively exercise the right to free disposal of their wealth and national resources with a view of strengthening African unity and solidarity.

5. States Parties to the present Charter shall undertake to eliminate all forms of foreign economic exploitation particularly that practiced by international monopolies so as to enable their peoples to fully benefit from the advantages derived from their national resources.

Article 22

1. All peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind.

2. States shall have the duty, individually or collectively, to ensure the exercise of the right to development.

Article 23

1. All peoples shall have the right to national and international peace and security. The principles of solidarity and friendly relations implicitly affirmed by the Charter of the United Nations and re-affirmed by that of the Organization of African Unity shall govern relations between States.

2. For the purpose of strengthening peace, solidarity and friendly relations, States parties to the present Charter shall ensure that:

(a) any individual enjoying the right of asylum under Article 12 of the present Charter shall not engage in subversive activities against his country of origin or any other State Party to the present Charter;

(b) their territories shall not be used as bases for subversive or terrorist activities against the people of any other State Party to the present Charter.

Article 24

All peoples shall have the right to a general satisfactory environment favorable to their development.

Article 25

States Parties to the present Charter shall have the duty to promote and ensure through teaching, education and publication, the respect of the rights and freedoms contained in the present Charter and to see to it that these freedoms and rights as well as corresponding obligations and duties are understood.

Article 26

States Parties to the present Charter shall have the duty to guarantee the independence of the courts and shall allow the establishment and improvement of appropriate national institutions entrusted with the promotion and protection of the rights and freedoms guaranteed by the present Charter.

CHAPTER II – DUTIES

Article 27

1. Every individual shall have duties towards his family and society, the State and other legally recognized communities and the international community.
2. The rights and freedoms of each individual shall be exercised with due regard to the rights of others, collective security, morality and common interest.

Article 28

Every individual shall have the duty to respect and consider his fellow beings without discrimination, and to maintain relations aimed at promoting, safeguarding and reinforcing mutual respect and tolerance.

Article 29

The individual shall also have the duty:

1. To preserve the harmonious development of the family and to work for the cohesion and respect of the family, to respect his parents at all times, to maintain them in case of need;
2. To serve his national community by placing his physical and intellectual abilities at its service;
3. Not to compromise the security of the State whose national or resident he is;
4. To preserve and strengthen social and national solidarity, particularly when the latter is threatened;
5. To preserve and strengthen the national independence and the territorial integrity of his country and to contribute to its defense in accordance with the law;
6. To work to the best of his abilities and competence, and to pay taxes imposed by law in the interest of society;
7. To preserve and strengthen positive African cultural values in his relations with other members of the society, in the spirit of tolerance, dialogue and consultation and, in general, to contribute to the promotion of the moral well-being of society;
8. To contribute to the best of his abilities, at all times and at all levels, to the promotion and achievement of African unity.

VITAE

Richard Baah was born in Sekondi, Ghana on July 27, 1956. He attended Prempeh College in Kumasi from 1970 to 1975, and Presbyterian Boys Secondary School and Sixth Form Science College from 1976 to 1978. He attended Knoxville College in Knoxville Tennessee for one quarter and transferred to Washington and Jefferson College in Washington, Pennsylvania. In 1979 he transferred to the University of Tennessee in Knoxville, as a pre-med student. He was admitted to medical and pharmacy schools, but was unable to attend because of financial difficulties, and not qualified for financial aid, he switched majors from pre-med to political science. He received his Bachelor of Arts with honors in 1986, and Master of Arts in 1992, both from the University of Tennessee.

He was a Political Science and International Relations instructor at Knoxville College from 1992 to 1997, and an adjunct African Studies instructor at Maryville college from 1994 till 1998. In December 1998 he finished work on Doctor of Philosophy in Political Science.