THE ORIGINS OF THE CONCEPT OF HUMAN RIGHTS IN MODERN AFRICAN POLITICAL THOUGHT

BY

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DECLARATION

I hereby declare that this thesis is the product of my own research and has been written by me. It has not been presented for a higher degree in any other university. All quotations have been acknowledged and distinguished by footnotes and quotation marks.

Joy Hendrickson

Date: Dec. 18, 1989

CERTIFICATION

The thesis entitled The Origins of the Concept of Human Rights in Modern African political Thought by Joy Diana Hendrickson meets the regulations governing the award of the degree of Doctor of Philosophy (Political Science) of Ahmadu Bello University, and is approved for its contribution to knowledge and literary presentation.

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ABSTRACT

This thesis asks the question: Is there an African concept of human rights? and answers it in the affirmative. A history of ideas approach is used to show that Africans have used the term rights in a manner which is distinct from Western interpretations of the human rights doctrine.

Traditional African ideas of rights are examined briefly and it is argued that these can be seen as precursors to the modern African idea of human rights. A concept of human rights, strictly so-called, is traced back to the earliest writings of Africans in the diaspora. The eighteenth century works of ex-slaves are examined. It is argued that their understanding of human rights portrays an African perspective and can be distinguished from the works of the western abolitionists.

The writings of the returnees and recaptives of the nineteenth century, the inhabitants of Liberia and Sierra Leone, are examined and it is argued that their works also display an African perspective on human rights. The works of the cultural nationalists of the same period are closely examined to reveal an African claim to the human rights of the race to their culture and traditions. It is also shown that the proto-nationalists of the inter-war

period used rights in a distinctly African manner when they argued that the traditional rights of the aborigines were equivalent to the common rights of mankind. These ancient rights were interpreted by this group of Africans to include the right to rule the emerging modern nation states of Africa.

Lastly, the historical development of this African concept of human rights is compared with t he history of the idea in the West The thesis concludes that Africans, like Westerners, can be said to have formulated a concept of human rights which was a reaction against their own particular historical experiences of injustice. The African concept is in no way inferior to the western version. Ideas of human rights must include all the variations within different perspectives if they are to be truly 'universal.

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INTRODUCTION

Statement of the problem

The problem to be investigated is the assertion that the idea of human rights is a western invention which was exported to the Third World countries once contact was established between these two parts of the world. The specific doctrine of rights which we hold by virtue of our humanity alone, is said to emanate from western experiences and then to have been spread to all corners of the globe.[1] This concept of human rights, which is now accepted universally because its moral character is considered to be 'superior' to ideas developed elsewhere, is said to be an artifact of western civilization.[2]

However, to counter this eurocentric view of the world, some scholars have declared that the West did not invent the idea of human rights.[3] Indeed, ideas of human rights can be found everywhere. Specifically, there is an African concept of human rights, developed by Africans, which diverges, in significant ways, from the idea of human rights as it has been formulated in the West. It is this debate which we seek to clarify in this work: Is there an African concept of human rights?

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Literature Review

The older literature on the philosophical foundations of human rights is predominantly western and tends to exclude even the possibility of any contributions from non-western sources. Besides the well known works of proponents like John Locke and Thomas Paine, there were illustrious critics of the human rights doctrine: Edmund Burke, Jeremy Bentham, Karl Marx, David Ritchie, J.D. Mabbott and Leo Strauss.[4] These men spanned the whole range of the political spectrum but restricted their ideas to a European context which was considered to be a universal perspective because it was conceived of as the only perspective.

But more recent publications began to attempt to break into this exclusive European club. The United Nations Organization declared that the universal nature of human rights meant that all people shared the idea. Unesco began publishing books like the Birthright of Man[5] in 1969 which collected references from all over the world demonstrating that traditional tales from Africa and elsewhere contained ideas of human rights.

But in 1979 and again in 1982, Adamantia Pollis and Peter Schwab published two books[6] which were collections of articles all arguing that there was

an absence of a universal consensus regarding the substance of human rights. Western concepts may have been assimilated by non-western elites, but the different cultures of peoples of the world meant that ideas of human rights differed. In this vein, Dunstan M. Wai, Keba M'Baye and Asarom Legessee[7] argued that African cultural traditions contained ideas of human rights. These arguments were primarily based on the alleged communal nature of traditional African societies where everyone was their brother's keeper and human rights were expressed in terms of human dignity.

However, further research on human rights in Africa was sceptical of arguments concerning cultural diversity and stressed the similarity of modern notions which would allow for the application of the concept at an international level. Osita Eze criticized the M'Baye article in particular and warned that the feudal character of many African societies must be taken into consideration when making extravagant claims about the existence and practice of human rights in the traditional period.[8] Rhoda Howard argued that the communal values of Africa's past have been eroded by modernization and therefore cannot be used to warrant any African approach to human rights at the present time.[9]

Jack Donnelly[10] critically examined the idea of human dignity as the Third World expression of human rights and exposed the weaknesses of the arguments. Donnelly argued that the specific claims made that an African concept of human rights could be found in traditional African cultures were marred by a failure to distinguish between human rights and human dignity, limited government and distributive justice. He stressed the importance of a further distinction between the concept of human rights and its various conceptions. The different conceptions of human rights refer to the debates surrounding lists, (i.e. which things are and which are not human rights). The concept refers to the nature of the thing itself. Donnelly argued that the concept of human rights must be understood as claims one has merely because one is a human being. He concluded that on the basis of evidence presented, traditional African belief systems did not contain an idea of human rights, strictly so-called. He was quick to remind us that this is also true of pre-modern European systems of thought. But he still claimed western parentage for such a concept and argued that its historical character must be taken seriously.

But more recently, Paulin J. Hountondji[11] has argued that one needs to make a distinction between the idea of human rights and the discourse about the idea. He disagrees with the assertion that the idea of human rights was born within European civilization only in the seventeenth century. While one could quote Aristotle to show that human rights was alien to the ideas of the ruling classes in Greece, Hountondji wants to know if anyone ever questioned the slaves? According to Hountondji, it is only the 'Voice of the Master's' which has been handed down to us. So, as an idea, separate from the theoretical expression of that idea, human rights has always existed everywhere in the world. Indeed,Hountondji asserts that one cannot "situate accurately the birth of values in general."[12]

However, Hountondji admits that the West was able to develop the theme of human rights, to encourage what he calls "systematic research which took the form of an open progressive discussion."[13] In the West, you have simply "the work of expression concerning this idea, the project of its formulation, explanation, analysis of its presuppositions and its consequences, in short, the draft of a philosophy of human rights."[14]

It is this 'philosophy of human rights' in which we are interested. We shall not make an exhaustive search for an idea which is separated from the theoretical expression of such an idea. We accept, however, that such an idea must have existed universally since human reactions to perceived injustices are as old as human beings themselves. We certainly cannot prove its non-existence but,then, neither can we prove its existence. So, we wish instead to examine critically this 'Voice of the Masters' as the only empirical referent from which to deduce specific expressions regarding the precise meaning of human rights, always keeping in mind the position of the speaker who is expostulating on human rights. Our argument is that the position of the African is represented in this discourse by those Africans who engaged in a dialogue with the West about the abuses of their human rights.

Once this is realised, then, it must be conceded that even the discource on human rights has not been restricted to Western thinkers. This point appears not to be fully appreciated in the literature on the philosophical foundations of human rights. Even Hountondji seems to give the West exclusive credit for the 'work of expression concerning the idea'.

Our argument is that non-westerners, specifically Africans, have participated and continue to participate in the universal pursuit of a better understanding of the human rights doctrine. Their contributions were made in terms of a clash of interpretations between western opinions arising out of specific interests, with African opinions reflecting opposing interests.[15] This dialogue or discourse of African spokesman with the West is a rich minefield containing various expressions of the idea of human rights. It is incorrect to interpret this conversation with the West in terms of a borrowing of ideas just because it took place and continues to take place in European languages. As one African author in the early 1900's has said,to the archetypal Westerner, "I learnt your language not as a vehicle of thought..."[16] Africans obviously could think before the Europeans arrived and less obviously (because of the persistence of the notion of borrowing ideas from western culture) did not lose that ability once contact was established with the West.

It cannot be overemphasized that not every idea which sounds similar has been borrowed from western culture. A more fruitful approach would be to understand African ideas in the same terms as we understand European ideas - as reflections of particular

social and economic realities within a given historical context. Then we might re-examine African ideas and cease to underestimate their worth and originality.

This approach means that 'African' ideas need not be restricted to the period before contact with the West. African contributions to a universal understanding of social and political issues need not emerge only or exclusively from African cultural traditions of the past. This becomes clearer if we recognize the point made by Hountondji that, 'Africaness' is not a moral or metaphysical concept. It refers to an empirical or geographical locality.[17] African ideas are merely the ideas of Africans, past, present and future.

Therefore, it becomes unnecessary to find ideas of human rights, strictly so-called, or not, in traditional African societies, in order to prove that there is an African concept of human rights. Nevertheless, we shall briefly examine the anthropological literature on traditional African societies to try to get a clear picture of African ideas of human rights which predate contact with the West. This exercise is embarked upon not as the only way to prove that African ideas of human

rights, uncontaminated by western culture, do exist, but merely as the way to see how African ideas of human rights have changed and developed over time.

Fundamentally, we wish to argue that the specific idea of human rights delineated by Donnelly, not only existed in the minds of Africans as Hountondji argues, but was expressed in written form by Africans as early as the eighteenth century. This idea of human rights first articulated by Africans in the diaspora, should not be seen as a borrowing of an already developed western idea but as the expression of the experience of these Africans based on their knowledge of their past and present environment. In this sense, it offers an African perspective on the universal theme of human rights.

Social and political ideas like those of human rights, develop overtime in response to changing historical circumstances. While this is sometimes recognized for western ideas of human rights, it is often neglected when it comes to non-western ideas. The reason for this neglect is probably the incorrect assumption that western ideas of human rights are 'universal' ideas. This thesis demonstrates that Africans also had and continue to

have ideas of human rights which were not begged, borrowed, or stolen from the west. An African concept of human rights, strictly so-called, can be found by examining the expressed ideas of Africans and placing those ideas in their historical and socio-economic context.

A comparison of the history of the idea of human rights in the West with the development of the concept by African authors reveals that both versions of human rights reflect the changing nature of the injustices experienced by a people. But there is no evidence to suggest that Africans needed Europeans to 'teach' then the idea of human rights, anymore than they needed Europeans to teach them how to think. Their own traditions contained elements of democratic rights of the people and collective rights to social and economic equality. The African used his human ability to reason and applied these traditions to his changing circumstances. He then arrived at a concept of human rights which proclaimed the rights of Africans vis a vis the greatest usurper of African rights: the Western imperialist powers.

Modern African writers have used ideas of human rights to express their condemnatior of the treatment of Africans by non-Africans.[18] These ideas should

be examined in their own right and not considered as second class versions of concepts, 'borrowed from the West.' In fact, to suggest that any idea is borrowed means that it is merely on loan and must ultimately be returned. To imply that the West 'owns' the concept of human rights is just as unacceptable as the claim that the concept of human rights is a 'western inspired idea' or that it 'originated in the West'. Africans do not need to 'return' the concept of human rights to the west, because Africans have, over the centuries, developed their own version of the concept as it applies to their own situation.

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It must be realized that ideas of human rights arise at particular historical time periods when the social and economic conditions are ripe enough for their articulation and dissemination. These ideas flourish everywhere and cannot be considered the private property of the west.

While humans universally oppose injustice, specific interpretations of the concept of human rights have varied across time and place. This is because all ideas of human rights have been and continue to be reactions to particular experiences of injustice. Once the concept is placed in a historical perspective and not assumed to be universal

in the sense of an absolute, timeless, unchanging idea, then the reality of a plurality of views about the substance of human rights can be accepted. A truly universal concept of human rights encompasses all shades of meaning and includes an African perspective.

The historical development of the idea of human rights in the west has been the subject of many scholarly investigations.[19] However, the history of the idea as expressed by Africans has not been studied.[20] The erroneous claim that the idea is merely 'borrowed' by the Africans is no doubt responsible for such neglect. However, it is not accurate to say that the doctrine of human rights is alien to Africa and the Third World in general. Rather, it is the alien nature of African ideas to the West that obscures the relationship between concepts of human rights and non-western peoples. This thesis attempts to correct this lack of information by examining the idea of human rights in the writings of Africans primarily in the eighteenth and nineteenth centuries.

Once it is accepted that all concepts of human rights are historical products of particular circumstances or more specifically, the reactions to certain injustices experienced by a people, then

it can be seen that African ideas of human rights are equivalent to similar statements made by Americans or Frenchmen. While equal merit may be posited, equal attention has not been given to African ideas. This work begins to redress the imbalance with an examination of the human rights of Africans, as expressed by Africans, for Africans. By doing so, we shall be able to discern the contributions which have been made by Africans to the theoretical and philosophical discussions on human rights.

Human rights cannot be defined exclusively by the West simply because the West has no right to define what is human. If one accepts that humanity includes non-western peoples, then, the perspective of others must be included in any 'universal' theory of human rights. For this reason alone, it is valid to examine the ideas of Africans to ascertain their own views on human rights.

Methodology

Our data have been collected through library research. We have ascertained the meaning of the concept of human rights for Africans by examining the works of prominent African authors and analysing their usage of the broader term, rights. This is because human rights is a subset of the more general category of rights. Now, if we want to understand

the meaning of rights, according to such Westerners as Rapheal,[21] Barry[22] or Donnelly,[23] we must analyze how the word is used in common parlance. This approach is not restricted to contemporary writers on the subject. We are told that "Bentham, Hart and Ross have taught us that a fruitful approach to the problem of extracting the meaning of words like 'right' is to place the word in question in some sentences of the kind in which it is characteristically used."[24] It is from this preliminary examination of how the word right is used that we derive a broad definition of rights as claims of a legitimate nature to be treated in a particular manner based on a generally accepted theory.[25]

We want to use this approach not to study rights in a general sense, but to study how the term rights is used by <u>Africans</u>. The term African, as it is used here, refers not only to those people who were born in the geographical locality known as Africa but also includes people in the diaspora of African ancestry who identify themselves as Africans. Indeed, the ideas of all Africans educated at home or abroad, either because they were forcibly torn from their homeland before any education could take place or because they chose to study outside the continent,

so long as their ideas reflect their position as an African at a particular time period, are still 'African' ideas. African ideas, then, can be expressed in any European language and also exist as part of the Islamic tradition in Africa. However, this thesis will deal specifically with those ideas of Africans that have been recorded in English.

First, we shall briefly examine some of the major anthropological works on Africa like Fortes and Evans-pritchard, Mair, Schapera, Rattray and Bohannan[26] in order to search for references to rights in these descriptions of the ideas and practices of traditional African societies. Then we shall examine the works of those Africans who have been considered to be the originators of modern African social and political thought because they were the first Africans to write about the themes of racial emancipation, cultural preservation and economic development which are still the dominant concerns of African writers today.

Our choice of authors is determined by the scholarly work previously done in the field of modern African political thought. Historians like Paul Edwards have edited the works of early African intellectuals like Ignatius Sancho and Oul$_a$dah Equiano.[27] Robert July[28] has written about the origins

of modern African political thought with reference to Equiano as well as Ottobah Cugoano, Alexander Crummell, Africanus Horton, Edward Blyden and Casely Hayford, July claims that all these men made contributions to the ideas contained in modern African political thought.

We want to critically examine the contributioons they have or have not made to an African concept of human rights. We shall do so by collecting all references made to rights in their letters, speeches, articles, phamphlets, and books. Once compiled, these references can give us a possible interpretation of the idea of rights as expressed by Africans. We shall analyze these ideas to see if any distinct interpretation of human rights is apparent in the works of these African authors.

We propose to fit this content analysis of texts written by these Africans into a broader historical perspective. Following Marx[29] and Mannheim[30], we believe that all social and political ideas are reflections of the socio-economic realities of various categories of people situated within a particular time period. Marx calls these categories, classes, but Mannheim prefers the more amphorous terms: groups. Mannheim prefers not to restrict himself to classes although he does not deny that class

stratification is the most significant social grouping. In fact, he says: "In the final analysis all other social groups arise from and are transformed as parts of the more basic conditions of production and domination".[31] However, when dealing with the variety of types of thought, we cannot "be content with the undifferentiated class concept but must reckon with the existing social units and factors that condition social position, aside from those of class."[32]

It is the social position of the thinker that determines the thought and the variety of ideas is a reflection of the variety of social positions. Mannheim observes that "The same word, the same concept means very different things when used by differently situated persons."[33] Hountondji emphasizes the same point: "All discourse on human rights is thus marked by the author's position." Therefore, according to Hountondji, "The first thing to do when confronted with such a discourse is to situate it, to declare, as rigorously as possible, the place from which it is spoken."[34]

Clearly, ideas of rights cannot be understood in a vacuum. Rights are not absolute, objective moral notions but primarily ideas reflecting the social, economic and political positions of particular groups.

This should be apparent if we consider the recent movements in the West for women's rights, children's rights, gay rights, etc. But human rights are the rights we hold as human beings. Human rights is supposedly an idea which is intrinsically universal because it is based on our equal positions as human beings. Unfortunately, however, if we view the idea of human rights historically, in the West and elsewhere, we see that calls for human rights have always been reactions against the practice of not treating other human beings as human beings.

Throughout history, ideas of human rights have been primarily demands to expand the category of human and hence the category of rights' holders. The development of the idea of human rights has been a history of verbal battles waged by groups initially excluded from the category of humanity (i.e. commoners, workers, women, non-whites) to be included as full members of the human race.

Since we are interested not in what human rights should mean, but in what it has meant, this history of ideas approach helps to highlight how the idea of human rights has been used throughout history by particular groups to demand their place besides other human beings as their equals. It is an idea which reflects the changing nature of the injustices

experienced by a people and as such varies across time and place. A definition of human rights therefore cannot be stated categorically, but a clarification of its meaning in all its numerous facets can be sought. The clarification of the meaning of human rights for Africans, in the eighteenth and nineteenth century, is the objective of this work.

This clarification will not be made by any apriori discussion of legal versus moral rights, or the superiority of civil and political as opposed to social and economic rights, but only with reference to the idea as understood by Africans. All distinctions among various interpretations must be found in the words of the Africans, themselves, before we can use them, ourselves, when speaking of African ideas of human rights.

Breakdown of Chapters

Our first chapter explores in more detail the understanding of human rights as an idea which must be situated within a historical perspective. It also examines the possible reasons for the previous exclusion of African ideas from the universal discourse on human rights.

Although this work concentrates on early modern African political thought, it does begin its investigation of African ideas with a brief look at traditional African ideas of rights in chapter two. This is necessary considering the widespread belief that an African concept of human rights must be found in traditional African culture. We, however, could only find precursors or forerunners to the modern African idea of human rights in the cultural practices of the ancestors of contemporary Africans.

We argue in chapter three, that the first early ideas of human rights, strictly so-called, are situated within that strand of modern African political thought which was developed by Africans in the diaspora. The human rights of the African slaves, those who were forcibly torn from their homeland, were articulated through the protest literature written by Africans in Europe and America during the eighteenth century. Here we find Africans expressing an African understanding of the 'natural rights and common liberties of man'. Once we examine these works in detail, we can see that while similarities exist in language between these African ideas and those of the Western abolitionists, there is a distinctly African perspective which emerges from the first hand experience, the unique position, the distinct point of view, of the Africans.

Despite their slender memories of their African genesis, they boldly identified themselves as Africans and presented to a European audience the African perspective on human rights arising out of the Atlantic Slave Trade.

In the nineteenth century, Africans of the diaspora began to find their way 'back to Africa' and the rights of the returnees and 'recaptives' of Liberia and Sierra Leone were formulated by spokesmen for these groups who tended to lean heavily on the West as a model for the future development of Africa. These ideas are examined in chapter four. But the rights of the race as a whole were emphasized by their contemporaries, the cultural nationalists. These educated Africans of the 19th century wished to turn away from the manners, customs, dress, names and ideas of their white oppressors and return to the culture of their unexpatriated brethren. Chapter five deals with their ideas of the rights of Africans to their cultural heritage.

The rights of the aborigines, the original inhabitants of the land were asserted by the next generation of Africans writing in the English language and are examined in chapter six. In the 1920's, these proto-nationalists, born on African soil, combine the ideas of abolitionism, anti-racism,

cultural nationalism and Pan-Africanism developed by their ancestors who were forcibly carried abroad with detailed scholarly studies of the traditions of those ancestors who remained on the continent. These two strands of African political thought are intertwined and the rights of the aborigines as a race are expressed in terms of the right to an African nationality which includes all people of African descent.

Our comparison of these various stages in the historical development of an African concept of rights with their western counterparts takes place in chapter seven. It leads us to the conclusion in chapter eight, that African ideas of human rights reflect the position of the African and therefore cannot be considered to be a replica of the European version of the doctrine.

The dissertation breaks at this point in history only because one cannot deal effectively with all the materials which constitute modern African political thought. Obviously, the discussion need not stop at this stage. African ideas of human rights continue to take their own path from the post second world war period up to the present and an examination of declarations of rights to independence is an important aspect of the development of an

African concept of human rights. However, a detailed study of early modern African ideas of human rights will make more of a contribution to African political thought generally, since the early writers are often neglected[35] in favour of contemporary examples.

Furthermore, it is important to realize, that modern African political thought did not begin with the nationalists movements in the late 1940's and 1950's. This misconception encourages the misrepresentation of all modern African political thought as "western inspired" and leads to the dangerous suggestion that only traditional pre-colonial ideas are truly African. If we examine modern African political thought at its origins, then the contributions of early writers to the concepts found in African political thought today will become more apparent. This evidence of continuity will help to establish African political thought as a distinct stream of ideas separate from the western tradition of political thought.

Ultimately, this examination of a particular concept like human rights should help to shed light on the development of modern African political thought generally and its dual origins in traditional African political thought and the social and political

ideas of Africans of the diaspora, as well as provide insight into the meaning of human rights by highlighting the origins of an African perspective on a widely used modern political concept.

Notes

1. Thomas L. Hodgkin, "The Relevance of 'Western' Ideas for the New African States" in Self-government in Modernizing Nations (Englewood Cliffs, N.J.: 1964) pp. 50-80.

2. Jack Donnelly, "Human Rights and Human Dignity: An Analytic Critique of Non-western Conceptions of Human Rights" APSR Vol. 76, No. 2, June 1982, pp. 303-316.

3. Paulin J. Hountondji, "The Master's Voice - Remarks on the Problem of Human Rights in Africa" in Paul Ricoeur, ed. Philosophical Foundations of Human Rights, (Paris: Unesco, 1986) pp. 319-332.

4. The works of these authors which deal specifically with natural or human rights are as follows: John Locke, Second Treatise on Civil Government; Thomas Paine, Rights of Man; Edmund Burke, Reflections on the Revolution in France; Jeremy Bentham, Anarchial Fallacies; Karl Marx, on the Jewish Question; David Ritchie, Natural Rights; J.D. Mabbott, State and Citizen; and Leo Strauss, Natural Right and History.

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8. Osita C. Eze, Human Rights in Africa: Some Selected Problems (Lagos: Macmillan, 1984) p. 13.

9. Rhoda Howard, "Is There an African Concept of Human Rights?" Working Paper, No. A8, Development Studies Programme, University of Toronto, (November 1983) p. 20.

10. Donnelly, op. cit.

11. Hountondji, op. cit.

12. Ibid., p. 324.

13. Ibid., p. 323.

14. Ibid.

15. No one may have recorded the slaves' impressions of their treatment in Ancient Greece but we do have several books of African reactions to the Atlantic Slave Trade.

16. J.E. Casely Hayford, Ethiopia Unbound: Studies in Race Emancipation second ed., (London: Frank Cass & Co., Ltd., 1969). p. 5.

17. Hountondji, African Philosophy: Myth and Reality (London: Hutchinson & Co., Ltd., 1983) p. 177.

18. See the edited collection of Kwame Nkrumah's works, Revolutionary Path (London: Panaf, 1973).

19. For a brief overview of the history of the Western concept of rights, see Richard P. Claude, "The Classical Model of Human Rights Development in Richard P. Claude, ed., Comparative Human Rights (Baltimore & London: John Hopkins U. Press, 1976) pp. 6-50. For more detailed discussions on the idea of Natural rights in the West, see David G. Ritchie, Natural Rights: A Criticism of Some Political and Ethical Conceptions (London: George Allen and Unwin, 1894) and Leo Strauss, Natural Right and History (Chicago: University of Chicago Press, 1953).

20. "But when human rights in Africa are discussed the concept is abstracted from history and rendered ahistorical." Issa Shiviji, "Research on Human Rights in Africa: First Reactions to the Literature" CODESRIA Bulletin, Number 2, 1988.

21. D.D. Raphael, "Human Rights, Old and New" in D.D. Rapheal, ed., Political Theory and the Rights of Man. (London: Macmillan, 1967) pp. 54-68.

22. Norman P. Barry, An Introduction to Political Theory (London: Macmillian Press, 1981) p. 184.

23. Jack Donnelly, The Concept of Human Right (London: Croom Helm, 1985).

24. D.L. Perrott, "The Logic of Fundamental Rights" in J.W. Bridge, et. al. eds., Fundamental Rights (London: Sweet and Maxwell, 1973) p. 1.

25. This definition is culled from Rapheal, op. cit. and F.E. Dorwick, ed., Human Rights, Problems and Perspectives (Westmead: Saxon House, 1979).

26. M. Fortes and E. Evans-Pritchard, African Political Systems; (London: Oxford University Press, 1940); Lucy Mair, Primitive Government (England: Penguin, 1970); R.S. Rattray, Ashanti Law and Constitution (N.Y.: Oxford University Press, 1929); Paul Bohannan, Justice and Judgement Among the Tiv (London: International African Institute, 1957).

27. Paul Edwards, ed., Letters of the Late Ignatius Sancho (London: Dawsons of Pall Mall, 1968) and Edwards,ed. Life of Ouladah Equiano or Gustavus Vassa: The African 1789 in two volumes (London: Dawsons of Pall Mall, 1969).

28. Robert July, The Origins of Modern African Thought: Its Development in West Africa During the Nineteenth and Twentieth Centuries (N.Y. Preager, 1967).

29. Karl Marx, The German Ideology in Robert C. Tucker, ed., The Marx-Engels Reader, 2nd ed., (N.Y.: W.W. Norton & Co., Inc., 1978).

30. Karl Mannheim, Ideology and Utopia: An Introduction to The Sociology of Knowledge (New York: Harcourt Brace & World, 1936).

31. Mannheim, op. cit., p. 276.

32. Ibid.

33. Ibid., p. 273.

34. Houndondji. "The Master's Voice..." op. cit. p. 332.

35. The exceptions to this point are [illegible] good anthologies concentrating on early modern African political thought. Beside the already mentioned July, op. cit., there is Henry S. Wilson, Origins of West African Nationalism (London: Macmillian & Co., Ltd., 1969) and J. Ayo Langley, Ideologies of Liberation in Black Africa 1856-1970: Documents on Modern African Political Thought from Colonial Times to the Present (London: Rex Collins, 1979).

CHAPTER I

TOWARDS A BETTER UNDERSTANDING OF HUMAN RIGHTS

The idea of human rights reigns today in the minds of many as the supreme judge of all the nations in the world. The media plays no small role in enthroning the concept of human rights in its exalted place. A sacred aura has developed around the doctrine. Now-a-adays, all discussions of human rights are restricted to the methods necessary to put the doctrine into practice. The debates[1] which have raged throughout history over the acceptance of human rights as a valid concept are deeply hidden from the current consciousness. Perhaps it is time to resurrect some of those debates and to be critical once again.

While, it may seem sacriligeous to criticize the sacred, that which is most unquestioned is what needs most to be questioned. One is more likely to learn about the doctrine from its critics than from the unreflective praise of journalists or U.N.O.[2] and Amnesty International officials. More importantly, Africans must face the paradox of a universally accepted criterion for just and moral behaviour which, while praised in virtually all the maiden speeches of each (successively) new regime in Africa, is flagrantly ignored in practice. Why and how do we deal with this

unwelcome reality? Can we accept the suggestion that natural rights are not natural to the Third World or that the idea of individual rights is meaningless to Africans because it is alien to their cultural identity?[3]

One must reject the suggestion that the idea of human rights emanates only from western culture and is alien to the culture of the African. Unfortunately, and perhaps even unknowingly, some people tacitly accept these arguments when they accuse the West of 'cultural imperialism.' Many even argue that the Universal Declaration of the U.N.O. can be dismissed as an ideological document which attempts to judge the world by Western standards.[4] The unacceptable assumption underlying such an attempt is that Western values are paramount and ought to be extended to, or more accurately, imposed upon, non-white cultures.

However, to understand human rights merely as the imposition of western values on non-western cultures is tantamount to rejecting the doctrine as 'unAfrican' and to agreeing with the racist idea that only western culture and institutions can support the realization of 'universal' human rights. The position which denounces 'cultural imperialism' then, leaves Africa on the fringes of the political universe.

The problem is not the attempted imposition of western values; the problem is the belief that such values did not exist outside the West. The West formulated a concept of rights which were innate, natural, and universal and yet at the same time were unknown outside the 'civilized' West. Therefore, what is universal, what is natural, what is good, emanated only from the West. The universe did not include non-western ideas.

The problem, therefore, is the insistence on the universality of a particular conception of rights. There is a definite racist tinge to this position. The common argument <u>against</u> universality is that not all peoples practice or even believe in individual rights. The defense of universality against this point is highly revealing. Universal agreement is not needed for rights to be a universal, absolute, unchanging, timeless concept. In fact, Leo Strauss tells us that:

> If natural right is rational, its discovery presupposes the cultivation of reason and therefore natural right will not be known universally: one ought not even to expect any real knowledge of natural right among savages.5

Margaret MacDonald echoes this sentiment when she says:

> What may be agreed is that only at a certain level of intellectual development do men claim natural rights. Savages do not dream of life, liberty and the pursuit of happiness. For they do not question what is customary.6

David Ritchie tells us that natural rights were equated with the original in the sense of a Rousseauian state of nature, "only when it was possible... at a safe distance from savage races, to idealize the noble inhabitants of the woods".[7] Once the West had detailed knowledge of those 'savage' races, apparently there was no doubt that natural rights had nothing to do with these "rude peoples".

These examples from two opponents (Strauss and Ritchie) and one staunch supporter (MacDonald) of the human rights doctrine demonstrate the restriction of the debate to the western world. The "savages" of Africa are not considered when the discussion is at the abstract level of universal rights. The alleged superiority of the whites lies not so much in culture but in rationality and civilization. But how does one define civilization? According to Strauss, not with reference to human rights:

> If it is asserted that all civilized nations agree in regard to the principles of justice one would have to know what is meant by "civilization". If the natural right teacher identifies civilization with the recognition of natural right or an equivalent, he says in effect, that all those who accept the principles of natural right accept the principles of natural right[8].

And, that those who do not accept the principles of natural right are uncivilized savages.

No self-respecting African could accept this ridiculous argument. Therefore, he is faced with two choices: to reject human rights as cultural imperialism and defend his right to a culture which denies rights or to accept human rights as it is understood in the West and then go to great lengths to prove that the traditional African culture did embrace such a theory of rights. Unfortunately, the mental acrobatics necessary to demonstrate that the western version of the concept of human rights has indigenous origins are considerable and unconvincing.[9]

The horns of this dilemma can be avoided by first disentangling the question of human rights from the idea of culture. At the same time, one must also reject the idea of a universal, timeless, abstraction and recognize the historical basis of the doctrine instead. Furthermore, one must admit the possibility of flaws in the currently dominant western version of the doctrine. Ultimately, one needs to formulate an African doctrine which corresponds to the current realities on the continent.

Culture

There is a strong belief among western scholars that, historically, the human rights doctrine originated in the west under the rubric of natural rights. This causes some people to react emotionally and to argue that since the idea of human rights does not have its roots in African culture, then it is alien or foreign and should be rejected outright. The mindless glorification of African culture and the rejection of all that is not indigenous is a mere defensive reaction against those racists who claimed that Africans had no culture. Racism obscures the reality that culture is NOT connected with race. Not only is culture not reserved for a particular race, but culture can not be attributed to a race per se. Culture is primarily the way of life of a people and the number of people are many and varied within any racial group. Negritude, the opposition of black culture to white culture may have been necessary to resture the battered dignity and lost respect of the black race, but it is a position which must be superceded if the problems that confront Africans today are to be solved in a realistic manner. The idea of human rights is not primarily a cultural phenomenon and therefore should not be treated as such.

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Attempts to embrace rather than scorn the doctrine of human rights by demonstrating how traditional African culture contains elements of the doctrine, place one in the unenviable position of unquestioning loyalty to the doctrine as it comes straight from the West in its 'pure' form. The Truth (western version) is found to be more or less apparent in the African past and Africa participates more or less imperfectly in the ideal form which emanates from the West. Once again, Africa remains on the fringes, or the periphery, of the universe and revolves around the heavenly body, which is the West. Being critical of the Western version of human rights, without rejecting it, I have no reason to mutilate African cultural ideas so as to force them into a Procrustean bed. There is no need to prove that traditional African cultural values bear a resemblance to modern western ideas.

However, some people unwisely make the attempt. A book entitled Birthright of Man, compiled by Jeanne Hersch and published by UNESCO in 1969, claims to be a reference book of materials collected throughout the world, all written before 1948 (the year of the Universal Declaration of Human Rights of the U.N.O.) which exemplify the universal source of the doctrine of human rights. The only African contribution

included under the section on National identity and Independence is a traditional Somali tale about Cats and Rats. Traditional cultural savings, proverbs or stories often can be safely used to portray the alleged similarity between western and African ideals because they are taken out of their historical context. Materials written before 1948 which were reactions against colonialism and challenged the hegemony of the West were not included. From the point of view of the West, modern versions of African ideas are dangerous, traditional views and practices are 'picturesque' when they are not 'barbaric'.

Universality

Both the racial undertones of the western argument and the cultural reactions by members of the third world are immaterial to the study of human rights. Rejecting the image of human rights as a racial or cultural phenomenon, however, does not necessarily led to an acceptance of its universality, in the sense of a single, absolute, timeless abstraction. It does not mean that human rights is a universal doctrine which wipes out the differences of race and culture. It does not mean that "we are all the same" and all we need to do is consult our

inner sense to arrive at a universally common understanding of rights.[10] If we do not assume a universality of rights which cannot be proved but must be taken for granted as self-evident, we can see that:

> The real significance of the theory... as with all political theories and with all philosophical theories which are a genuine expression of the thought and feeling of the period in which they prevail... is only understood aright if we consider it in relation to the circumstances of the very time in which it was maintained.11

When viewed historically, rights are revealed as reactions against perceived injustices. Rights will often appear mysterious, until we consider specifically to what the doctrine was opposed. Particular injustices give rise to particular rights. Rights have been expressed or articulated only when they are threatened and redress is conceived of as likely. Stuart M. Brown, in his article on "Inalienable Rights" states that: "No rights would ever be asserted unless one envisaged a risk of losing or failing to secure what is in one's interest and unless one supposed that this loss or failure is preventable".[12]

In its negative aspect, rights are a liberating creed, a herald of change. History shows us that rights have been formulated when it appears possible to affect a change in the existing social structure.

If enough noise is made about rights during a particular period, then the indications are that the situation has reached a critical turning point.

So, our 'innate' understanding of rights comes mostly from our experiences of particular violations and the accepted possibility of change. Resignation is the response to the impossibility of change, which might explain why at certain periods, 'savages' appeared not to dream of rights. Revolution is the response to the possibility of radical change and rights have always been revolutionary calls.

However, the calls to revolution have not been to humanity universally, except in name. The particular versions of rights found in history have always advocated the rights of particular groups within a society. Once the group has managed to gain power and to legally enforce its own version of rights, those 'universal' rights have switched sides and are no longer, in the words of J.D. Mabbot, "the swords of the revolutionary (but) the shield of the reactionary".[13] Mabbot reminds us that in Britain, the rights of man and the liberty of the individual,

> ... have stood solidly against every measure of reform and attempt to promote the public welfare. These doctrines were the principal foes of education, vaccination, public health, slum removal, ... fair taxation, factory reform... Even when ... control became inevitable the liberty of the individual was honoured by restricting the application of the reforms to the working conditions of women and children, who were not really 'individuals' at all, and whose liberty to let themselves be poisoned or paralysed (with starvation as the alternative) did not need to be so meticulously preserved.[14]

We must recognize the ability of the doctrine to defend the interest of either the haves or the have-nots (against each other!) and realize that human rights is only a universal doctrine in the sense of its unlimited adaptability. Depending on one's position in society, 'universal' human rights has a radically different meaning. Theo Van Boven, former Director of the Human Rights Commision of the U.N.O., commented on the "struggle between those who see human rights as an instrument to preserve and keep the situation as it is and those who see human rights as an instrument of change..."[15] I think we can agree with Leo Strauss when he argues that, "by speaking of natural rights, a man does nothing less than claim universal validity for the prejudices of his group".[16]

Human rights is really about groups defending their interests vis á vis other groups. In this sense, it is essentially political. When opposed to the status quo, human rights is a doctrine which defines

the limits of acceptable behaviour to members of powerless groups. These revolutionary rights are demands that those in power treat those out of power differently than before. Van Broven speaks of the rights of the have-nots, those who still have to acquire rights.[17] For this downtrodden group, the human rights doctrine is used to argue that certain rights should exist. In this case, the defense of human rights is a call for radical change of established patterns in terms of a shifting of relationships among groups and individuals in a society. Here, human rights express a desire to end what are perceived of as exploitative relationships and replace them with new patterns of equality among men and women.

However, once the previously oppressed group turns the tables and assumes power, then the former revolutionary rights often act as a protection against encroachments on the newly won privileges of power. The moral rights they fought for become entrenched legal rights and exist to combat any progressive ideas of rights for other groups or individuals not belonging to the group in power.

When defending or attacking an existing social structure, the concept of human rights is always claimed to be a 'universal' criterion for individuals

whatever group they belong to. The argument is that 'everyone' is human, 'everyone' is equal, 'everyone' has the same rights. However, natural or human rights have always been formulated with the members of a particular group in mind. If one attempts to apply similar criteria to the members of other groups in different situations the end result may not be the same and could even appear as a violation of the rights of individuals in the other groups (as witnessed by the Mabbot quote). This occurs because the claim to universality is based on the fallacy of the abstract individual. Such a "universal" individual purged of all attributes such as sex, race, nationality, economic position etc., can only exist in the abstract. To talk of individuals presupposes an equality in social and economic terms among the members of these various groupings that does not exist. Mabbot reminds us that women and children are not "really individuals". Clearly the references to savages who have not developed rationally enough to conceive of rights do not imply equality among Africans and Europeans. It may be more fruitful to examine rights in terms of groups or peoples' collective rights and not to assume that everyone has reached the equal status of the fictitious abstract individual.

Human rights is not about the nonexistent abstract individual, but the concrete individual situated within a particular group during a certain historical period. This is consistent with the position of A.I. Meldon who says:

> The concept of a human right... is not, as the idealists put it an abstract universal, some eternal object that is unrelated to the structure of our moral concepts and to those concerns of ours during our commerce with one another, but to be employed by human beings in the concrete circumstances of their lives".18

The particular and concrete circumstances of the lives of Africans must be taken into consideration if we are to understand the theory of human rights as it applies to Africa.

Morality

The recognition that the doctrine of human rights has historical roots and an essentially political character belies the current belief that it is a universal moral concept. The emphasis on morality with the resulting exclusion of the political aspects of the doctrine may be what led to the erroneous c. connection with culture. Some authors,[19] when discussing moral rights, identify them with custom, and hence culture. However, human rights or natural rights are, by definition, universal moral rights. Morality is supposed to mean something slightly

different than particular customs in this context. It is supposed to mean the acceptance of all others as brothers. Milne tells us, "that all human beings are fellow human beings is the funamental principle of universal morality". The opposite extreme is the primitive mentality of tribalism.[20]

It is only the European, then, who is rational enough to conceive of human rights, whose culture has superceded other lower cultures and has evolved to the point of "universal morality". Are we expected to believe that the European sees the 'savage with the primitive mentality of the tribe', as his equal, his brother, a fellow human being?

Rejecting a universal morality which is neither universal nor moral and stressing the political and historical realities behind all human rights concepts eliminates the difficulties associated with ideas of higher and lower cultures. It allows us to view the ideas of the Africans on their own merit and to examine their statements about rights for what they are, moral propositions of a political nature which carry the same weight as similar statements made by Americans or Frenchmen.

The erroneous tendency to distill the doctrine of human rights into the exclusively moral aspects is

both confusing and misleading but it is understandable. It stems from the maxim best exemplified by Machiavelli's Prince: morality and politics do not mix anymore than oil and water do. Therefore, current definitions which identify human rights as a doctrine of moral 'ought' propositions must eliminate the political components of the idea. Given this predisposition, it is not surprising that modern day philosophical discussions on rights usually divide them into the two overlapping categories of moral and legal rights without mentioning the political aspect.[21] The problem is that natural rights or human rights fit into neither category. However, this 'problem' is overlooked by most current writers on the subject. The only discussion which recognizes a third category of political rights is F.E. Dorwick, the other philosophers are too busy trying to purge the doctrine of its ideological elements to arrive at a truly 'universal' code of morality.

According to Dorwick, rights are claims which are supported by some objective standards or general theories. Rights are not only those claims recognized within a code of morality or in a legal system but also those declared by a political system or theory or manifesto.[22] Natural or human rights fit

into this third, often neglected, category of rights. It is fundamentally a political concept.

David Miller argues that all political ideas have the peculiar characteristics of historical variation, contested character and ideological function.[23] Once we recognize the political nature of the concept of human rights we can see that it is no exception to this rule. As a doctrine, human rights has varied throughout history, always with different groups competing for opposing interpretations. Each group argues for the rights which it feels it ought to have in an ideal society.

Miller's book on Social Justice is an attempt to demonstrate the relationship between three different conceptions of social justice and three corresponding views of society. He argues that the links which connect the two cannot be severed if we are to understand the ideas.[24] I would argue that particular versions of rights cannot be severed from particular conceptions, of the good society. In fact, when Ritchie is searching for the source of rights, he comes to the conclusion that no appeal to nature or what is essentially human can obscure the fact that "Natural Rights are the rights which the would be reformer thinks ought to be recognized, i.e. they are the rights sanctioned by his ideal society."[25]

A particular conception of an ideal society is part of a more general set of interrelated ideas which comprise an ideology. An ideology explains, supports and justifies the choice of a particular vision of the ideal. While the justification is usually couched in universal terms, the reality behind these claims is that the interest of a particular group is being served by the expressed ideology.

These statements regarding ideology are equally true of human rights concepts. A particular version of human rights will fit into a corresponding ideology. It is part and parcel of the justification of certain policies and institutional arrangements. Macdonald says that, "Natural rights are the conditions of a good society and are determined by human decisions". She claims that to justify a particular value judgement is to assert, "this is where I stand".[26] I would argue, that to articulate a particular version of human rights is to claim allegiance to a group and to be prepared to fight for its interests.

The interests of a group, so long as they are not camouflaged as universal and accepted without question as equivalent to the interests of everyone, are a valid moral pursuit. Brown sees no contradiction between morality and interests when he states his

fundamental proposition: "Each man has an inalienable right to the protection of his moral interests, his person and estate."[27] Even Milne declares that the right to justice (one of his six universal moral rights) is the right to have one's interests fairly considered.[28]

It is difficult to deny the connection between rights and interests although one can condemn it as Strauss does. Strauss believes that morality was eliminated from politics when rights replaced duties. He claims that:

> ...rights express something that everyone desires anyway; they hallow everyone's self-interest as everyone sees it or can easily be brought to see it. Men can more safely be depended upon to fight for their rights than to fulfil their duties. What is required to make modern natural right effective is enlightenment or propaganda rather than moral appeal.29

While morality is a part of the doctrine of natural or human rights, it is not the central aspect. Macdonald observes that "The common thread among the variety of natural rights is their political character."[30] It is incorrect to conceive of rights as existing "independently of organized society and hence of political controversies".[31]

Therefore, the concept of human rights cannot and should not be divorced from its ideological aspects. They are central not only to the understanding of the doctrine but also to the practical application of the ideas. Any attempt to divorce human rights from its practical aspects and to formulate a universal, bare bones, theory akin to natural law formulations which give general principles of right and wrong which ought to be accepted among all men at all times, as Milne does, exposes the emperor as not only having no clothes but devoid of flesh and blood as well. Crystallizing human rights down to a pure set of moral principles which are completely acceptable because they are nearly meaningless in practical terms leaves too much open to interpretation. One needs to be able to explain why one interpretation is preferable to any other or as Ritchie says, why some natural instincts are to be protected and allowed to flourish and not others.[32] This cannot be done without reference to particular experiences of particular peoples. To strip the doctrine of its political and historical character reduces it to moral ought propositions which ought to be recognized by everyone. No wonder Bentham called it "nonsense upon stilts".[33]

Bentham completely rejected the idea of moral rights in favour of legal rights. He argued that:

> Rights are, then, the fruits of the law alone. There are no rights without law-no rights anterior to law... a reason for wishing that we possessed a right, does not constitute a right.34

Bentham was interested in uncovering the motives behind what he called "political fallacies", distortions of men's judgements by false distinctions and question-begging. Natural rights were included in this category as "Anarchical fallacies". Bentham could see that the real danger lay in the use made of the doctrine. He said,

> To engage others to join with him in applying force, for the purpose of putting things into a state in which he would actually be in possession of the right of which he thus pretends to be in possession, is at bottom the real object and purpose of the confusion thus endeavored to be introduced into men's ideas.35

We can agree with the need to expose the fallacious aspects of arguments regarding the nature of rights (rights are not a cultural artifact of a universal nature based on the abstract individual). We can also accept the need to uncover the motives behind the rhetoric without losing sight of the positive aspects of the doctrine (unlike Bentham, we are yet unwilling to dispose of the doctrine altogether and to restrict all discussion to positive legal rights).

Human rights must be recognised as both a political and moral doctrine that has ideological linkages and practical ramifications, all of which can only be understood within a particular historical and geographical setting. All must form a part of the whole and none can be discarded in order to arrive at a true picture of reality. This and only this constitutes a complete understanding of the whole: bones with flesh and blood as well as raiment in all its glorious finery.

The whole truth is a many-faceted one, a conglomeration of many perspectives. The African setting will shed some needed light on one perspective.

Humanity

It is racism under the cover of universality which has up to now excluded the perspective of the African from any theoretical discussion of human rights. The belief that rights are a universal idea to be applied equally to everyone has obscured the tainted origins of rights as a form of privilege exercised by certain groups over others. Ritchie remainds us that the idea of freedom and equality emerged in a society where only some men were free and equal. "Both ideas are the outgrowth of aristocratic and slave holding communities. It was

in contrast with the subject and the slave that men first felt themselves equal and free".[36]

The fight over rights has been a battle to broaden the perimeters of those considered to be equal and free or to expand the application of freedom and equality. Those who were excluded began to demand their 'natural' or 'human' rights to that which had been previously reserved for their 'betters'. Rights are the results of historical battles waged by groups to have themselves included in the category of rights-holders.

Today it is claimed that human rights are by definition the rights of humans. However, in the not so distant past, not everyone was considered a human being. The earlier quote from Mabbott points out that women and children were excluded from this category, obviously slaves and savages were also a distinct category from humans. Even workers were excluded from certain rights until they challenged the idea of the restriction of so called natural or human rights and demanded rights of their own. Today the struggle continues to expand the application of righ (and by implication the category of human?) by attempts to include animals and fetuses as rights-holders.

However, the more thoughtful discussions of rights argue that holders of rights must be moral agents capable of making choices.[37] It is this characteristic of man which entitles him to rights and which distinguishes him from beasts. Ritchie points out that the duty of humanitarian feelings and actions towards animals is not equivalent to rights. He argues facetiously that animals cannot take you to court. If they could, they would surely demand a jury of their peers. The law protecting animals from unnecessary pain is no different from the law protecting a monument from defacement. Do then, Ritchie asks, rocks and stones have rights?

He also asks:

> If the recognition of Animal Rights is compatible with the kindly use of a horse as a beast of burden, would not a kindly negro-slavery be also compatible with the recognition of Natural Rights generally?[38]

Despite his failure to dignify the term Negro with a capital letter, Ritchie's own answer to this question is a resounding NO!, because slaves are humans and animals are not. This point is made as a killing blow to those who would still insist on animal 'rights'. It is an attempt to show the ridiculousness of their position.

However, Ritchie's point is lost to those who accepted the institution of slavery in the past. Ritchie himself says, "Slavery seems to us horrible, it is contrary to nature... It used not to seem so horrible to many people who talked loudly about the inalienable right of Liberty".[39] At times, it was not so clear that slaves were more than beasts of burden. Slaves, by definition are not considered to be included in the category of rights-holders. The institution of slavery denies the slave any legal right to be treated as a fellow human being. To Aristotle, the slave is merely a "living tool".[40]

The acceptance of slavery as an institution exposes a contradiction in the theory of natural rights. However, the contradiction exists only if one accepts the idea of all people as rational human beings. If one does not, if one reserves rationality for one's own race, then the contradiction disappears and a kindly Negro slavery <u>is</u> compatible with the recognition of natural rights.

It is important to remember that slavery, rather than being a denial of natural rights, which it clearly is, was once seen as a natural right itself. Edward W. Blyden confronts us with the fact

that it was the experience of the African that challenged and ultimately destroyed the idea that to hold slaves was a natural right. He asserted that:

> The assumption of the right to hold slaves was deeply rooted in the minds of men, derived from antiquity, transmitted in the writings of philosophers, and accepted by all legislators, siatic, European, African and American. This right was unquestioned until the Negro emancipation first established the principle that no circumstances justify the making or holding of slaves.41

Perhaps the Europeans still have some equally important lessons to learn from the African writers who should not be dismissed so easily when it comes to discussions of 'human' rights.

Racism

Racist arguments which permeate theories of natural rights see Negroes as savages who are not rational enough to 'dream of rights'. The African was forced by circumstances to wage a battle against slavery and racism, in order to gain recognition of his equality in rational terms with the European. Otherwise, he would always be denied his rights, even if he was treated in a benevolent manner. Africans had to fight to expand the category of rights-holders to include non-whites such as themselves. The struggle for the human rights of

Africans begins with the movement to abolish the slave trade which is based on a cry against racism and the demand for Africans to be included in the human race.

Racism must be successfully combated before it can be accepted that Africans are rational human beings capable of making moral choices like any other group of human beings. But, once it is accepted that this is the case, then it should follow that this group of rational people have their own ideas about the nature of human rights which are not genetically different from white ideas, or even culturally different from western ideas, but different because they are based on different experiences in a different environment. In broad sweeping terms, those experiences of Africans which relate to rights, or the denial of rights, are the slave trade, racial discrimination, colonialism and underdevelopment.

African writers beginning as early as the eighteenth century were aware of western notions of natural or human rights. But, they understood human rights in terms of their own historical and political realities. The Africans had no doubt that they were members of the human race and as such had a right to have their voices heard. They stressed certain racial and cultural aspects of their ideas because

they challenged the conception of a universality that did not include their race and culture.

Africans understood the theory of human rights as a challenge to western domination in every sphere. The doctrine of human rights was articulated to fight against slavery and its by-product, racism, by arguing that Negroes must be included as members of the human race and therefore be in possession of all the rights that this entailed. Once westerners were forced to accept the idea of Africans as rights-holders, they had to forfeit all privileges reserved for white men at the expense of Africans. Human rights also played a major role in the fight for independence from subjection to colonial rule. The doctrine is now used to decry the imbalance of wealth world-wide due to underdevelopment.

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If one understands human rights in these terms, then one can argue, as Ali A. Mazrui did in 1964, that the peoples of Africa and the Third World in general are not mentally deficient when it comes to conceptions of rights but are actually more concerned with human rights than their western counterparts. Mazrui claimed that for "the newly liberated members of the world organization, the ultimate purpose of the United Nations has become the promotion of human rights.". He contrasted this position to the western

view of the role of the U.N.O. by reminding us that:

> the actual framers of the Charter in 1945 first declared their determination to 'save succeeding generations from the scourge of war' and then only secondly to 'reaffirm faith in fundamental human rights'.42.

It is true that Africa and the Third World are more concerned with collective rights, like freedom from racial discrimination, demands for self-determination and for development, than is the West. These transformations of the idea of human rights are not perversions or corruptions of the Western ideal. The concept of human rights was not hijacked to deal with the collective emergencies of the third world.[43] Once we understand the historical nature of all ideas of human rights, we realise that it is equally valied to understand rights in terms of African realities as it is to understand it in terms of Western realities.

Human rights is a concept which has changed and developed over time even in the West. Modern day conceptions of human rights are broader than the original seventeenth century ideas of natural rights which are different again from earlier formulations of natural law. Historical studies of the idea of human rights, like that of Richard P. Claude, emphasize its changing nature and also tend to caution

that a developmental model of human rights based on European history may not be so easily applied to the Third World.[44] This should be obvious. A history of the idea of human rights in Africa cannot be based on European history. Africa has its own history and it is this which must be examined in order to uncover an indigenous understanding of rights.

Notes

1. The classic critiques of natural or human rights are found in the works of Edmund Burke, Reflections on the Revolution in France; Jeremy Bentham, Anarchial Fallacies; Karl Marx, On the Jewish Question, And David Ritchie, Natural Rights: A Criticism of Some Political and Ethical Conceptions (London: George Allen and Unwin, 1984). More recent criticisms are found in J.D. Mabbott, State and Citizen, 2nd ed. (London: Hutchinson Co., 1967) and Leo Strauss, Natural Right and History (Chicago: University of Chicago Press, 1953).

2. An exception to this rule is Theo Van Boven, former director of the U.N.O.'s Commission on Human Rights. See his article, "The Right to Development and Human Rights" ICJ Review No. 28 (June 1982) p. 49.

3. See Adamantia Pollis and Peter Schwab, eds. Human Rights: Cultural and Ideological Perspectives (N.Y.: Preager, 1979) Intro., p. 8 and W.A. Whitehouse "A Theological Perspective" Human Rights Problems, Perspectives and Texts ed. F.E. Dorwick (Westmead: Saxon House, 1979) p. 43.

4. Marnia Lazreg, "Human Rights, State and Ideology: An Historical Perspective" Pollis and Schwab, op. cit., p. 37.

5. Leo Strauss, op cit, p. 9.

6. Margaret MacDonald, "Natural Rights" Contemporary Political Theory, Anthony de Crespigny and Alan Wertheimer, eds. (London: Nelson and Sons Ltd., 1970) p. 233.

7. David G. Ritchie, op cit. P. 13.

8. Strauss, op. cit., p. 99.

9. For example, see Keba M'Baye, "Human Rights in Africa", Karl Vasak, general editor, The International Dimensions of Human Rights (Paris: UNESCO, 1982) pp. 583-602.

10. F.E. Dorwick, op. cit., p. 7

11. Ritchie, op. cit., p. 13.

12. Stuart M. Brown, "Inalienable Rights", Crespigny and Wertheimer, op cit., p. 245.

13. J.D. Mabbot, op. cit, p. 59.

14. Ibid., p. 62

15. Van Boven, op. cit., p. 50

16. Strauss, op. cit., p. 99

17. Van Boven, op. cit., p. 50

18. A.I. Meldon, Rights and Persons (Oxford: Basil Blackwell, 1977) p. 246.

19. Norman P. Barry, An Introduction to Political Theory (London: MacMillian Press, 1981) p. 184.

20. A.J.M. Milne, "The Idea of Rights" in Dorwick, op. cit., p. 29.

21. Both Barry and Milne divide rights into moral and legal categories only.

22. F.E. Dorwick, op. cit., p. 8.

23. David Miller, Social Justice (Oxford: Clarendon Press, 1976) p. 5.

24. Ibid.

25. Ritchie, op. cit., p. 80.

26. MacDonald, op. cit., p. 238.

27. Brown, op. cit., p. 245.

28. Milne, op. cit., p. 30.

29. Strauss, op. cit., p. 182.

30. MacDonald, op. cit., p. p. 236.

31. Ibid.

32. Ritchie, op. cit., p. 46.

33. See Bentham's Anarchical Fallicies" in his Collected Works.

34. Bentham as quoted by Miller, op. cit., p. 55.

35. Bentham as quoted by J.H. Burns, "Bentham's Critique of Political Fallacies" in Bhikhu, ed., Jeremy Bentham: Ten Critical Essays, (London: Frank Cass and Co., Ltd., 1974) p. 159.

36. Ritchie, op. cit.

37. Milne, Barry and Miller all make this point. Meldon argues that even John Locke's idea of rights is based on the conception of a person as a rational being. See Meldon, op. cit., p. 230.

38. Ritchie, op. cit., p. 107.

39. Ibid., p. 104.

40. Ibid., p. 105.

41. Edward W. Blyden, Christianity, Islam and the Negro Race 1887 (Edinburgh University Press, 1967) p. 355. (emphasis mine).

42. Ali A. Mazrui, Violence and Thought, (London: Longman, 1969) p. 62.

43. W.A. Whitehouse, op. cit., p. 43.

44. Richard P. Claude, Comparative Human Rights (Baltimore and London: John Hopkins University Press, 1976) p. 43.

CHAPTER II

RIGHTS IN TRADITIONAL AFRICAN SOCIETIES

The development of African ideas of human rights began before any contact was established with the West. Since we can only agree with George Shepperson's statement that "African political thought is as old as human society in Africa,"[1] and share his fear that a failure to recognize the existence of political thought in pre-colonial times could lead to the erroneous conclusion that "political thinking amongst the inhabitants of Africa south of the Sahara is nothing more than the by-product of European influences and the introduction of writing",[2] we shall start our investigation by refering first to the idea of rights contained in what is generally labelled 'traditional African political thought'.[3]

A useful definition of traditional African political thought has been offered by E.E. Osaghae. He considers it to be "those ideas and orientations which formed the basis of the values, symbols and beliefs of the traditional society and its political institutions."[4] We shall examine the ideas of traditional African political thought as best we can not with a predetermination to find ideas of human rights which must have existed. Instead, recognizing the historical development of ideas, we shall look for the broader category of rights, and see if these

ideas of rights cannot be understood as early manifestations of later ideas found in modern African political thought. This,then,will be offered as evidence that the idea of human rights used by the authors of modern African political thought is not a new idea imported from the West and adapted to fit African circumstances, but rather, is a re-interpretation of an old idea which can be traced back to traditional practices and beliefs.

We shall begin our examination of traditional African political thought with a critical review of the literature which attempts to locate ideas of human rights within the cultures of traditional African societies.

Human Rights in Pre-Colonial Africa

In an article entitled, "Human Rights in Africa",[5] Keba M'Baye argues that the idea of a right to life existed generally in Africa because "African traditional beliefs scrupulously respect life, even of animals".[6] This is reflected in the fact that it is wrong to kill except in cases of need.

There are numerous problems with this position. The idea of a human right to life has a particular meaning which cannot be ignored. First, it is necessary to restrict ideas of human

rights to human beings. Holders of rights must be moral agents capable of making choices. Therefore, one needs to distinguish the concept of rights from any kind of prohibition against cruelty to animals.[7] Second, as Barry Gower has argued, "...We need no doctrine of rights to defend the belief that killing a person is wrong."[8] If the right to life means no more than 'Thou shalt not kill,' then it "is a dispensible moral notion for it does no work that cannot be done more adequately in other ways."[9] Gower is saying that only those who argue against the idea of a right to life will reduce its meaning to a mere injunction against killing thereby denying its existence as a separate moral proposition. But M'Baye was supposed to be arguing <u>for</u> the existence of a specific 'right to life' in traditional Africa. By failing to distinguish between morality in general and rights in particular, M'Baye has failed in his attempts to demonstrate that Africans have an idea of the 'right to life' embedded in their traditional religious beliefs.

But the problems do not stop there, M'Baye goes on to argue that it is wrong to kill except in cases of need. He then interprets this to mean that it is necessary and acceptable to kill in order to eat, defend and protect lives and possessions, as well as to "make sacrifices".[10]

It is hard to imagine anyone nowadays condoning ritual human sacrifice, much less including it in an understanding of the African idea of a right to life. Unfortunately, M'Baye is arguing that African culture does not deny rights as long as we understand them as African rights. This is reminiscent of a critique by Henry Odera, who suggests that the adjective African is often used not to designate a particular variant of a general idea but to express an idea which is actually the negation of the general idea. Odera tells us that, "... superstitution is paraded as African religion and the white world is expected to endorse that it is religion but an African religion." What is actually mythology is labeled African philosophy and what is in reality a dictatorship is accepted as an example of African democracy.[11] In M'Baye's case, Africa has a theory of human rights but it is an African theory of rights which includes the right to make human sacrifices.

M'Baye spares us from his ideas about an African right to liberty and property but he tells us that Africans understand and practise freedom of religion without the need to include any idea of choice between different religions or sects within a particular religion. He also claims that the 'legendary hospitality' of the African is the "outward sign" of the right to freedom of movement.

But freedom of movement also includes the right to emigrate. Perhaps M'Baye is unaware of examples such as those provided by I. Schapera who argues that few chiefs would submit readily to the loss of their subjects. "Among Tswanna, for example, a man is rarely allowed to depart peacefully with all his moveable property... If his intention becomes known to the chief, his cattle may be confiscated..."[12] At times, punitive expeditions were sent after those who managed to leave and "often it was only after fighting and bloodshed that they either made good their escape or were compelled to return and suffer the penalty."[13]

One could offer numerous examples of practices which can only be understood as violations of human rights. John S. Mbiti, in his book, African Religions and Philosophy, informs us about customary practices which included the burial of "one's wife or wives (with the husband) so that these may 'accompany' the departed into the next world."[14] He also documents the custom of killing either one twin or sometimes both twins along with the mother because the birth of twins was seen as a bad omen for the tribe.[15] Schapera tells us that, "Bushmen freely thrash or kill a disobedient child or unfaithful wife."[16] These practices are clearly antithetical to the idea of a human right to

life, unless M'Baye is prepared to argue that Africans "scrupulously respect" the lives of animals, but not women and children.

However, even examples of flagrant disregard for any right to life of adult males could be cited. Africa was not devoid of tyrannical rulers who might have subjects put to death to consolidate power or even for sheer personal whim. Lucy Mair tells us that it is fairly certain that Mutesa I, Kabaka of Buganda "enjoyed beating and shooting people, and that this was recognized as his perogative".[17] Shapera writes that contemporary observers recorded that Shaka the Zulu had "literally thousands of his own subjects put to death for no apparent reason."[18]

But more important than these aberrations by exceptional individuals from the accepted form of rule in a particular society, are the examples of the legitimate behaviour of chiefs towards their people. Schapera suggests that the main index of the status of a Hottentot chief "is that offences against him are treated more severely than usual: for example, attempts to kill him are punished by death, and whoever speaks disparagingly of him is violently beaten."[19] So much for the idea of freedom of expression in a Hottentot society. M'Baye needs to be wary of generalizations which overlook such examples.

However, the existence of practices which violate human rights are not proof that no idea or concept of human rights existed in all African societies. Perhaps this is one reason why M'Baye does not try to deny the existence of such practices. However, his attempt to argue that these clear violations of human rights are acceptable as African ideas of rights is non-tenable.

This position results from an apriori refusal to be critical regarding the realities of traditional African societies. Osita C. Eze considers M'Baye's article to be a "rather romantic view of the existence of and protection of human rights in traditional African societies", and advocates a more critical examination "of the concrete material living conditions of a given political-socio-economic formation."[20] M'Baye's article is a good example of the pitfalls involved in attempts to find parallels in traditional African Societies to modern western conceptions of human rights as exemplified by the U.N.O.'s "universal Declaration of Human Rights". It is clearly an approach which we must reject as unfruitful in our efforts to uncover the ideas of rights which actually existed during the precolonial period in Africa.

Human Rights as Restrictions on The Powers of The State

Another commonly used approach to the study of human rights is to reduce the meaning of the doctrine to the mere restriction of state power. When applied to traditional African societies the argument is made that as long as limitations on the absolute power of the state can be shown to exist then this is proof that the idea of human rights also existed. Examples of this approach can be found in Dunstan M. Wai, "Human Rights in Sub-Saharan Africa" and Asmarom Legesse "Human Rights in African Political Culture."[21] A detailed examination of the limitations on power in traditional societies is found in John Beattie, "Checks on the Abuse of Political Power in some African States".[22]

In this article, Beattie examined the available ethnographic information on a "few reasonably typical traditional African States... the Ganda, Swazi, Ashanti and Nupe Kingdoms"[23] in order to compile a table which groups the different types of checks on political power into three categories. The examples which he cites are numerous and leave no doubt that the authority of chiefs and kings "is generally restricted by a wide range of social institutions".[24]

But in this entire discussion on the limitations of power in traditional African societies, the only right he mentions besides the ruler's "right to issue orders, administer sanctions, etc, in a certain territory" is the "right (of a ruler's mother) to scold or rebuke him."[25] These are clearly not examples of human rights but of the legitimate powers of the chief and those who can officially restrain him. Appeals to the right of individuals is a specific kind of limitation not present in Beattie's classification.

Beattie is able to effectively demonstrate that numerous limitations on the power of chiefs existed without making any reference to the concept of human rights because the two ideas and <u>not</u> coterminous. Power can be restricted through various means and for various reasons. Jack Donnely reminds us that, "There are many bases on which a government might be limited - divine commandment, human rights, legal rights, and extra-legal checks such as balances of power, to name a few. Simply having a limited government does not in any way entail that one has human rights."[26]

Pre-colonial African societies had institutions like councils which shared power with the chief.

Besides being required to consult with such authorities, the chief would also hesitate to abuse his power because he recognized the fact that certain actions may be taken against him as a consequence. These facts do not tell us anything about the existence of human rights unless we confuse the doctrine with limited government.

Beattie lists all the practical measures used to avoid and or punish abuses of power. However, he does not discuss the meaning of 'abuse of power.' He rejects the interpretation of abuse as the ruler's gratification of private interests at the expense of the public interest as a subjective moral standard. "The abuse of political power can only be studied objectively when it is taken to mean what some person or group of persons think is to be the abuse of political power".[27] In the examples he gives, it is clearly a breach of the customs and traditions of each particular African society which constitutes the abuse of political power. Nowhere is there any indication that these customs and traditions include ideas of human rights.

Once again, Beattie's article does not prove the non-existence of a concept of human rights in traditional African societies. This is particularly

the case since Beattie never claims to be discussing rights, only "checks on the abuse of power." However, his article does demonstrate the inadequacy of the commonly accepted definition of human rights as restrictions on the power of the state. If this definition were correct, how then, could Beattie say nothing about human rights when discussing such restrictions? This definition is a grossly oversimplified version of the doctrine which is often made with a view towards the 'operationalizing' of one's concepts. It may be of limited use to those who wish to confine themselves to the practical application of human rights[28] but it is of little value to those who wish to discuss the subtleties and complexities of the ideas themselves.

This definition includes things which are not rights in any sense of the term while it simultaneously excludes certain other rights apriori. Strictly applied, all recent ideas of positive rights which demand an extension of state power into social and economic spheres rather than the limitation of such power are excluded by this definition. Declared human rights of peoples to self-determination and development are also excluded from this definition which merely summarizes the

western liberal democratic ideas on human rights. This definition, as Beattie's article shows sheds no light on whether or not ideas of human rights existed in traditional African societies. If we are to examine ideas of rights in traditional African societies, we need a broader conception of human rights than mere restrictions on the power of the state, but not so broad as to include the right to make human sacrifices.

To the political theorist, the idea of human rights is a particular variant of the more general idea of rights. If we understand rights to mean claims of a legitimate nature, based on a general theory, to be treated in a particular manner[29] then we can begin our search for the idea of rights in traditional African societies. We need not look for the specific rights like the right to life or to holidays with pay, but only to look for rights. Exactly which rights we shall find will depend on what rights actually were traditionally accepted and practiced by the African peoples. This approach will lead to a better understanding of the idea of rights in Africa, beginning with the precolonial period to modern times.

Sources of Traditional African Political Thought

The initial difficulty confronting us in the search for the idea of rights in traditional African societies is the lack of primary sources. While Felix Okoye cautions us against assuming that black Africans had no written language because the Vai of Sierra Leone, the Bamun of Cameroun, the Mende and the Bassa all devised systems of writing[30] generally, the traditional African societies lacked written documents. Therefore, we have no texts to examine where we can ascertain particular interpretations of rights.

This state of affairs leads people like Mazrui to lament that Africans "have been denied an intellectual heritage which goes far back in time".[31] Hountondji appears to take a similar position when he argues that philosophy, as he understands it, requires the existence of written texts which can be examined.[32] Neither of these men are arguing that the forefathers of modern Africans were incapable of thinking because they did not write. In fact, Hountondji asserts that philosophers existed in the pre-colonial period. However, the ideas of such philosophers are lost to us because there was no way of recording them. The ideas which are

handed down through oral traditions, proverbs, sayings, etc., are examples of collective world views and not philosophy as such.

Other writers interested in the thought of traditional African societies are not so insistent on the need for written texts. Onigu Otite argues that ideas preserved through oral means are not necessarily inferior to those which have been written down.[33] John S. Mbiti writes about traditional African religions and philosophy by examining the available ethnographic data on the religious practices of Africans. He is primarily interested in religious ideas and practices and interprets social customs from a religious perspective. His discussion of political ideas however, is miniscule, only five and a half pages are devoted to kings, queens and rulers as a single example of the larger category of specialist."[34] Most books on traditional African ideas share this focus on religion which makes them relatively unsuitable for our purpose.[35] It is not surprising that these tracts on religion tell us little about rights. Man has few, if any, rights vis à vis his God or gods.

Hountondji argues that these examples of ethnophilosophy rely on "extra-philosophical data" and are no more than the "arbitrary over-interpretation of social facts."[36] Mbiti concedes that "What is, therefore, African Philosophy, may not amount to more than simply my own process of philosophizing the items under consideration, but this cannot be helped."[37] In the absence of texts, we too cannot help but turn to the evidence collected by anthropologists. However, we shall concentrate on the literature regarding traditional African Political Systems rather than the predominantly religious works on traditional systems of thought.

Anthropologists use the term rights quite often when discussing traditional political systems. But are the rights mentioned examples of the practices of traditional societies or the ideas? I would argue that the term right necessarily implies both. It can be used only to describe not merely an observed action or behaviour pattern but a legitimate action or behaviour pattern. Beattie says, "Right is a conceptual as well as a social entity: it must be acknowledged by somebody, and it exists only in that recognition".[38] To use the term right is to accord morality and legitimacy to an action or proposed action. It is a standard

applied or to be applied rather than a mere description of behaviour. It is an idea of the correct practice or procedure.

The anthropologists sought to describe the legitimate ideas, the moral standards, the values and ethical norms that they found in the particular societies they studied when they used the term rights to record the existence of certain behaviour patterns. But we must not forget that the ethnographer was usually an outsider, a foreigner, who was interpreting certain ideas and practices as rights. The interpretation may well be faulty.[39] However, these writings are the only source in the absence of texts where Africans of the past speak for themselves. The various oral traditions which include proverbs and sayings do not seem to mention rights specifically but further research into this vast area by contemporary scholars may unearth examples unknown to us now. Aware of these serious limitations, let us proceed with our examination of the idea of rights which existed in traditional African societies.

Mbiti tells us that no one knows exactly the number of ethnic groups in Africa. There are probably eight hundred to twelve hundred[40] depending on where the lines are drawn between closely related peoples. Since we have neither the time, space,

nor material necessary to describe the rights found in each one, we must make generalizations based on a small sample. It may be useful to divide the African societies into the two general categories of centralized and non-centralized, recognizing that these are broad divisions which include many variations within the two larger categories.

Centralized Political Systems

In societies where there is a centralized form of government with a ruler, i.e. a chief or king, the rights recorded are usually synonomous with the powers and privileges of this position."[41] Radcliffe-Brown, in his preface to African Politicsl Systems, describes such positions: "There is a single office, that of king, and its various duties and activities and its rights, perogatives and privileges, make up a single unified whole."[42] Generally in the literature one finds references to the right to wear special dress and ornament,[43] the right to use force,[44] the right to raise armies and make war,[45] the right to allocate land,[46] the right to collect taxes,[47] the right to command labour,[48] the right to inflict corporal punishment,[49] the right to impose death sentences,[50] and even the right to confiscate property

under certain circumstances.[51] Besides rights as powers, we find references to hereditary rights or rights of succession[52] which refer to legitimate claims to the position of chief or king and consequently, the rights or powers that this position entails. These examples can be summarized under the headings of rights to authority and rights of authority.

Although our idea of rights as claims would include one of the legal definitions of rights as powers, (i.e. one has a legitimate claim to be obeyed) clearly, these examples of the rights to authority and of authority are not yet the human rights which we are seeking. It is true that these rights or powers were not unlimited as Beattie has demonstrated. There were countervailing rights or powers of other leading officials, like the right of the council to be consulted[53] or the right of the queen mother to scold the king.[54] But the rights or powers of lesser officials were often used not only to restrain the chief ruler but sometimes at the expense of the public.

Lucy Mair tells us that in Ankole, for example, the "king's mother's brother" had the right to collect tribute, and the royal ladies of Ankole had

the "right to demand cattle from whomsoever they pleased."[55] Also, a Bahima (noble of Ankole) had the right of blood revenge against another Bahima only after waiting for the Mugabe's authorization but against a Bairu (peasant) there was no need for such authorization. Meanwhile, Bairu were not entitled to blood revenge against a Bahima.[56]

Mair continues to inform us that in Ruanda, the "Hutu had no rights at all except as clients of a Tusi who would assert his own rights in protecting them". She also writes of "Anuak nobles claiming the right to seize property of commoners in punishment for... offences against themselves..."[57]

From these examples, we can see that rights appear to vary with and depend upon one's position in society. We are told that, "... those already established in high positions watched jealously over their rights and privileges."[58] The king had certain rights or powers by virtue of his position and other lesser officials also had lesser rights. But the common man appears to be deprived of such rights.

We cannot find examples of rights of the populace in the data provided by anthropologists for the centralized societies of Africa. However, there is

some indication that legitimate demands or claims were made by the subjects to be treated in a particular manner. Shapera argues that "What people expect of their chief may be seen, first, from the kind of advice given to him at his installation ceremony."[59] Generally, from the specific date provided by Shapera, we can see that people expected to be treated with fairness, impartiality and justice. Another common demand made by the people on their chiefs was to feed them when there was a shortage of food. All the advice included the need to be generous.

But advice about how to behave towards one's subjects is not the same as asserting a right to a particular kind of treatment. Advice can be seen perhaps more as a request. To say that the chief has an obligation to feed his people is not to say they have a right to demand food. Not all obligations necessarily entail reciprocal rights. It is significant that the anthropologists refrain from using the term rights in these cases.

Even in Rattray's description of the advice given to the Asantehene, all are clearly requests, articulated in the polite form, "we do not wish...". From a long lists of expectations, only one request

is singled out and interpreted as a right, that is "the right to be consulted." No doubt this is because severe sanctions would follow a disregard of this 'request'. Failure to accept the guidance of the councillors, which included the Queen mother, "was a legitimate cause for destoolment."[60]

Since instructions given to the chiefs limit and strictly define his duties, we can see why Lucy Mair argues that in traditional African societies there was no such thing as absolute rule by a monarch. The nearest thing to it was a "monopoly by the monarch and a small number of his associates of the right to make decisions in matters of public concern."[61] But the only expectations which are considered rights rather than requests remain those rights to power which are determined by one's position. We have to find examples of equal rights for all rather than monopolies of rights and privileges if we are to speak of human rights in traditional African societies.

Instead of finding evidence of human rights, some anthropologists interpreted the position of rulers like the Reth of the Shilluk or the Oba of Benin as being based on divine right. But Mair argues that the divine right of African rulers,

unlike their royal counterparts in Europe, is more often less a matter of the right to inherit a possession (the kingdom) than a special mystical quality peculiar to a particular lineage".[62]

It was lineage or hereditary factors which determined one's position in traditional African societies and this in turn endowed particular descent groups with certain rights. While certain lineages provided the people with their king, other lineages provided the king makers. Mair says, "Generally there are king makers whose right to choose the succession is recognized."[63] Other lineages had different rights and privileges. "A tradition had been established in Ruanda that certain lineages had the right in turn to provide the king's chief wife."[64]

It was not only rights relating to power that were determined by hereditary factors. Mair claims that rights to land for cultivation go with membership of a descent group.[65] She even argues that the essence of lineage systems is to organize people into groups tracing descent through one parent for the purpose of the transmission of rights and property.[66] She says that in Buganda, each clan or a subdivision of a clan, claims an inalienable right to certain properties. "The rights of the clans to these lands... were respected by all authorities

including the King (Kabaka) himself."[67] The Baganda "believe that the claims of descent groups over land are older than the rights of chiefs".[68]

So people do have rights which 'are older than the rights of chiefs' but these rights appear to be only to powers or land and apply to particular positions based on hereditary descent. Nowhere can we find examples of rights which are accorded to all equally on the basis of their humanity alone.

Non-Centralized Political Systems

What of the African societies without chiefs or kings? Might we not find different examples of rights which are closer to the modern equalitarian ideal in the non-centralized societies sometimes referred to as stateless but more accurately described as having minimal or diffuse government? Indeed, Elizabeth Colson tells us that, among the Tonga of Zambia, there is little respect for hierarchy. "Instead, they stress personal independence, the equality of all men, and the right of each man to make his own law... they are not bound by any decision to which they have not been a direct party".[69]

From the modern western perspective, the state is not only seen as the repository of certain rights/ powers, it is also the mechanism by which individuals seek protection of rights. In some theories, the sole function of the state is to protect the rights of individuals. It must be this prejudice which leads Colson to refer to societies with no political authorities as "those where it is left to the individual and others to defend his rights."[70] She also describes the Nuer of Sudan as the "epitome of the equalitarian stateless society whose members defended their rights by resort to self-help and feud."[7] Regardless of problems of interpretation, we can certainly assert that the non-existence of centralized power does not imply the non-existence of rights. In non-centralized societies, there are no rights of chiefs and kings because no such positions exist, but there are rights of other groups. In the absence of a centralized power with an exclusive right to force, the people resort to feud to protect what some anthropologists refer to as "private rights."

If we continue to see rights as claims of a legitimate nature to be treated in a particular manner, we can see the causes for violence and feuds as examples of denial of rights. Feuds erupt

because of rival claims to property and people and because of retaliation for insults.[72] This means that people have certain rights to property and people as well as rights to be treated with respect. However, these rights/claims are obviously not equally distributed if some individuals have rights to other individuals. All rights are still dependent upon one's position within a particular society. Equal individual rights did not exist in the non-centralized 'equalitarian' societies of Africa.

Rights are still determined by tradition and custom which divides societies according to age, sex and kinship even if it does not designate some families as chiefly material. Anthropoligists were careful to restrict their terminology to personal and private rights and not to claim that individual rights existed because they observed that individuals in traditional African societies only had rights as members of certain groups and not as individuals. M. Fortes, speaking of the Tallensi, tells us that "The distribution of rights and responsibilities in accordance with the lineage structure makes every dispute an issue between groups - segments, lineages, clans, communities.".[73] The Karamjong speak of "wronging the community" when an individual, infringes another's rights.[75]

Wars over territory were also seen as "contests over the corporate rights of autonomous political communities, not over the individual rights of members of one community."[76]

Fortes suggests that the differential rights accorded to individuals as members of a group are hierarchically arranged. Individuals within a group share the same rights, but the rights across groups are generally far from equal. "A specific right though it is rigourously defined, is an element in the total configuration of rights."[77] Each right implies an obligation and, "This hierarchy of rights (is) balanced against a hierarchy of obligations..."[78]

It is primarily kinship relations which determine one's rights or how a particular individual should be treated by any other individual. Colson says, "... if you know a person's clan, you have a good chance of being able to find an appropriate kinship term to signal the ettiquette to be used between the two of you and to define the moral imperative which ought to govern your relationships."[79]

Mbiti agrees that, "kinship terms... express the precise kind of relationship pertaining between two individuals. When two strangers meet in a village, one of the first duties is to sort out how they may be related to each other, and then they behave to each other according to the accepted behaviour set down by society."[80] Therefore, to know how one is related to another is to know how to relate to the other . Claims to be treated in a particular manner are based on kinship categories. Bohannan's discussion of justice and judgement among the Tiv gives examples of disputed property rights which are understood in terms of the individual's place within the kinship structure.[81] Kinship is the general theory which determines one's rights vis a vis another, in traditional African societies.

There is also a threshold of rights which is passed only at a certain age. Mbiti, when discussing puberty rites tells us that the ceremony which ushers in adulthood also confers on all individuals involved, certain new rights. As they come of age, candidates become full members of their tribal group and "inherit new rights".[82] Mair also associates puberty with rights. She claims that for the Nandi, "the first consequence of the attainment

of adulthood was the right to marry."[83] Among the Akambe, presents given to initiates symbolize the newly acquired right to own property, "even if they own it jointly with the corporate group."[84] Such rights are restricted not only to adults but also to adults of a particular tribe or ethnic group. Mbiti refers to tribal scars as "marks of identification, incorporation, membership and full rights."[85] This is but another clear indication that traditionally, rights is a concept only understood as pertaining to groups as members of a particular society and not as being applicable to individuals universally. It is consistent with Bohannan's observations: "Tiv do not grant the same rights to foreigners as they do to themselves".[86]

Even when rights are equal within a particular society, they are once again exclusive to that society vis a vis other societies to exploit resources within a certain territory. Territorial rights are strictly observed even among nomadic tribes and hunters and gatherers. Schapera says that "... political communities in South Africa are always territorial entities with well-defined rights to the land they occupy."[87] Lorna Marshall informs us that although there appeared to be a lack of strictness regarding "hunting rights" among the! Kung bands,

the "important sources of food are owned by the bands with strict definition and jealous concern".[88] She interprets the staunch refusal of the band she was travelling with, to change position so that she could get a better photograph as: "There was evidently line beyond which they did not have rights to pick the nuts."[89]

Marshall argues that the headman of the band is best understood as the owner of the veldkos and water although this does not mean that he has "the right to withhold them from rightful members."[90] Membership in a band depended upon a consanguineous or affinal bond. Marshall describes the band as an "aggregate of families" all related to the headman. "Members of the band share in the ownership by having rights to the resources."[91] The headman did not have the right to a larger share all members had equal rights. Furthermore, "permanent members retain their rights throughout their lives" and if they move away temporarily, they have the right to return. [92]

Anthropologists argue that those rights which did exist in traditional African societies as well as the correlative duties to respect those rights were scrupulously observed mainly for fear of the

consequences: disintegration, anarchy, violence. Mair believes that, "respect for rights is ensured principally by the recognition that people are entitled to fight for them and the knowledge that they are prepared to do so."[93]

Fortes and Pritchard hold the view that particular rights exist only as "an element in the whole body of common reciprocal and mutually balancing rights, duties and sentiments."[94] The stability and continuity of the structure of an African society depends upon the upholding of these norms. "On the average, rights must be respected... /or7 ...productive labour would come to a standstill and the society distintegrate."[95]

Colson claims that the overridding fear of conflict led to a great respect for the rights of others in the behaviour of individuals. Rights were rigidly determined within a society and equally rigidly observed. Those societies without an institutional means for settling disputes used a great deal of self control to stop conflict before it started. Individuals avoided clashes by acceeding to requests in a openhanded manner.

Colson interprets the generosity of people who have little to give as a result of the awareness among such people of the potential violence involved

in envy. She suggests that they do not freely press upon each other offerings just because they do not value possessions or even because of the beneficial aspects of reciprocal gift-giving. Rather they fear the danger of having more than their share and the smaller the society, the more equal the shares. Marshall's observations support this point. She says that "all 'Kung we know... do not want to stand out or be above others by having more material things than the others, for this draws unfavourable attention to them and arouses envy and jealousy."[96]

Colson tells us that the "Refusal to share is both discourteous and dangerous".[97] One cannot refuse a legitimate request because the desires of individuals are subordinate to what Colson calls the "right to security"[98] of the community as a whole. The penalties for the disregard of the rights of others are too severe: "... members were aware that they might be expelled, sold into salvery, accused of withchcraft, or subjected to some other definitive measures if they persisted in reckless disregard of the rights of their neighbors.[99]

These examples from anthropologists' descriptions of non-centralized equalitarian societies indicate that rights did exist in traditional African societies

of this nature. However, the numerous obligations to respect these rights appear to severely limit freedom. Whenever external control is minimal, self control and restraint are more necessary. The enormous amount of self-control and subordination of individual desires for the good of the community may be expressed as a denial of individual freedom. There is certainly no freedom of selfish impulses and especially no glorification of greed and desire for gain in the name of development as there is in the modern idea of a right to property. Instead, there are rights to your share which depends more upon your position than on your deserts or needs.[100] The people of such societies are not ready to damn the consequences of the unleashing of man's "natural" desire for accumulation of material wealth, which are envy, jealously, hatred and violence. As Colson puts it, they may live in a Rousseauian paradise because they take a Hobbesian view of human nature.[101]

The equality of equalitarian societies is equality of material goods and not rights. Claims to be treated in a certain manner are still made with reference to one's position in a society which varies according to age, sex and position in a well defined kinship structure. Colson reports that the Tonga speak of the dangers of moving outside one's

network of social relations and the risk of enslavement run by those who asked for goods or other benefits from strangers in whom they had no claims."[102] It is only legitimate claims that are accepted and strictly observed so that violence will not cause the society as a whole to disintegrate and cease to exist. There is no general feeling of benevolence and good will towards mankind generally. Instead there are strictly defined rights and obligations which must be met if peace is to prevail.

Although rights understood as claims of a legitimate nature based on a general theory to be treated in a particular manner existed in traditional African societies, these rights cannot be seen as human rights. Our examination of traditional ideas of rights in Africa has demonstrated that such rights were not calls to recognize the common humanity of man. If they were, the Masai, for example, would not claim an exclusive God given right to the ownership of cattle.[103] Instead, ideas of rights recorded by anthropologists are examples of the powers and privileges of positions of authority, titles to property and people, as well as territorial rights to land and resources.

Examples have shown that the general theory which legitimizes these claims as rights is not one which argues that we are all members of one human race and as such deserve equal treatment from all other human beings. Instead, the general theory operating in traditional societies to legitimize claims as rights, is one which divided societies from each other and recognized rights as belonging only to particular categories of people and not all peoples at all times. The rights in traditional African societies were all based on custom and tradition which divides people into various unequal categories. Traditional customary rights are examples of differential rights for different groups, while natural or human rights are fundamentally equal rights for all. The ideas of rights found in traditional African societies, then, can only be seen as examples of precursors to the modern idea of human rights in Africa, much the same way as early European ideas were the forerunners to the contemporary western version of human rights.

NOTES

1. George Shepperson, "Abolitionism and African Political Thought" Transition Vol. 3 No. 12 (Jan-Feb. 1964) pp. 22.

2. Ibid.

3. The word traditional is prevalent in the literature regarding the pre-colonial attributes of African societies. For convenience, we use it here in the conventional sense to refer to ideas and practices from the time before European contact. However, we do not accept the connotation of purity which some people impute to the term. Neither do we use it to imply resistance to change. Rather, we agree with Paulin J. Hountondji, African Philosophy, (London: Hutchinson and Co., 1983) p. 161, when he says that African traditions did not cease at the time of the European conquest of Africa; they include all the modifications which have transformed them during the colonial and post-colonial eras.

4. E.E. Osaghae, "The Passage from the Past to the Present in African Political Thought: The Question of Relevance" paper presented at the International Conference on African Traditional Thought and Institutions held at the University of Ibadan, Aug. 1988, p. 1.

5. Keba M. Baye, "Human Rights in Africa "The International Dimensions of Human Rights (Paris: UNESCO, 1982) pp. 583-602.

6. Ibid, p. 588.

7. David G. Ritchie, Natural Rights: A Criticism of Some Political and Ethical Conceptions (London: George Allen and Unwin, 1894). p. 107.

8. Barry Gower, "Understanding Rights: An Analysis of a Problem", in Dorwick, op. cit. p. 54.

9. Ibid.

10. M'Baye, op. cit., p. 588.

11. Henry Oruka Odera, "Mythologies as African Philosophy" East African Journal, Vol. IX, No. 10 (Oct. 1972) as quoted by Hountondji, op. cit p. 60.

12. I. Schapera, Government and Politics in Tribal Societies (London: C.A. Watts and Co. Ltd., 1963) p. 154.

13. Ibid.

14. John S. Mbiti, African Religions and Philosophy (London: Heineman Educational Books, 1969) p. 158.

15. Ibid, p. 112.

16. Schapera, op. cit., p. 87.

17. Lucy Mair, Primitive Government (England: Penguin, 1970), p. 199.

18. Schapera, op. cit., p. 149.

19. Ibid, p. 115.

20. Osita C. Eze, Human Rights in Africa: Some Selected Problems, (Lagos: Macmillan, 1984), p. 13.

21. Dunstan M. Wai, "Human Rights in Sub-Saharan Africa", Human Rights Cultural and Ideological Perspectives, Eds. Adamantia Pollis and Peter Schwab, (N.Y. Praeger, 1979) pp. 115-144 and Asmarom Legesse, "Human Rights in African Political Culture" The Moral Imperatives of Human Rights A World Survey ed. Kenneth Thompson (Washington, D.C.: University Press of America for the Council on Religion and International Affairs, 1980). pp. 123-38.

22. John Beattie, "Checks on the Abuse of Political Power in Some African States: A Preliminary Framework for Analysis" in Ronald Cohen and John Middleton, eds. Comparative Political Systems: Studies in the Politics of Pre-Industrial Societies (Austin: University of Texas Press, 1967).

23. Ibid. p. 361.

24. Ibid, p. 355.

25. Ibid. p. 359.

26. Jack Donnelly. "Human Rights and Human Dignity: An Analytic Critique of Non-Western Conceptions of Human Rights" APSR Vol. 76, No. 2. June 1982, p. 308.

27. Beattie, op cit. p. 360.

28. Rhoda E. Howard, "Legitimacy and Class Rule in Africa", Third World Quarterly, Vol. 7 No. 2, April 1985, discusses constitutionalism and the rule of law as the "art of providing a system of effective restraints on the exercise of power." Howard argues that this practical aspect of Human rights is a necessary though not sufficient guarantee of human rights in Africa. Constitutionalism is not equivalent to human rights which she broadly, defines as "both civil/political and economic/social/cultural."

29. F.E. Dorwick, ed. Human Rights, Problems and Perspectives (Westmead: Saxon House, 1979) and D.D. Rapheal, ed. Political Theory and the Rights of Man (London: MacMillian, 1967).

30. Okoye, Felix, The American Image of Africa: Myth and Reality (Buffalo, N.Y.: Black Academy Press, Inc., 1971) p. 7. See also, Hountondji, op. cit., p. 100; The Holy Writings of Islam constitute a source of political ideas for a section of the African continent. However, the Islamic tradition needs to be treated seperately and in depth and we shall not attempt to do so in this work.

31. Ali Mazuri, "Political Consorship and Intellectual Creativity", in Mazuri, op. cit. p. 276.

32. Hountondji, op. cit.

33. Otite, Onigu, ed. Themes in African Social and Political Thought (Enugu: Fourth Dimension Publishers, 1978) p. 4. This may be a defensible position. However, when Otite goes on in the next sentence to say that "Pre-literate people live their social thought as part of their heritage", he appears to be dangerously close to echoing the sentiments of M. Fortes and Evan-Pritchard in the introduction to their own classic work, African Political Systems (London: Oxford University Press, 1940) when they said, "Africans, as we have pointed out, do not analyse their social system: They live it.", p. 21.

34. Mbiti, op. cit, pp. 182-187.

35. Both M. Fortes and G. Dieterlen, eds. African Systems of Thought (London: Oxford University Press, 1965) and Ivan Karp and Charles S. Bird, eds. Explorations in African Systems of Thought (Bloomington: Indiana University Press 1980) are cases in point. From the literature, one would suspect that Africans only have ideas about religion.

36. Hountondji, op. cit., p. 63.

37. Mbiti, op. cit., p. 1.

38. Beattie, op. cit., p. 357.

39. Anthropologists lack precision in their use of the term right. This may be because they are neither political scientists nor philosophers. In fact, their attitude to such disciplines is sometimes openly hostile. "We have not found that the theories of political philosophers have helped us to understand the societies we have studied..." Fortes and Pritchard, op. cit. p. 4.

40. Mbiti, op. cit. p. 101.

41. Dorwick tells us that legally, one of the definitions of rights is powers and refers us to the classic works on legal rights. Hohfeld, W.N. Fundamental Legal Conceptions as Applied in Judicial Reasoning. 1923, essay 1 and H.L.A. Hart, "Definition and Theory in Jurisprudence" 1954, 70 Law Quarterly Review, pp. 37-49.

42. M. Fortes and Evans-Pritchard, op. cit., p. XXI.

43. Mair, op. cit., p. 192 and Jacob Egharevba, A Short History of Benin, 3rd ed. Ibadan: Ibadan University Press, 1960) p. 20.

44. Schapera, op. cit., p. 364.

45. Mair, op. cit., p. 263.

46. Ibid, p. 175.

47. S.F. Nade, "Nupe State and Community" in Cohen and Middleton, op. cit., pp. 320-321.

48. Mair, op. cit p. 173 & p. 264.

49. Ibid., p. 263.

50. Beattie, op. cit., p. 364. Among the Asante, suicide was considered a capital offense. "The men who had committed an offense, the penalty for which he w*ll kn.. was death, had no right to balk the capital authority of its right to execute him." Rattray, Ashanti Law and Constitution (1929) p. 299.

51. Schapera, op. cit. p. 101, Mbiti, op. cit., p. 209

52. Beattie, op. cit., p. 367; Schapera, op. cit., p. 92.; Mair, op. cit., p. 160.

53. Rattray, op. cit., p. 404.

54. Beattie, op. cit., p. 359.

55. Mair, op. cit., p. 212.

56. Ibid., p. 185.

57. Ibid., p. 160.

58. Fortes and Evans-Pritchard, op. cit., p. 45.

59. Schapera, op. cit., p. 137.

60. Rattray, op. cit., p. 82.

61. Mair, op. cit., p. 139.

62. Lucy Mair, African Scoieties p. 158 Also see Primitive Govt. p. 69.

63. Mair, Primitive Government, p. 208.

64. Ibid., p. 196.

65. Ibid., p. 54.

66. Ibid., p. 206.

67. Ibid., p. 240.

68. Ibid., p. 239.

69. Elizabeth Colson, Tradition and Contract: The Problem of Order (London: Heinemann, 1974) p. 3.

70. Ibid., p. 36.

71. Ibid., p. 70.

72. Ibid., p. 38.

73. Fortes and Evans-Pritchard, op. cit., p. 268.

74. Mair, Primitive Government p. 96.

75. Fortes and Evans-Pritchard, op. cit., p. 270.

76. Mair, Primitive Government, p. 39.

77. Fortes and Evans-Pritchard, op. cit. p. 252.

78. Ibid.

79. Colson, op. cit. p. 25.
80. Mbiti, op. cit., p. 104.
81. Paul Bohannan, Justice and Judgement Among the Tiv (London: International African Institute, 1957) p. 66.

82. Ibid. p. 121.

83. Mair, Primitive Government p. 82. She also records that entrance "into the elder grade gave them the right to drink beer, an indulgence not permitted to warriors." (Ibid).

84. Mbiti, op. cit., p. 123.

85. Ibid., p. 117.

86. Bohannan, op. cit. p. 135.

87. Schapera, op. cit., p. 16.

88. Lorna Marshall, "KUNG BUSHMEN BANDS", Cohen and Mittleton, op. cit., p. 21.

89. Ibid., p. 25.

90. Ibid., p. 34.

91. Ibid., p. 32.

92. Ibid., p. 34.

93. Mair, Primitive Government, p. 50.

94. Fortes and Evans-Pritchard, op. cit., p. 20.

95. Ibid.

96. Marshall, op. cit., p. 38.

97. Colson, op. cit., p. 49.

98. Ibid., p. 89.

99. Ibid., p. 42.

100. See David Miller, op. cit., for an interesting discussion on justice to each according to his rights, to each according to his deserts, or to each according to his needs.

101. Colson, op. cit., p. 37.

102. Ibid., p. 38.

103. Mbiti, op. cit., p. 50.



CHAPTER III

ABOLITIONISM - THE RIGHTS OF THE SLAVE

Since traditional African political thought predates contact with Europeans, it tells us little about the African perspective on that contact. But modern African political thought, the writings of contemporary Africans on social and political matters, is deeply concerned with Africa's relationship to the Western powers. According to Henry S. Wilson, in the eighteenth century, the African intellectual began to grapple with the changes which were taking place as a result of the Western impact and African political thought emerged as "a modern and distinctively African outlook".[1] Abiola Irele shares this view. He says that the attempt of the intellectual elite "to take the measure of the impact of Western civilization upon the African world defines the path along which, since the eighteenth century at least, the development of modern African thought has run".[2] E.U. Essien-Udom comments on the "remarkable continuity in the ideas and concerns of African intelligentsia"[3] of the modern period.

Certainly, the themes of racial emancipation, cultural preservation and economic development, which remain dominant aspects of contemporary African

political thought, can be first found in the writings of Africans in the eighteenth century. For this reason, we may say that despite links with traditional African political thought, the origins of modern African political thought lie in the writings of Africans of this period, that is, Africans of the diaspora.

It was the plight of the slave, the African who was forcibly torn from his homeland, that was articulated by blacks in the diaspora who retained an identification with Africa and Africans despite their physical distance from the continent and its people. The adoption of certain aspects of western culture was inevitable for a group who were largely removed from the environment of traditional African societies at a tender age. However, many of them still saw themselves as Africans first, last and always.

These pioneers of African literature in English signed their works not only with their names but by adding the various appellations: an African prince, an African, a native of Africa or even the African. S.E. Ogude, in an enlightening work on the origins of African literature in English suggests that perhaps it was to quell the harshness and degradation of life as a slave in the Americas or West Indies or

as a domestic servant in Britain, that Africa was remembered with a certain nostalgia. The word itself evoked an air of confidence and racial pride among the first African writers in the English language.[4]

In the eighteenth century, Africans of the diaspora displayed literary talents as poets and philosophers, but the most important contribution to the development of social and political theory and consequently to the idea of rights comes from the protest literature of Africans writing within the anti-slavery movement. Abolitionism was an idea shared by African writers of this period[5] and it was an idea which included a call to the natural rights of mankind as the most forceful indictment of Negro slavery.[6]

Although Europeans founded abolitionist movements during this period, we need not consider abolitionism to be a particularly European idea. Clearly, Africans did not need to be exposed to the lately awakened liberal views of the humanitarian section of the European population to react to the historical experience of contact with the West as a violation of their human rights. They need only to have been victims of the Atlantic Slave Trade.

Africans were taken as slaves as early as the fifteenth century. By the middle of the seventeenth century there was a change in the original defense of the slave trade and racism was born.[7] At first, the justification for slavery had been religious, the Negroes were heathens whose souls might be saved. This idea gave way to a racial justification. Eric Williams convincingly argues that these rationalizations conceal an economic motive. The origin of Negro slavery is found in the production needs of the West Indies and the Americans. According to Williams, "Slavery was not born of racism, racism was the consequence of slavery."[8] The decisive factor in choosing Negro slave labour was that it was cheaper and hence superior to white or American Indian labour. Once the economic advantage had been calculated, the need to save the souls of the 'inherently inferior' race was a mere afterthought.

The issue of the rights of Africans at the height of Negro slavery revolves around whether or not the Europeans recognize that the Africans is human and is therefore eligible for the common rights and liberties of mankind. If this were to be admitted, then, Europeans could have no rights over the African. Universal human rights must mean that there is equality of rights; all men have the same rights.

The failure to recongize the equality of the African and the racist doctrine which arose to support the institution of slavery, gave rise to a fundamental conflict of rights. The Westerner claimed a right to the body, labour and property of the slave because he had purchased him. The African slave rejected these as illegitimate claims and countered with the argument that the master had no right to sell him or to confiscate his property. Hence, references to rights in the writings of Africans once contact had been established with the West, were most often a denial of the rights which Europeans claimed to have over them.

Ogude points out that generally, "Black writers are essentially preoccupied with the historical implications of the contact between white and black."[9] The unequal nature of this contact has meant that "the black has always been under pressure to justify his claims to the human race before the court of the Europeans."[10] He argues that the eighteenth century writers were "the first to bear testimony to the humanity of the black race."[11]

The issue of the humanity of the African is directly related to the concept of <u>human</u> rights. The struggle for the human rights of Africans, began as a struggle to have members of their race recognized

as legitimate right-holders. This understanding of human rights was a reaction to the racist doctrine which arose to justify the slave trade which denied the African his place or position as a fellow human being making him ineligible for human rights.

Like any other oppressed group which experienced unjust treatment, the slaves demanded that they had human rights because they too were human. Our argument that the doctrine of human rights is fundamentally a reflection of power struggles couched in the demand to be treated the same as any other human being, clearly found expression in the writings of African ex-slaves of the eighteenth century. Let us examine several of their works in detail as primary sources for an African concept of human rights for this historical period.

Fortunately, there are several letters, narratives and reminiscences of former slaves which shall offer us the first glimpse of what Africans, speaking for themselves, have had to say about human rights. William Abraham, in Mind of Africa tells us that the period of slavery threw up several prominent Africans in Europe and America. He singles out four for special mention: Anton Wilhelm Amo, a professor of philosophy; Ignatius Sancho, the 'First African Man of Letters'; and Ottobah Cugoano and Gustavus Vassa

or Ouladah Equiano, both activists in the abolition movement of the eighteenth century. As we examine the use of the term rights in the works of these authors, we can see the beginnings of the development of a version of human rights which arises out of the historical condition of an unfortunate segment of the African population, a group of Africans of whom men like Amo, Sancho, Cugoano and Equiano are the most articulate representatives.

Amo's Ideas

The first African whose ideas we shall examine was not a former slave. Instead, he was sent to Europe as a young boy to be trained as a preacher in the Dutch Reformed Church. After spending more than forty years in Europe where he studied and ultimately taught philosophy at several universities in Germany, Amo returned to his African birthplace, Axim in present day Ghana.

Unfortunately, his writing were largely in Latin and were concerned with the philosophical debates of his time on the nature of the human mind and the faculty of sensation. However, his inaugral dissertation, defended in 1729 was entitled, "The Rights of Africans in Europe." It is a shame that the text is lost and all we have is a brief summary of it in the annals of the university of Halle.[12]

Amo was not a victim of the slave trade himself. But the Abee Gregoire included him in his dedicatory list as

> One of those courageous men who have pleaded the cause of the unhappy Blacks and half-breeds, either through their writings or through their speeches in political assemblies, and to societies established for the abolition of the slave trade and the relief and the libertion of the slaves.[13]

To Paulin J. Hountondji, the dissertation on the rights of Africans shows Amo's "preoccupation with the problems of slavery and of the social conditions of blacks in Europe."[14] For our purposes, it is an example of an African writing on the rights of Africans based on law and history for the rights which Amo discusses are the legal rights of Africans vis a vis Europeans. He shows "how the kings of Africa had once been vassals of the Roman Emperor, enjoying an imperial franchise..." He also discusses "how far the freedom or servitude of Africans living in Europe... was in conformity with the laws."[15]

This scanty information can only give us a glimpse of his ideas and suggests that the lost text was an example of an African reacting against the European practice of denying Africans their rights as well as defending the position that Africans retain certain rights even outside the traditional setting. If Africans, once removed from their

traditional environment, have similar rights to Europeans, then these rights can be seen to be universally applicable and the text might be considered as a premier example of the concept of human rights in African political thought. However, our comments are necessarily speculative given the absence of the text. Let us turn to the other writers mentioned by Abrahams whose works are more accessible to us, to discuss in detail early African ideas of human rights.

Sancho's Letters

Philip Curtin tells us that in the eighteenth century:

> There were several hundred Africans resident in England... Some of these were the 'black poor', African servants who came to England by way of West Indian slavery, discharged sailors and soldiers from the American war, and other Negroes who had become permanent residents in Britain."16

Ignatius Sancho was one such African. He was born on a slave ship bound for the West Indies in 1729. When he was only two years of age, his master brought him to England. His early years in England he described as 'unlucky': "... as I was placed in a family who judged ignorance the best and only security for obedience".[17] His luck changed when he came to the notice of the Duke of Montague who became his patron. Once a young man, he 'abandoned his new

family' and entered the service of the Montagues as their Butler in which position he remained until her ladyship's deth. Afterwhich, he supported himself and his family as a grocer until his own death in 1780.[18]

Ogude considers Sancho as the first major African creative writer in English, the first Black man of Letters.[19] First a slave, then a servant and ultimately a "typical eighteenth century gentleman, /Sancho was/ a dilettante, the respectable dabbler in the arts."[20] He wrote verses, a theory of music and two plays, none of which have survived. But an edition of his letters was published posthumously in London in 1792 entitled: Letters of the Late Ignatius Sancho, An African and are available for our scrutiny.

The book is two volimes of personal correspondence which was never meant for publication, or public consumption, where the author greets friends and asks to be remembered to others and inquires after everyone's health. The letters reveal the author to be a jolly corpulent[21] man with a humourous temperament, who was apparently much sought after for his advice, by young ladies and gentlemen of his acquaintance, on private matters such as their general plans for the future, their love affairs and various aids to health.[22]

Sancho clearly was a man of wit and intelligence and his opinions on art and literature were also expressed to an interested audience through his letters. Though self-educated, he used the English language with an adroitness, I doubt many native born Englishmen of his day or even now could manage to display. In fact, the advertisement in the original edition states that the motive for posthumous publication of the letters was to demonstrate to the public that an "untutored African may possess abilities equal to an (sic) European."[23]

Ogude cites contemporary commentators on Sancho's literary efforts, like Thomas Jefferson, who did not see Sancho, "just as a man, or as a black man, but as the unified symbol of all blacks, and his achievement /as/ the achievement of the entire blacks race rather than just of Sancho."[24] Abolitionists like Thomas Clarkson used Sancho as an example in order to refute belief in the inherent inferiority of the Negro in intellectual matters. Later African writers make reference to Sancho and his artistic productions.[25]

According to Ogude, "letter-writing was a popular and reputable literary pursuit in the eighteenth century".[26] But given the nature of the book one should not expect too much material on political matters. Yet, Sancho's work deserves attention for what Ogude calls the "representative quality" of his life and work.

> Indeed in the eighteenth century Sancho did stand out and become the intellectual pivot of black consciousness. He became influential himself, through his influential connections. Above all, he became the artistic and intellectual spokesman for the black man.27

This view of Sancho is in contrast to Paul Edwards statement in his edition of Sancho's letters. Edwards warns us that Sancho's letters "... contain only occassional comments, mainly of a jocular or sentimental kind, on race and slavery."[28] But this statement seems to suggest, unfairly, that Sancho's attitude towards race and slavery might have been jocular or sentimental. Ogude admits that "Sancho was not a political agitator... but he was concerned about the fate of his race."[29]

In the most famous letter, published during Sancho's lifetime, Sancho beseeches Laurence Sterne, who was "universally read and universally admired" to give one half hour's attention to slavery as it is practised at this day in the West Indies."[30] No

doubt, Sancho believed Sterne's continued appeal on behalf of Sancho's "miserable black brethren", would be more effective than drawing attention to the problem of slavery in his own letters meant for private individuals with little or no influence in such matters. Perhaps it is not that Sancho did not think about slavery and think about it seriously. But his private letters were not the best forum for such views.

Sancho considered himself lucky to have narrowly escaped the horrors of slavery and was aware of the sufferings of others less fortunate than himself, "Look round upon the miserable fate of almost all our unfortunate colour", he wrote to a friend.

> Superadded to ignorance see slavery, and the contempt of those very wretches who roll in affluence from our labours superadded to this woeful catalogue - hear the illbread and heartracking abuse of the foolish and vulgar"[31].

While he generally wished his friends success in life, he said to one, "I do not wish you half a million, clogged with the tears and blood of the poor natives."[32] He was grateful for the refuge he found in England, the country "which as a resident I love - and for its freedom, and for the many blessings I enjoy in it shall ever have my warmest wishes - prayers - and blessings."[33] But these feelings

did not stop Sancho from criticising the country when responding to a letter which complained of the "treachery and chicanery of the natives."[34] He chides his friend to "remember from whom they learnt those vices." The people were originally "simple and harmless". Sancho goes on to say, "with reluctance that I must observe your country's conduct has been uniformly wicked in the East-West-Indies and even on the coast of Guinea."[35]

Sancho shared the conviction with abolitionists and later African writers, that the slave trade had depressed the development of Africa. "In Africa the poor wretched natives - blessed with the most fertile and luxuriant soil are rendered... miserable." "The Christian's abominable traffic for slaves" encouraged "the horrid cruelty and treachery of petty kings" who were furnished by their Christian customers with "strong liquors, to enflame their national madness - and powder and bad fire arms,... the hellish means of killing and kidnapping..."[36]

The results of the slave trade were a complete perversion of the real intent of commerce or legitimate trade.

> Commerce was meant by the goodness of the Deity to diffuse the various goods of the earth into every part - to unite mankind in the blessed chains of brotherly love - and society - and mutual dependence.

He ends this letter suggesting to his friend that he need not be "too hasty in condemning the knavery of the people, who bad as they may be - possibly were made worse by their Christian visitors."[37]

The depressed and immoral state which characterizes much of the non-white world was seen by Sancho, as a result of the negative influence of the Europeans and not inherent characteristics of the races. Neither does Sancho condemn the whites as an evil race. (Many of his best friends were white!) Instead, he accepted a common brotherhood of man.

Sancho saw himself as a 'Blackamoor', a "coal-black jolly African, who wished health and peace to every religion and country throughout the ample range of God's creation",[38] He did not personally feel his colour to be a stigma of inferiority or even distinctness. This man, who was not 'sorry to be born in 'Africa',[39] also believed that no one could choose his place of nativity.[40] This was of no importance, however, since we were all of the same family. Christ, "died for the sins of all - all-

Jews-Turk, Infidel, and Heretic - fair - sallow - brown - tawney - black - and you - and I - and every son and daughter of Adam."[41] Sancho extends his "hearty wishes to all who have charity enough to admit dark faces into the fellowship of Christians."[42]

A common humanity is claimed for all races, but Sancho does not demand a right to be treated as a human and a brother. He is resigned to the "charity" of a few who favour him and his kind with membership in the "fellowship of Christians." He tends to accept inevitable suffering and constantly refrains, "What cannot be cured, must be endured." He observes that, "Life is thick sown with troubles and we have no right to exemption".[43]

His other references to rights in the letters are very few and relate to social intercourse generally. The first mention of rights refers to a particularly disturbing domestic affair where "all was soon to rights"[44]. This is an expression which merely means that a proper order was restored, presumably each to his own rights. But Sancho was merely an observer and not a participant, so it was not his own rights to which he refered. Later, he claims a right to trouble a friend to whom he has so often been obliged.[45] This shows the habit aspect of a right. Repetition of a behavior often establishes

a right. A habitual favour eventually becomes considered as a right. In another letter, Sancho expressed great pleasure over a gift and claimed that he had the "best right to believe himself happy."[46] Since the gift was merely a picture of the giver (godmother to one of his children) we may assume this was an exaggeration of his gratitude. He showed awareness of legal rights when he referred to a case of a friend suing for damages. He considers that "if anyone has a right to recover /damages/, she certainly has."[47] But this is a reference to a white woman of wealth; there are no references in the letters to any legal rights for blacks like himself.

In another letter, Sancho mentioned that a third party had a right to be remembered to the receipient.[48] Sancho also modestly believed he had "a right to trouble a friend with my musical nonsense."[49] He declined the offer of lodging by a friend because another had already extended his hospitality and has the right of priority".[50] Sancho also wrote about a "natural right"[51] to his attention which all his friends shared equally. All and sundry could make claims on his time. Was this because he was so naturally friendly and jovial or did it relate to his position as a servant

to all with whom he came in contact? We are reminded of the "still superior motive" for the posthumous publication of the volumes: to prove that a learned Negro may "still wish to serve his worthy family."[52] Obviously, Sancho's references to rights do not yet approach the topic of human rights.

The rights he mentions are primarily social or cultural rights of politeness. Edwards appears to be correct when he says that Sancho had been "almost wholly assimilated into middle class British society."[53] Curtin also argues that Sancho's "culture was completely Western."[54] Clearly, the rights we have just examined relate to British customs of social intercourse in the eighteenth century and have nothing to do with African ideas of rights or with the concept of human rights.

But Ogude stresses the fact that "in spite of his English upbringing, Sancho knew only too well that he was not English."[55] Ogude finds this reassuring and insists that

> Although Sancho appears now and again torn between the realities of his origins and the realities of his adopted culture he was always an African. This is perhaps the finest tribute we can pay to him.

To Ogude, a sympathetic reading of Sancho's letters reveal him to be a "great defender not only of black liberty, but also of black values."[56]

However, it remains the case that there is but one reference to human rights, strictly so-called. Without memories of Africa, but with an identification with his race, admittedly sometimes jocular, Sancho does give us <u>one</u> reference to a truly human right. He begins by warning his friends not to laugh, which should remind us that the recipients of his letters, despite their obvious liberal-mindeness, were not likely to accord Sancho equal human rights with themselves. Undaunted, for once Sancho said, "Every one has a right to be a politician; so do I; though a poor, thick-lipped son of Afric."[57]

Edwards tries to explains Sancho's <u>apparent</u> lack of concern with the rights of Africans by suggesting that during Sancho's 'formative years', there was no "particular controversy over the status and rights of the Negro and slave"

> In 1729, the year of Sancho's birth,... /legally/ a slave remained a slave even though he had been baptized and was a resident in Britain, and this judgement was reinforced twenty years later /when it was/ reaffirmed that an escaped slave could be legally recovered in Britain and returned to the American or west Indian plantations."58

However, it was in 1765, which Edwards calls a "minor turning point in the history of abolition" that Granville Sharp took up the case of the runaway slave, Jonathan Strong. Sharp tried to argue that "the law provided that 'all men' should have certain rights. Would the court say that a Negro was not a man?"[59]. The court would make no such decision but released Strong on a legal technicality. Later in 1772, the historic decision of Lord Mansfield in the James Somerset case was: "once a slave had set foot in Britain, his owner had no right to return him to American or West Indian slavery."[60]

Both of these cases were decided either prior to or during the period in which Sancho wrote his letters: 1768-1780. Perhaps Sancho was past his 'formative years' by this time, but he could not have been unaware or uninterested in these events. It is more likely that the second point made by Edwards more adequately explains Sancho's reluctance to comment on the changing status of the Negro and slave in Great Britain. Edwards reminds us that "the legal position of the Negro servant in London offered little opportunity or encouragement for protest."[61] Perhaps that is why Sancho's defense of his race is couched in what Ogude calls "protective humour."[62]

Alongside this state of flux in the issue of legal rights for Negroes was the widening appeal of the doctrine of the natural rights of men. In 1776, the British settlers in America had declared their independence from Britain on the basis of natural rights to life, liberty and happiness. They also declared their intention to go to war to secure these rights.

This revolutionary doctrine was opposed by prominent Englishmen like Bentham, but among those who accepted it were the men and women who fought for the abolition of the slave trade. To accept that certain rights were natural to all mankind was to extend such rights beyond the English courts and the English soil. Mansfield's decision may have abolished slavery in Britain but it did not affect British possessions nor prohibit the slave trade. To the abolitionists the legal prohibition of the slave trade was seen as the practical application of the moral and religious right to freedom which was considered to be the common property of all the races of man. The courts had evaded the issue in 1765, but the abolitionists boldly declared, on the Wedgewood seal that was to become their emblem, that the Negro was a man and a brother. As such he was no less entitled to the natural liberties of man than his white brethren.

In 1787, Thomas Clarkson and William Wilberforce with Granville Sharp, Joshiah Wedgewood and others formed the society for the Abolition of Slave Trade.[63] In that some year, Ottobah Cugoano's book Thoughts and Sentiments on the Evil of Slavery was published. Only two years later, in 1789, the autobiographical work, The Life of Ouladah Equiano or Gustavus Vassa: The African, was also published. Unlike Sancho, these two African ex-slaves considered to be notable by Abrahams, "published their reflections on the slave trade and the enslavement of Africans."[64] These two books provide us with statements made by Africans themselves which demonstrate that their understanding of human rights means nothing less than the abolition of the inhuman traffic in slaves.

Ottobah Cugoano was born around 1757 in Ajumako, Ghana. He was captured and sold into slavery in Grenada as a young man. He was later freed by Lord Hoth and travelled to Britain. While there, he was a servant to the painter, Cosway. Edwards informs us that Cugoano "was a leader of opinion amongst the free Africans in London."[65]

As for Ouladah Equiano, he was kidnapped as a boy from his home in Benin, Nigeria,[66] then sold to British slavers in 1756 and taken to Barbados. While

in captivity, he became an accomplished sailor and changed locations many times as he was bought and sold to different masters. In 1766, he was able to purchase his freedom and decided to emigrate to Britain the year after that. By 1786, he had been appointed commissioner for stores of the first expedition to repatriate the 'Black Poor' from Britain to Freetown, Sierra Leone. However, he resigned because of a clash with some of the white personnel.

Both men, who apparently knew each other well, were actively involved in the abolitionist movement in Britain and the arguments made in their works are similar to those made by non-Africans against the slave trade. Vassa's book is an autobiographical account of his life as a slave. On the other hand, Cugoano talked little of his personal experiences and restricted himself to learned arguments usually of a biblical nature to prove that the slave trade was evil and immoral. He used Christian theology to argue against the inhuman traffic in slaves. It has been suggested that there may have been extensive rewriting of Cugoano's work (a prevalent practice at the time). Edwards thinks that even Equiano may have helped to revise it.[67]

Cugoano's Thoughts and Sentiments

Unlike Sancho, whose references to rights are few and far between, we find the phrase: "Natural rights and common liberties of man" sprinkled liberally on the pages of Cugoano's book. An acceptance of the doctrine of universal natural rights was the linchpin in Cugoano's arguments against the slave trade. It was his major premise that the light of nature, and the dictates of reason, when rightly considered teach... that no man should enslave another.[68] He believed that to defend this position was to defend the doctrine of universal natural rights. He did not question or seek to prove that all men have a natural right to freedom, it was merely stated repeatedly and categorically. With this self-evident proposition as the backbone of his argument, he proceeded to refute each reason given by these who wish to justify slavery and the slave trade by excluding Africans from the category of holders of natural rights to life and liberty.

Those who argued that slavery was a univeral institution, which always existed, were reminded that that did not make it right:

> ...slavery was an ancient custom, and that it became the prevalent and universal practice of many different barbarous nations for ages: this must be granted; put not because it was right, or any thing like right and equity.69

In good Christian fashion, the universal nature of slavery was blamed upon "our universal depraved state." Cugoano said, "If there had been no evil and sin amongst men, there never would have been any kind of bondage, slavery and oppression found amongst them."[70]

For those who claimed that slavery existed in the Bible, it was pointed out that a voluntary service and slavery are quite different things. The servitude of the people of Israel was not contrary to the natural liberties of men. It was of a "far milder nature... than that which became the prevalent practice of other different barbarous nations." Cugoano even goes so far as to say that,

> if compared with modern slavery, it might be called liberty, equity, and felicity, in respect to that abominable mean, beastly, cruel, bloody slavery carried on by the inhuman barbarous Europeans, against the poor unfortunate Black Africans."[71]

But the major arguments for the continuation of slavery and the slave trade were racist in nature. Cugoano quickly dismissed the idea that blacks bear the mark of Cain. All progeny of Cain were destroyed in the great flood. The argument that blacks are the descendents of Ham and the curse on Canaan doomed them to be servants in perpetuity was treated at length. He gave a detailed history of the migration of the Cannanites to deny that the Africans were their descendants.

His position was that the Bible gave no evidence to suggest that Blacks were a distinct people bearing any curse and deserving the cruel and inhuman treatment meted out to them by the perpetrators of the slave trade. He said: "nothing in nature, reason and scripture can be found in any manner or way, to warrant the enslaving of black people more than others".[72]

In order to argue that the common liberties of mankind extend to Black Africans, Cugoano needed to refute the racist idea that Africans were a different species. In contrast to theories of polygenesis he accepted the idea of monogenesis.[73] He quoted the scriptures as his authority on the issue: "That all mankind did spring from one original, and that there are no different species among men." In his own words, all men "have the same creator, one original, made of one blood, from one father." He goes on to conclude that since this is the case "it never could be lawful and just for any nation, or people, to oppress and enslave another."[74] Differences in skin colour were only "incidental and equally natural to all, and agreeable to the place of habitation..."[75] He argued that it pleased God to create such differences among men and that the variety of complexion is no more unbecoming than the different shades of a rainbow."[76]

Some people pretended that cultural differences existed which justified a radically different treatment of Africans from fellow white races. Cugoano denied the allegations that Africans were a set of poor, ignorant, dispersed, unsociable people who would think it no crime to sell their wives and children. He informed the reader that:

> The numerous inhabitants of Africa are divided into several kingdoms and principalities,... and those are absolutely maintained by free subjects. Very few nations make slaves of any under their government; but such as are taken prisoners of war from neighbors...77

Even if these lies about Africans being dispersed and unsociable were true, wrote Cugoano, this could never be a reason for Europeans to treat them as with beasts of the field. They would still be men and fellow creatures.

> Nothing but ignorance... could ever make a person... think that the stealing, kidnapping, enslaving, persecution or killing a black man is in any way less criminal than the same evil treatment of any other man of another complexion.78

In case any one had missed the point, he made it again even more graphically by exclaiming that Europeans

> have no better right to steal, kidnap, buy, and carry away and fell the Africans than the Africans would have to carry away any of the Europeans in the same barbarous and unlawful manner.79

How better to have made the point that we are all the same and deserve the same treatment? Human rights means that all can make equal claims to be treated in a similar manner. Since we all are human beings, none are excluded from such rights. Cugoano argued that all had the same rights. Any right which an African cannot have, neither should a European. No man had any right to enslave another, nor any right to take the life of another. No men had rights to deprive others of their rights to life, liberty and property.

Since Cugoano refuted every argument used to justify treating black men differently from white men, he demonstrated, beyond the shadow of a doubt, that the enslavers were nothing but robbers and thieves, men of evil nature interested only in their personal gain.

In Cugoano's work we have the first example of an African writing extensively on the subject of natural or human rights. The ideas expressed in the book can be attributed to whom? Are they African ideas of rights or merely Western ideas of human rights that Cugoano has 'borrowed'? If we understand rights as legitimate claims to be treated in a particular manner and human rights as legitimate claims to be treated in a manner similar to any

other human being, we have to admit that Cugoano, is using the western premise of universal human rights derived from the natural law of the Christian God. He is using it in this form in order to address a European audience in their own language.[80] At the time Cugoano wrote, natural rights was a doctrine which was developing in response to certain social and economic realities in the West.[81] The natural rights which he accepted as self-evident were not found in traditional African societies nor found at any earlier stage in the West either.

Hodgkin reminds us that Cugoano published his work two years before the French Revolution.[82] The western concept of human rights, then, was in its infancy. Also, we must remember that the idea of rights was not alien to traditional African cultures. In African societies, men and women had specific rights according to their position. Even slaves in Africa had rights. African slavery was defined by Mary Kingsley as a "state of servitude guarded by rights."[88] Slaves in African societies were generally allowed to earn money. They could not be sold unless their master went into debt or they had committed some crime. However, even under such circumstances, a public trial was necessary before the slave could be sold.[84]

The harsh realities of the Atlantic slave trade are what occassioned the emergence of an idea of human rights among Africans because millions of Africans were torn from their traditional settings and thereby stripped of their traditional customary rights. West Indian slavery seemed to give all rights to the master and left none for the slave. A longside this reality, Europeans spoke of universal natural rights which all men have simply because they are human beings. The oppressed Africans of this period challenged the Europeans to behave according to their own precepts. A literal interpretation of human rights must include Africans alongside Europeans because they too are equally human.

Cugoano argued that the modern slavery practised in the West Indies was more barbarous than anything the world had ever seen. Africans were treated like livestock and considered to be less than human beings. Cugoano cites the infamous Zong case of 1780 where 132 sick Africans were thrown overboard in the middle passage and the owners claimed compensation from the insurers on the grounds that slaves should be considered the same as horses.[85] If we accept that all ideas of human rights emerged as responses to injustices, then clearly this denial

of the humanity of Africans is the source of the idea of human rights in modern African social and political thought.

Equiano's Travels

Ogude argues that, "Long before the publication of The Interesting Narrative, Equiano had consistently played the role of the defender of black rights."[86] Equiano's published work is a plea to end the evil traffic in slaves because it "violates that first natural right of mankind, equality and independency (sic) and gives one man a dominion over his fellows which God could never intend."[87] But Equiano's book differs from Cugoano's in that it offers proof that Africans themselves understood the treatment meted out to them by their enslavers in terms best expressed as violations of rights. Ogude asserts that Equiano's book is "full of accounts of barbarous violations of even the most primitive rights of man."[88]

Since the book is a semi-autobiographical narrative[86] rather than a logical discourse based on biblical arguments, Equiano's references to rights are clearly direct expressions of the feelings of the slaves of the period rather than any adopting of complicated abstract concepts. The bulk of the

references to rights in Equiano's travels relate to the infringement of property rights. The mention of rights, per se, is frequent when it comes to the small property which slaves might be considered to own as individuals distinct from their masters.

After relating many examples of the physical ill-treatment of slaves which occassionally resulted in death, Equiano laments, "Nor is there any greater regard shewn (sic) to the little property than there is to the persons and lives of the negroes..."[89] Equiano quotes a poor slave who told him that he spent his spare time fishing and...

> Sometimes when a white man take away my fish I go to maser (sic) and he get me my right; and when my maser by strength take away my fish, what me must do? I can't go to any body to be righted... I must look up to God Mighty in the top for right.90

Equiano claims to have been "moved" by this "artless tale," no doubt because he could readily sympathize with the narrator. While still a slave, Equiano also suspected that he would only 'get' his rights in heaven.[91] Earlier in the narrative, Equiano had informed the reader that his only coat and the prize money he had won were confiscated by by his master who claimed a "right" to the property.[92] Years later, when Equiano was a free man, he records confronting his former master with this particular

grievance even to the point of suggesting a lawsuit in the pursuit of what Equiano believed to be his "right" to the property.[93]

It is not surprising that there is such an emphasis on rights to small amounts of money or other property. Equiano's tale of the bags of fruits, which were taken from him and his friend and their consequent attempt to recover "all we were worth in the world"[94] is the story of how Equiano eventually through trade of small items, saved enough money to buy back the most precious of all rights: his freedom. The captain's agreement to allow Equiano to regain his freedom at the original cost of his purchase was no less instrumental in the achievement of his direct wish than the intercession of the same captain "to get me my right, when I have been plundered or used ill".[95] Without the right to accumulate what he could through trade, the circumstances of his life were such that Equiano would have remained a slave till his death.

Because he considered himself to be a human being like any other, the slave considered himself to have rights to the products of his labour which were produced in his free time. But the law did not recognize such rights. The institution of slavery,

by law, divested the slave of all rights. To cease to be a slave, to be granted manumission, was, in theory, to regain those rights. Equiano proudly reproduced the document which legally declared him to be once more in his "original free African state".[96] This paper, purchased by Equiano for forty pounds, legally

> ... set free, the aforesaid negro man-slave... for ever, hereby giving, granting, and releasing unto him, ... all right, title, dominion, sovereignty, and property, which as his master... I had... over him.97

It was clear from the examples of the treatment of slaves that some Europeans doubted the humanity of Africans. Equiano doubted that slaves were made more useful by being thus humbled to the conditions of brutes.[98] The fact that an owner, when asked if one of her slaves was to be baptized, replied, "You might as well baptize my black bitch,"[99] goes far to explaining why Equiano's claim, that his master had no right to sell him because he had been baptized[100] fell on deaf ears. The Africans, in turn, had good cause to doubt the humanity of their captors. Equiano, when questioning the use of instruments of torture asked, "are they fit to be applied by one rational being to another?"[101]

But despite the inhuman treatment, Africans were human beings and continued to remain human beings. Equiano argued that it is "the nature of human beings to retaliate on their tyrants".[102] But the slave who retained enough of human nature to try to do so was "half-hanged and then burnt" and his death was considered right and just by law in Barbados where it was only when a master "willfully kills" a slave out of bloody mindeness that he was fined a trifle sum.[103] Death occassioned from punishment of any crime committed by a slave was not penalized in any way. Is it any wonder that Africans began at this point in time to lament the absence of human behaviour from the European and therefore demand their human rights to equal treatment?

Africans rejected Western conceptions of the rights of slave traders and owners which were imbued with ideas of racial superiority and inferiority and opposed to them ideas which proclaimed the true equality of man. Ideas of equal human rights to life, liberty and property were acknowledged not only by self-educated ex-slaves like Cugoano and Equiano. Even the illiterate slaves of the West Indies had no difficulty understanding and embracing ideas which were accurate reflections of the inevitable aspirations

generated by their miserable conditions. Williams documents the numerous slave revolts in the West Indies of the 1800's. Clearly the slaves themselves "fully believed that (such insurrections) were just and in vindication of their own rights".[104]

Comparison with Western Abolitionist Ideas

It should not be surprising to find a historical development of the idea of universal human rights as it is understood by Africans from the eighteenth century to the present, which diverges from parallel developments in the West, since ideas reflect the realities of the position off the thinker with regards to the specifics of time and place. Even the European abolitionists recognized the reality of differing interpretations of universal human rights depending upon one's position. Harriet Beecher Stowe, speaking to Americans, said,

> To your fathers, freedom was the right of a nation to be a nation. To the runaway slave it is the right of a man to be a man and not a brute: the right to call the wife of his bosom his wife; and to protect her from lawless violence; the right to protect and educate his child: the right to have a home of his own, a religion of his own, a character of his own, unsubject to the will of another.105

The most obvious difference between early African ideas of human rights and western ideas is precisely

this aspect of political independence of a nation state. Clearly, the American revolutionaries of 1776 interpretated natural rights as the rights to overthrow the tyrannical, oppressive rule of Britain. At a later stage, Africans also saw human rights in these terms. But in the 1700's, the independence and freedom of a race, not a nation, was the issue. When Cugoano and Equiano wrote, Africans were still sovereign in Africa. The West had not yet begun to scramble for African soil, only for her fair sons and daughters.

There is no indication that either Cugoano or Equiano shared the convictions of the American revolutionaries with regard to rights to establish a nation separate from its parent country. The African ex-slaves understood human rights in terms of their own experience in the same way that the Americans interpreted the doctrine in the light of their particular grievances. To Africans, the belief that all human beings were holders of natural or human rights to liberty did not mean that the British had no right to tax Americans 'without representation', it meant that Europeans had no right to enslave Africans 'without their consent'[106]. To articulate the theory of human rights was not to proclaim the independence of the American colonies, it was to advocate the abolition of the Atlantic Slave Trade.

The ideas of Cugoano and Equiano are definitely similar to appeals made by Western abolitionists. Sypher, in his detailed study of abolitionist literature writes that the "cry of natural rights... was the most common appeal against Negro slavery."[107] However, we can note a few diversions or ommissions which might distinguish the ideas of the Africans from their western counterparts.

While the arguments made in favour of abolition did stress the brotherhood of man and the rights of the Negro, Thomas Clarkson was able to turn the tide of opinion primarily by collecting evidence regarding the treatment of white sailors in the trade. To refute those who argued that the slave trade was a good training ground for English sailors, Clarkson proved it to be a graveyard for the white man who manned the ships. "The Abolition Committee declared that the mortality in the slave trade was more than double that of all the other branches of commerce in the kingdom."[108] Wilberforce was therefore able to convince public opinion of the evil nature of the slave trade by documenting that the trade violated the natural rights of the common English sailors. Williams tells us that Clarkson "collected evidence which was a terrific indictment of the effects of the slave trade, not now upon the blacks, but upon the whites."[109]

There are no references to this aspect of the argument in favour of abolition in either Cugoano or Equiano's work. Equiano did mention the brutal cruelty that was perpertrated on some of the whites themselves[110] but this was only to emphasize the fear of his strange captors with which he was engulfed when first put aboard the slave ship. Clearly and understandably, the African writers stressed the violations of the rights of Africans. The equivalent emphasis placed by Englishmen on the rights of Englishmen, demonstrates that the universal application of human rights was an aspect of the doctrine which was not yet completely accepted in the west.

Noble Savage

It is also interesting to note that while it was violations of the rights of common Englishmen which were most forcefully condemned by the abolitionists, it was usually the plight of the noble Negro that they most loudly decried. Sypher suggests that the cause for abolition was often damaged by insisting on the distinction between the noble and the common Negro.[111] Williams argues that the concentration on "the prince unjustly made captive, more often than not carried the vicious implication

that the slavery of the ignoble Negro was justified".[112]

This flaw found in abolitionist literature of the West, is absent in Cugoano and Equiano's works Neither of the African writers make such divisions among their own people and treat the violations of the rights of the race as something shared equally by all. Cugoano was speaking of all Africans when he declared, "And what man of feeling can help lamenting the loss of parents, friends, liberty and perhaps property and other valuable and dear connections,"[113] as they were torn from their homeland. There were no references to noble Negroes, but there were a few references to ignoble princes:

> Some of the wicked and profligate princes and chiefs of Africa accept... to procure a certain number of slaves and thereby they are wickedly instigated to go to war with one another on purpose to get them.114

> ...though the common people are free they often suffer by the villany of their different chieftains and by the wars and feuds which happen amongst them. Nevertheless, their freedom and rights are as dear to them, as those privileges are to other people.115

The occasional loss of liberty of an African prince was not to be considered more unjust than the wholesale purchase and enslavement of his subjects as a result of war. If anything, some of the more wicked princes could share in the blame with the whites. It was the common man of Africa who was

unjustly suffering because of the European slave trade. These common men are born as free as their princes or any other man of any other complexion. This is the point stressed by Cugoano in these passages and throughout the book: that all men have a common right to liberty.

Equality

While Cugoano insisted that all Africans, despite differences in station, suffered equally when made slaves by the Europeans, he did not extend his ideas of equality to argue for the total elimination of all differences in rank. He seem to agree with the Western abolitionists who, according to the Bishop of Rochester, "proceeded upon no visionary notions of equality... they strenuously upheld the foundations of civil society."[116] Cugoano said, "The Divine Law Giver... has always admitted into the world, riches and poverty, prosperity and adversity, high and low, rich and poor".[117] Cugoano made it clear that it was slavery that was immoral, not inequality in general. He saw nothing wrong in the fact that in Britain, "thousands of inhabitants... have no right to so much land as an inch of ground to set their foot upon... without paying a lawful and reasonable vassalage or rent for it," so long as

"the whole community is free from slavery."[118]

Equality for Cugoano merely meant that one law is prescribed universally for all the races:

> the difference of superiority and inferiority ... is in no way incompatible with the universal law of love, honor, righteousness, and equity; so that a free, voluntary, and sociable servitude, which is the basis of human society... whereby we serve one another that we may be served or do good that good may be done unto us, is in all things requisite and agreeable to all law and justice. 119

The evil nature of the Atlantic slave trade lies in its compelling the African to involuntary and perpetual slavery.

African Slavery

Both Cugoano and Equiano distinguish between the slavery found in African societies of the time and the slavery of the West Indies and America. While Cugoano and Equiano both admit that their freedom was first violated by fellow Africans, they appear lenient in their condemnation of such acts. Cugoano remarks that "if there were no buyers there would be no sellers".[120] Perhaps they felt that those Africans may not have been fully aware of the consequences of their acts. Slavery in Africa was of a far milder nature than the iniquities experienced by African slaves abroad. Cugoano says, "So far as

I can remember, some of the Africans in my country keep slaves, which they take in war or for debt; but those which they keep are well fed, and good care taken of them, and treated well,..."[121] Equiano, when speaking of his African captors, feels that he can say "in honour of these sable destroyers of human rights, that I never met with any ill treatment, or saw any offered to their slaves, except tying them, when necessary, to keep them from running away."[122] Equiano suggests that if given a choice he would gladly give up all riches he might have and exchange places with the meanest slave in his own country rather than be a captive enroute to Indian slavery.[123]

Slavery, then, was, not to be universally condmned, the particular experience of the slavery which developed from Africa's contact with the West was what was evil. Equality was not to be universally proclaimed, but the equality of the races was to be advocated. These ideas the Africans and western abolitionists seemed to share.

However, Curtin tells us that the western abolitionist's idea of equality was generally only skin deep. The Negro was declared to be equally human but not necessarily the same kind of human being as a white man. The attitude of the

abolitionists was "mildly patronizing" and the acceptance of their arguments "depended in part on the superiority feelings of the audience".[124] After all, "Christians could not very well depict people without knowledge of God's word as equal in all respects to themselves".[125] Curtin quotes from Granvile Sharp's private correspondence,

> "I am far from having any particular esteem for the Negroes; but as I think myself obliged to consider them as men, I am certainly obliged to prevent their being treated as beasts by our unchristian countrymen.."[126]

Wilberforce argued that Africans were men, but "fallen men", degraded by their savagery and by the equally savage Christians that carried out the slave trade.[127]

The abolitionists based their arguments on the minimum acceptance of Africans as fellow men. They defended African slavery but generally condemned African culture as savage. This patronizing attitude towards African abilities, the contradictions implied in the noble savage motif and the continued feelings of superiority even among the humanitarians, coupled with the emphasis on the rights of white sailors combine to show a marked difference in the ideas of the western abolitionists and those of Cugoano and Equiano. Being Africans themselves, they argued for abolition without these prejudices.

Unfortunately, these distinctions are primarily a question of the perspective of a race. It seems that the abolitionists were not completely free of the racist ideas which pervaded the west generally.

The fact that even the abolitionists considered the Negro to be a 'breed apart' comes out most clearly in their attitude towards individuals of mixed race: mulattoes. For the racist slave owner, they were as sub-human as the pure Negro. Equiano wonders how a French planter could consider the products of his own loins as less than his children merely because they were begotten on a black woman.[128] For the abolitionists, they were superior to native Africans. For Harriet Becher Stowe, the difference between George Harris and Uncle Tom may not lie in their love of liberty, but it certainly is apparent in their intelligence, their ambition, their abilities and their drive to achieve that equally desired goal. It is from the mouth of the mulattoe George Harris that we hear the demand for human rights. Uncle Tom has learned to submit to God's will (but not the will of Simon Legree) rather than try to escape his condition. The resignation with which he greets his sale to a new master is no doubt the aspect of his character that resulted in the name of this fictional character developing into a derogratory epithet in the US.

Is it only those descendents of Africa with white blood who can fully grasp the idea of human rights? Stowe seems to suggest that, perhaps unwittingly. But Equiano displayed the same intelligence, abilities and tenacity as George Harris in his determination to be free. Although he did not try to escape, it was through his own efforts that Equiano regained his freedom. Clearly Cugoano needed to remind even the abolitionists that "freedom and the liberty of enjoying their own privileges, burns with as much zeal in the breast of an Ethiopian, as in the brest of any inhabitant on the globe."[129]

Human Rights

Cugoano and Equiano did not need any white blood anymore than they needed Western concepts to understand the doctrine of human rights. They shared the ideas of natural and human rights with the abolitionists because their experiences of contact with the West brought them to a position where their grievances needed to be expressed in universal terms. They also needed to be expressed in racially collective terms.

Removed from their traditional setting, they could not demand traditional rights. But they knew that despite the inhuman treatment, they were not beasts and therefore had some rights. These rights were being denied them on the basis of race. They therefore reacted by arguing that the race as a whole had the same rights as any other race.

The slaves did not view their plight or their rights in individual terms. They could not. Although Equiano had the good fortune to be able to purchase his individual freedom, he soon recognized that even this was no guarantee of his rights. After witnessing the seizure by 'the infernal invaders of human rights' of a free born mulatto, Equiano exclaimed, "Hitherto, I had thought only slavery dreadful but the fate of a free negro appeared... in some respects even worse."[130] To Equiano, a free negro was only nominally free. Since his evidence was inadmissible in a West Indian court of law, he would be "universally insulted and plundered without the possibility of redress."[131] Until not only the slave trade, but also the institution of slavery and the laws which supported the institution were all abolished, no single individual African could enjoy his human rights because his life and liberty were constantly threatened.

Cugoano shared this necessarily collective perspective on the issue of the human rights of Africans. He said, "the emancipation of a few while ever the evil business of slavery is continued cannot make that horrible traffic one bit less criminal."[132]

Under the circumstances, the winning of an individual's right to freedom was meaningless. Equiano asked "... is it surprising that slaves, when mildly treated, should prefer even the misery of slavery to such a mockery of freedom."[133] Freedom and human rights could only mean not only a complete end to the slave trade but also the total emancipation of all slaves.

But Western abolitionists only demanded the end of the slave trade. Williams tells us that, "It was not until 1823 that emancipation became the avowed aim of abolitionists."[134] Cuguano, in 1787, suggested a plan for universal emancipation where at the end of a seven year period, every honest man and woman would be free.[135] Equiano petitioned the Queen in 1788 to raise the slaves, "from the condition of brutes, to which they are at present degraded, to the rights and situation of freemen..." and signed himself as 'the Oppressed Ethiopean.[136]

The Africans could not separate the Atlantic slave trade from the slavery of the West Indies and the Americas. Their cry for human rights included emancipation, right from the beginning. They did not deal with the two issues separately and serially as did the society for the Abolition of the Slave Trade. Early African ideas of human rights were therefore broader and more radical than those of their western allies.

African writers of the eighteenth century developed ideas parallel to abolitionist ideas regarding the natural and common liberties of man. The Africans and the abolitionists were fighting the same evil: the slave trade. However, their different perspectives were determined by their different positions in relation to the trade itself. The interpretations of natural or human rights made by the Africans was very similar to the abolitionists but with an emphasis and a racial perspective which the Westerners could not share. The origins of human rights concepts in African political thought is found in these reactions to the first major impact of the West on Africa and her inhabitants: the Atlantic slave trade and the resulting diaspora.

These selections from African writers of the eithteenth century have provided us with concrete examples of African ideas of human rights, strictly so-called. Sancho may not have made specific references to rights which can be understood as human rights but Ogude convincingly argues for the symbolic value of Sancho's work. Sancho set the stage for the "development of a new black consciousness which emerged in the 1780's."[137] According to Ogude, "Sancho created the language that enabled Cugoano to lash out at slavery and to erect a new basis of relationship between blacks and whites."[138] We can agree with Ogude's contention that, "Cugoano and Equiano were the inheritors of the liberating tradition of Sancho."[139] This should be seen to be more the case than any borrowing or stealing from the western tradition of human rights.

Let us continue to look at the way in which rights are used by the major African thinkers whose works are available to us to see if this trend towards a distinct interpretation of universal human rights continues. The next chapter will examine the ideas of those who went 'back to Africa': the returnees and recaptives.

NOTES

1. Henry S. Wilson, ed., Origins of West African Nationalism (London: Macmillian & Co., 1969) p. 14.

2. Abiola Irele, Introduction to Paulin J. Hountondji, African Philosophy (London: Hutchinson & Co., 1983) p. 9.

3. E.U. Essien-Udom, Introduction to J.E. Casely Hayford, The Truth About the West African Land Question, 2nd ed., (London: Frank Cass & Co., Ltd., 1971).

4. S.E. Ogude, Genius in Bondage: A Study of the Origins of African Literature in English (Ile-Ife: University of Ife Press, Ltd., 1983) p. 32.

5. One notable and unfortunate exception must be mentioned here. James Eliza John Capitein published a work in 1742 which was a religious justification of slavery. See Ogude, op., cit. p. 120.

6. Wylie Sypher, Guinea's Captive Kinds: British Anti-Slavery Literature of the xviiith Century (Chapel Hill: The University of North Carolina Press, 1942).

7. Daniel P. Mannix, Black Cargoes: A History of the Atlantic Slave Trade 1518-1865. (N.Y.: Penguin Books, 1962) p. 60.

8. Eric Williams, Capitalism and Slavery (London: Andre Deutsch, 1944) p. 7.

9. Ogude, op. cit. p. 12.

10. Ibid. p. 7.

11. Ibid.

12. Hountondji, op. cit., p. 116.

13. Ibid., p. 117.

14. Ibid., p. 116.

15. Ibid., p. 117.

16. Philip Curtin, The Image of Africa (Madison: The University of Wisconsin Press, 1964) p. 14.

17. Ignatius Sancho, Letters of the Late Ignatius Sancho, An African (London: J. Nichols & C. Dilly 1783) p. 95.

18. Sancho, op. cit., Introduction.

19. Ogude, op. cit., p. 90.

20. Ibid., p. 89.

21. His obesity was reknowned. The name Sancho was chosen for his supposed resemblance to DOn Quixote's stout squire: Sancho Panza.

22. His own health problem suited his size but not necessarily his station. He suffered periodically and severely from gout.

23. Sancho, op., cit., pp. iii-iv.

24. Ogude, op. cit., p. 93.

25. Rev. Alexamder Crummell, The Future of Africa; Being Addresses, Sermons, Etc., Etc., Delivered in the Republic of Liberia by Rev. Alexander Crummell. (N.Y.: Charles Scribner, 1862) p. 293.

26. Ogude, op. cit., p. 98.

27. Ibid., p. 103.

28. Paul Edwards, ed. Life of Ouladah Equiano or Gustavus Vassa: The African 1789 in two volumes (London: Dawsons of Pall Mall, 1969) p. iiv.

29. Ogude, op. cit., p. 103.

30. Sancho, op.cit., vol. 1, letter xxxvi, p. 95.

31. Ibid., letter xiv, p. 42.

32. Ibid., letter lxvi, p. 185.

33. Ibid., Vol. II, letter L, p. 4.

34. Ibid., p. 3.

35. Ibid.

36. Ibid., p. 5.

37. Ibid., pp. 4 & 5.

38. Ibid., letter lxii, p. 155.

39. Ibid., letter lxvii, p. 174.

40. Ibid., letter lvii, p. 137.

41. Ibid., Vol. 1, letter xlviii, p. 137.

42. Ibid., letter lxv, p. 200.

43. Ibid., letter xx, p. 59.

44. Ibid., letter lx, p. 28.

45. Ibid., letter xxii, p. 65.

46. Ibid., letter xxiii, p. 66.

47. Ibid., letter xxvii, p. 74.

48. Ibid., letter xliv, p. 121.

49. Ibid., Vol. II, letter xxvi, p. 63. Sancho published a few musical scores during his lifetime. See Paul Edwards' introduction to Jekyll, Joseph, ed., Letters of the Late Ignatius Sancho (London: Dawsons of Pall Mall, 1968).

50. Sancho, op. cit., letter lxxxii, p. 209.

51. Ibid., Vol. I, letter lxi, p. 185.

52. Ibid., pp. iii-iv

53. Edwards, Life of Olaudah Equiano, op. cit., p. liv.

54. Philip Curtin, ed. Africa Remembered, circa 1966, p. 14.

55. Ogude, op. cit., p. 108.

56. Ibid., p. 103.

57. Sancho, op. cit., Vol. LL, letter lxvi, p. 167.

58. Jekyll, op. cit., p. ii.

59. Jekyll, op. cit., p. iii.

60. Jekyll, op. cit., p. iii.

61. Ibid.

62. Ogude, op. cit., p. 114.

63. Mannix, op. cit.

64. W.E. Abraham, The Mind of Africa. (London: Weldenfeld and Nicholson, 1962) p. 126.

65. Paul Edwards, Introduction to Ottobah Cugoano, Thoughts and Sentiments on the Evil of Slavery 1787 (London: Dawson of Pall Mall, 1969) p. v.

66. See G.I. Jones, "Ouladah Equiano of the Niger Ibo" in Philip Curtin, ed., Africa Remembered, op. cit., pp. 60-69.

67. Paul Edwards, Introduction to Cugoano, op. cit., We can discount Edwards' suggestions that Cugoano may not have written it at all. Instead, we agree with Immanuel Geiss when he argues that while no one can exclude the possibility of such works being written by British philanthropists, there is no evidence for this assumption. Therefore, "the first literary products attributed to ex-slaves... should be treated as their own authentic work, no more in debt to previous or contemporary ideas than any other literature." Immanuel Geiss, The Pan-African Movement (London: Methuen & Co., Ltd., 1968) p. 26.

68. Cugoano, op. cit., p. 28.

69. Ibid., p. 38.

70. Ibid., p. 48.

71. Ibid., p. 47.

72. Ibid., p. 54.

73. For a discussion of the controversy between theories of polygenesis and monogenesis as it relates to Africans see Philip Curtin, Image of Africa, op. cit., pp. 40-48.

74. Cugoano, op. cit., pp. 30-31.

75. Ibid., p. 32.

76. Ibid., p. 47.

77. Ibid., p. 25.

78. Ibid., p. 38.

79. Ibid., p. 63.

80. Ogude, op. cit., p. 121. Ogude argues that "the black assault on slavery was not to begin until blacks could use the English language fairly competently." This makes the "colonizer vulnerable to the claims of the colonized." It is a fact recognized by Shakespears' Caliban, (who) derived considerable psychological satisfaction from /being able to/ curse in Prospero's language.

81. See J. Hendrickson, "Human Rights: Fundamentally for Whom?" Nigerian Journal of Political Science Vol. 4, Nos. 1 & 2, 1885, pp. 134-147.

82. Thomas L. Hodgkin, The Relevance of 'Western' Ideas for the new African States" in Self-Government in Modernizing Nations, (Englewood Cliffs, 1964) pp. 50-80.

83. Mannix, op. cit., p. 44.

84. Ibid.

85. Cugoano, op cit., p. 111.

86. Ogude, op. cit., p. 142.

87. Equiano, op. cit. Vol. I. pp. 223-234.

88. Ogude, op. cit., p. 142.

89. Ibid., P.214.

90. Ibid., p. 221.

91. Ibid., p. 178.

92. Ibid.

93. Ibid., Vol. II pp. 82-83.

94. Ibid., Vol. I, pp. 236-238.

95. Ibid., p. 240.

96. Ibid., Vol. II, p. 21.

97. Ibid., pp. 16-17.

98. Equiano, op. cit., Vol. 1, p. 224.

99. Mannix, op. cit., p. 60.

100. Equiano, op. cit., Vol. I, p. 177. In case there was any dispute arising from doubts in the matter, Virginia ruled that baptism did not confer freedom in 1667 and Maryland followed suit in 1671, New York in 1706. (Mannix, op. cit. p. 60).

101. Equiano, op. cit., Vol. 1, p. 225.

102. Ibid., p. 207.

103. Ibid., p. 217.

104. Williams, op. cit., p. 205.

105. Harriet Beecher Stowe, Uncle Tom's Cabin, (London: J.M. Dent & Sons, Ltd., 1961) p. 380.

106. This refers to the arguement made by Cugoano that a voluntary servitude for a specified period is another matter entirely.

107. See Sypher, op. cit.

108. Williams, op. cit., p. 166.

109. Ibid.

110. Equiano, op. cit., p. 75.

111. Sypher, op. cit., p. 9.

112. Williams, op. cit., p. 49.

113. Cugoano, op. cit., p. 28.

114. Ibid., p. 27.

115. Ibid., p. 28.

116. Williams, op. cit., p. 182.

117. Cugoano, op. cit., p. 43.

118. Ibid., p. 41.

119. Ibid., pp. 61-62.

120. Ibid., p. 12.

121. Ibid.

122. Equiano, op. cit., p. 60.

123. Ibid., p. 71

124. Curtin, Image of Africa, op. cit., p. 50.

125. Ibid.

126. Ibid., p. 53.

127. Ibid., p. 54.

128. Equiano, op. cit., Vol. I, 219.

129. Cugoaho, op. cit., p. 28.

130. Equiano, op. cit., Vol. I, p. 247.

131. Ibid., p. 249.

132. Cugoano, op. cit., p. 97.

133. Equiano, op. cit., Vol. 1, p. 250.

134. Williams, op. cit., p. 82.

135. Cugoano, op. cit., p. 131.

136. Equiano, op. cit., Vol. II, p. 245.

137. Ogude, op. cit., p. 120.

138. Ibid., p. 119.

139. Ibid., p. 121.

CHAPTER IV

BACK TO AFRICA - THE RIGHTS OF RETURNEES AND RECAPTIVES

The previous chapter dealt with the ideas of African writers of the eighteenth century: Amo, Sancho, Cugoano and Equiano, who represent those Africans who were taken away as slaves by the Europeans. Each one of these men, though born in Africa spent most of his life outside the continent. By the last half of the nineteeth century, however, the activities of the abolitionists had established two colonies in Africa for the repatriation of ex-slaves and 'recaptives'. During this period, the center of activity of African writers in English shifted from Europe and America to Sierra Leone[1] and Liberia.[2]

Sierra Leone

We know that Equiano played an abortive role in the initial attempt to found the Province of Freedom at Sierra Leone on the West Coast of Africa in 1787.[3] Granville's Sharp's desire to establish a utopian community clashed with the mundane problems created by poor choice of site, high mortality of the settlers, and antagonism with neighboring African chiefs. Sharp, not one to give up easily, eventually was able to get sufficient

backing for subsequent attempts. However, by the time that the Sierra Leone Company received a Parliamentary charter in July 1790, Sharp had become a minor stockholder and had lost control over the enterprise. His attempt at utopian social engineering was replaced by purely economic motives.

Although interested in alleviating the plight of the 'Black Poor' in Britain, it appears that the original conception of Sharp was to found a colony open to anyone willing to settle in Africa. Curtin informs us that Sharp had "hoped to form a multi-racial settlement and to send out a broader cross-section of English society."[4] These hopes never materialized[5] and Freetown, Sierra Leone became the first true British colony on the cost of Africa[6] albeit with a resident population of African descent.[7] Subsequent migrations to Freetown came principally from a group of loyalist Blacks stranded in Canada, the Nova Scotians, and the Maroons of Jamaica. This last group were runaway slaves who originally had formed a community of their own in the hills of Jamaica but were deported to Nova Scotia by the Jamaican government. After 1807, when the slave trade became illegal, Africans found on board confiscated slavers were landed at Freetown and the community swelled with the influx of these 'recaptives.'

The colony was not the commercial success anticipated by the stockholders and so in 1808, the Sierra Leone Company gladly conceded control to the British Crown. It was here in Sierra Leone in 1835, that James Africanus Beale Horton was born to an Ibo couple who had been rescued from a slave ship and resettled just outside Freetown. His birth in the British Crown Colony confered upon him the status of British subject and consequently, in theory at least, the rights and privileges of free Englishmen. Horton was an officer in the British army and was sent to Britain to train to be a medical doctor. After qualifying, he returned to the West Coast of Africa and remained with the army for twenty years. He wrote extensively during this period, mostly articles on the natural sciences. But his major work, West African Countries and Peoples earned him the title of the 'first African political scientist'.[8] He died at the early age of 48 in 1883.[9]

Liberia

American humanitarians were also faced with the problem of free blacks and came to similar conclusions regarding the desirability of resettlement in Africa. Through the auspices of the A merican Colonization Society, some land was purchased near Sierra Leone and Africans from the diaspora were shipped back to

Africa to settle in Monrovia, Liberia beginning in the year, 1820. By 1849, the American government who had backed the American Colonization Society from the start, uninterested in outright annexation and yet perturbed by Liberia's ambiguous position in international law, encouraged Liberia's declaration of independence. The reverend Alexander Crummell, born in New York of parents of African descent, and educated at Queen's College Cambridge emigrated to Liberia in 1853. He admits that his original motive for going to Liberia was "almost entirely missionary" but after only three days residence he decided that Liberia should be the country for himself and his children and he became a citizen of the Republic.[10]

Walter L. Williams tells us that Crummell "became one of Liberia's leading intellectuals and his speeches and writings were internationally known."[11] Crummell's ideas are clearly the collective point of view of the majority of Africans returning to Africa after spending generations in the Americas. According to Williams, Black missionaries generally "went to Africa as representatives of American culture."[12] They had great hopes for Africa's future in which they felt they could play a leading role. But they went back to Africa mainly to 'save' Africans from their past

and present. Their mission was a 'civilizing' one and yet was not without elements of self-interest. The redemption of Africa would serve as a means of gaining the respect of the white world and hence improving their own status as Africans.[13]

While rejecting western ideas of the biological inferiority of the black race, Afro-Americans returning to Africa in the nineteenth century generally accepted the 'Theory of Providential Design', which argued that "God had ordained slavery as the mechanism for raising a new African elect into civilization and Christianity."[14] Langley characterizes Crummell's ideas as a "theological or providential theory of politics." He says that Crummell "saw the hand of God... in slavery and in the return of the former Afro-American slaves to build a free Liberia and spread Christianity, commerce and progress in Africa."[15] Crummell himself says of slavery:

> this fact of humilation seems to have been one of those ordinances of providence, designed as a means for the introduction of new ideas into the language of a people: or to serve as the transitional step from low degradation to a higher and nobler civilization.16

Crummell considered it the duty of coloured men in America to offer whatever assistance they could to bring about the rehabilitation of a continent sunk into

barbarity and savagery as a result of several centuries of the slave trade. Crummell believed that the noble task of bringing liberty, justice and civilization to the benighted continent of Africa fell most squarely on the shoulders of those Negroes who had been exposed to Anglo-Saxon principles. This meant that "...The British West India Isles, Sierra Leone, the free colored men of America, and our own republic (Liberia) are, without doubt, far in advance of all the rest of the children of Africa under the sun."[17] These were the 'civilized' black men of his time and the discussions on rights in his works were primarily addressed to them.

Rights of 'Civilized' Black Men

While Crummell argued for the return to Africa of the 'civilized' elements of the race, he did not deny them their right to remain in the land of their birth. He accepted their "undoubted right"[18] to their new nationality as Americans based on three centuries of residence and the blood, sweat and toil which they contributed to the building of the new nation of the United States. But he also believed that they had "no right to shrink from their duty"[19] to aid Africa to rise out of the darkness. To Crummell, it was the embracing of Christianity that gave them

their "master right"[20] to remain in the U.S. for a new page or appendage to the Bible would be necessary to justify the expatriation of fellow Christians. It was this same knowledge of Christ which made black Americans responsible for bringing the word of God to their ignorant brethren in Africa.

The Afro-American might even profit from performing such moral duties. According to Crummell, seeking wealth was no different from seeking health.[21] He envisaged the switch from the slave trade to legitimate trade as the beginning of great economic developments in Africa. There was money to be made in civilizing Africa and that money 'by rights' should go to her descendants. Africa belonged to the Negro race as its 'rightful inheritance'. "We are all descendants of Africa and hence we claim a special interest in and a peculiar right to her fruits, her offerings and her gifts."[22]

Crummell interpreted the question, "what right do you have to exist?", which was sometimes hurled at Liberia from sections of the West, as a challenge to be self-sufficient.[23] Only hard work will bring prosperity, dignity and rights. According to Crummell, all else is contemptible beggary.[24] While he believed the fruits of Africa are the rightful inheritance of

her descendants,[25] he suggested that such rights can be forfeited. Crummell believed that the white man also had a "right" to the wealth of Africa if he developed and exploits it.[26] However, he expressed dismay that African resources should make other men rich.[27] He beseeched the Afro-American to seize back through hard work and effort the wealth that was rightfully his.

Afro-Americans, therefore, had both a duty ... and a right to return to Africa, to settle in Liberia and to extend both the influence and the boundaries of that small republic as far as possible to the rest of the continent. This was the black version of America's 'Manifest Destiny'.[28] The white man's burden could be better shouldered by the colored man.

The political rights denied Afro-Americans in the U.S. could be exercised in the independent republic of Liberia. However, Crummell spoke of a civil government in Liberia where the rights of the people must be tempered by a fear of the rulers, reverence for the law and respect for constituted authority.[29] Crummell was a strong advocate of democracy and freedom, but only when they were restricted by morality. He warned against demogogism and cautioned that "Rulers must never fear the people."[30]

He reminded the America-Liberians that even if just powers come from the people, so also do they come from God."[31] He declared his belief that "Christianity should permeate all the relations and the institutions of society."[32]

The ideal government according to Crummell, was based on a balancing act. Liberians must accept the superiority of government while at the same time "Studying our rights and jealously watching the safeguards of liberty."[33] These rights of individuals in Liberia were restricted to the citizens of the republic, the America-Liberians. Crummell's ideas of the rights of the native population were quite different.

Rights of Native Africans

Crummell beseeched his fellow citizens to "guard the right of FREE SPEECH" and "to prize the principle of PERSONAL LIBERTY, as one of the richest jewels of our constitutional diadem."[34] He was magnanimous enough to suggest that even the 'heathen and degraded' population around us should be guaranted the full advantage of this right.[35] The rights of the 'heathen', however, seemed to be limited to free speech. Also, Crummell's glorification of the 'attractive and commanding' English language and his boast that "the

whole of Negroland seems without doubt to be given up to the English language"[36] suggests that the right of free speech would not be exercised in the native's mother tongue.

Crummell claimed that it was the right, perogative and duty of his fellow citizens of Liberia to use force against the native inhabitants of the area. This force should not be used as an "instrument of retaliation for real or supposed injuries (instead) it should be the force of restoration and progress."[37] The concrete examples he gave of the use of legitimate force was not only the education of the native in the Anglo-Saxon language, life and civilization, but also included the imposing of laws which would compell the native "to make broad and substantial roads for travel, to keep the Sabbath, and to conform more to our habits of dress than they do now."[38]

To refute those who might argue that the Americo-Liberians had "no right to command or press such regulations upon our native population "[39], Crummell turned to the words of John Stuart Mill:

> To characterize any conduct whatsoever, towards a barbarous people as a violation of the 'Law of Nations' only shows that he who speaks has never considered the subject. A violation of great principles of morality it may easily be: but barbarians have no rights as a nation, except a right to such treatment as may, at the earliest period, fit them for becoming one.40

Crummell agreed wholeheartedly with these sentiments and claimed that there was a "stern necessity of assuming the non-age - the childhood of the native; and, consequently, our responsibility of guardianship over them."[41] Once again, he uses another's words to bolster his own position.

> Right is something moral and implies recognition, free assent of the will: we are not ready for right - right so far as we are concerned, is not ready, until we have attained this sense of seeing it and willing it.42

Clearly, for Crummell, the natives are not yet ready for rights or rights. Rather, rights are something one acquires with maturity, either by developing to a higher stage of civilization through contact with 'superior' cultures or through the collective mental and physical effort of a group to earn the moral dignity necessary for them to deserve any rights at all.

Anglo-Saxon Ideas of Rights

The word which the 'civilized' black man would carry acros the Atlantic was not only that of the Christian God, but also ideas of liberty and human

rights. Crummell believed that those concepts needed to be revealed to the benighted continent. Slavery had been a "school of freedom", he said, and had unfolded to those in bondage, the Anglo Saxon sublime abstractions of human rights and civil freedom.[43]

In his speech on the English language in Africa, Crummell declared that the idea of human rights was peculiar to the tongue of the Anglo-Saxon. It was not only the 'rude' languages of the natives of Africa which were characterized by a 'lowness of ideas' and an "absence of clear ideas of Justice, Law, Human Rights and Government Order".[44] Other European languages also appeared to be deficient in this regard. According to Crummell:

> The English language is the enshrinement of those great charters of liberty which are essential elements of free governments, and the main guarantee of personal liberty. I refer most to the right of Trial by Jury, the people's right to a participation in Government, Freedom of Speech, and of the Press, the Right of Petition, Freedom of Religion. And those are special characteristics of the English language. They are rights, which in their full form and rigid features, do not exist among other people.45

Crummell felt that those Africans who came under the influence of the Anglo-Saxon races were superior in terms of their capacity for free government than that

> portion of our race whose lot has been cast among other sections of the European family... Where do we find among them a Bill of Rights, the right of trial by jury, or an act of Habeas Corpus? It is not in Cuba, nor in Porto Rico (sic). Not even in Guadaloupe, nor in Wartinique. Even in Brazil these ideas are but struggling for life... In truth, how could France or Spain train the Negro race to high ideas of liberty and of government, when all their modern history has been almost a hopless effort, to learn the alphabet of freedom, - to tread the first steps of legal self-restraint?46

Crummell appeared to be searching for some lasting benefit to be culled from the horrors of the Atlantic Slave Trade. He seized upon the English language above all as compensation for the agonies suffered by the Blacks of the diaspora. Their experiences had been horrendous, to say the least, but they were now better equipped to return to their homeland and help in the regeneration of the African continent, chiefly, it seemed, because of their knowledge of the English language and of course, also, their knowledge of the Christian God.

The contradiction of the idea of rights emanating from countries which practicised slavery on such a massive scale did not floor Crummell. The West appeared to be forgiven the slave trade because of its repudiation of it. The actual denial of the rights of all black men by the West was seen merely as the discrepancy between theory and practice.

Practically, Africans may have been denied their rights by the same Anglo-Saxons when they were taken as slaves and were still denied their rights merely because of their colour. However, at the level of abstractions, enslaved Africans were introduced to the ideas of human rights through their contact with the West. According to Crummell, Afro-Americans were now required to transplant those ideas which were mere abstractions for the African in the U. S. and make them concrete realities on African soil in Liberia.

In this way, Crummell could still assert that human rights were ideas learned from the Anglo-Saxons as the example of the most highly developed civilization. Africans, being in no way inherently or biologically inferior, were capable of raising themselves to the same high level of civilization. Crummell believed that all civilization was brought to all peoples from an outside source. It was brought to the slaves by the West and would be brought to Africa by the ex-slaves.

Given his explicit statements that attribute human rights to the Anglo-Saxon culture and to the English language, as well as his denial of any rights as a nation to the native Africans, it is difficult

to claim that Crummell's ideas of human rights are African ideas of rights. He, himself, tends to deny such a categorization. However, there is a suggestion from Crummell's ideas that African ideas of rights might develop in the future, once the abstractions learnt in the 'school of slavery' become practical on the continent. Also, once the 'heathens' develop into a nation, they should acquire the rights of a nation. Since the Anglo-Saxon ideas differed from the Spanish and French ideas, perhaps, the new nations of Africa could eventually expound their own 'superior' ideas of human rights. However, meanwhile, the ideas of human rights used and practised by the Americo-Liberians were explicitly not African ideas but abstractions with which they came in contact during their sojourn in the West and which they attempt to make concrete in an African setting.

African Ideas of Rights

In contrast to this picture of the triumphant return to Africa of her lost sons and daughters, bearing the costly imported gifts of liberty and human rights to light the dark recesses of the continent, were the ideas of another section of the population of Sierra Leone: the 'recaptives'. These were native Africans who were only partially removed

from their brothers living in traditional societal units by shorter distances in time and space than several generations and the huge expanse of the Atlantic Ocean. Men like Africanus Horton, raised outside of his traditional setting but wholly within Africa, were in a better position to sympathize and understand the ideas and interests of the Africans who never left the continent than most of the returnees.

Even though Horton agreed with Crummell[47] that "It is impossible, for a nation to civilize itself; civilization must come from abroad. As was the case with the civilised continents of Europe and America, so it must be with Africa..."[48], he never explicitly stated that the idea of human rights was an import from the more civilized West. Instead, he argued that certain African ideas of rights existed in traditional societies, a fact which Crummell tended to neglect.

Horton specifically mentioned the right of property. This right was seen in terms of the various African communities' rights as against European encroachments. Horton claimed that among the Egboes (Ibos), "Neither the king nor any individual member of a family has any right to alienate land."[49] He also made it clear that, "Successive Asantahenes... were determined to maintain their sovereign rights and

privileges, and above all to hold on to Dutch Elmina, for which they still remained landlords."[50]

Horton's perspective differs from Crummell's in that he saw rights not as something native Africans, like himself, had to learn or earn, but as something they had lost and were in danger of losing again. Africans were first deprived of their rights through the slave trade. Horton argued that this had lasting consequences. He believed that the Western tactic of plundering the Negro of his rights[51] was the cause of the currently degraded position of the African. The West deprived the Africans of "the most precious of his rights"[52] when they made him a slave. The slaves and their descendants were kept "hopelessly down" and could not "enjoy the rights and immunities of a civilized life" unless they returned to Africa.[53]

Horton used his medical knowledge to combat psuedo-scientific theories of racism which continued to deny the Negro his rights even after abolition. He replied to James Hunt's published presidential address of the Anthropological Society, entitled, 'The Negro's place in Nature' with his own African view of the Negro's place in Nature.[54] Horton considered Hunt's piece to be a "pro-slavery paper."[55] And many did recognize, at the time, that the arguments brought

up by the English racists in London could equally be used by those in the U.S. fighting for their right to hold on to their human property.[56]

Horton challenged the 'right' of Europeans to decide the fate of all Africans by condemning them to "everlasting barbarism" because of the shape of the head, colour of the skin and type of hair.[57] However, he chose to follow the advice of Henry Venn, the Secretary of the C.M.S. in London who suggested to him and an African colleague, "... never to stand out too much for your right - Be patient and time will bring it to you..."[58] He decided to control his temper and suffer in silence the "ungentlemanly" and even "brutal" behaviour of his officer while studing in London because he knew that he had friends who would not "suffer me to be unjustly impinged upon and are ready to seek my right and obtain due satisfaction..."[59]

Horton reserved his determination to stand out for his right until he returned to Africa with his medical degree and his commission. He chose not to argue for his personal rights to be treated with the equal dignity and respect accorded to a white man because he did not want to jeopardize the chances of "those of my countrymen who may here after join the army."[60]

He felt strongly that the opportunity to study abroad and increase one's scientific knowledge should not be closed to those Africans who would come after him. Africans could have their rights in London when it was expedient because the more important task was to assert them at home in Africa.

Crummell may have denied native Africans "rights as a nation" and reserved such rights for the fledging republic of Liberia, but Horton strongly argued for the sovereign rights of the various African nations of West Africa. In 1865, the select committee of the House of Commons on Africa (Western Coast) published its recommendations that the object of British policy should be to gradually transfer the administration of all Governments to the natives and ultimately to withdraw from all except Sierra Leone. Horton responded in 1868 with a political blueprint for the independence of West Africa entitled West African Countries and People.[61] In this book, Horton gave his own recommendations on the form in which this independence might take place. He divided British Western Africa into six self-governing countries: Gambia, Kingdom of Sierra Leone, Kingdom of Fantee, Republic of Accra, Kingdom of Akus (Yorubas) and Empire of Eboes (Ibos).

Horton's blueprint for political independence extends beyond the Sierra Leone colony to include all the traditional nation states of West Africa. In the preface to this work, Horton admitted the extreme despotism of some traditional leaders (he singled out the kingdom of Dahomey and Ashantee) but he still argued that African societies must be recognized as having, "as truly a political government as that of France or England."[62] To Horton, West Africa was "composed of a number of political communities each ruled by a national government, formed in many cases of distinct nationalities occupying determined territory".[63]

According to Fyfe,

> The Sierra Leone Creoles, as British subjects, were entitled to believe that they inherited an Englishman's right to be ruled by a government of his own choosing. The 1865 resolutions appeared to confirm this right: they seem a charter of liberties. Horton certainly interpreted them in this way.[64]

However, Horton never articulated his plans for independence in such terms. Instead he appears to stress the fact that Africa had nations and kings of their own. Whatever rights the British had over the African were as a result of the specific ceding of 'sovereign rights' by particular treaties. He often quoted in full the text of certain treaties by which African leaders "ceded over the full, entire,

free, and unlimited sovereignty, right, title, and possession, in and over all the sea, rivers, harbours, etc.,"[65]

He also emphatically states that where no such treaty has been signed no such rights over the Africans exist.

> The British Gold Coast is merely a Protectorate, the natives having their own kings, using their own laws and performing their time-honoured customs... the inhabitants submitted themselves to the British Government, not as subjects, but as independent nations,... and the chiefs have always looked upon our sovereign as a kind of feudal superior... The treaty between the British Government and the native chiefs distinctly stipulates that the natives are to be governed by their own laws.66

Therefore, Horton's idea of the African's right to rule himself appears not to stem from any 'inheritance of an Englishman's right'. Rather, it is a right which Horton clearly accepts as self-evident, so long as one accepts the status of a Negro as a fellow human being. If equality of the races is accepted, then no one could question the right of the African to rule himself anymore than one would question an Englishman's right to do the same. The issue of independence then, first necessitates a "thoroughgoing attack on the assumptions of Negro inferiority"[67] (Part 1 of West African Countries and Peoples) and then becomes merely a practical discussion on the mechanics of implementation.

The needs of the various African nationalities rather than their rights, appear to be Horton's major concern. He was preoccupied with whether or not each nationality would be capable of defending its borders against hostile neighbours and other European powers once the British withdrew their support. Therefore, his suggestions included the gradual removal of the British administration and continuing links with Britain once independence has been established.

Furthermore, Horton wanted independence and modernization. Neither of which he believed possible without British assistance. The independence which Horton envisioned for the various West African nationalities was not a return to traditional rule but the development into modern nation states.

Rights of Women And Domestic Slaves

Refuting racist beliefs that Africans were incapable of advancing, Horton argued that with education and industry African states could become as 'civilized' as modern European states. Horton advocated for changing traditional customs which were an impediment to progress. He proposed that cowrie shells should be replaced with coin to facilitate trading,[68] the mines should be developed by modern methods[69] domestic slavery should be abolished[70] and

education should be compulsory but not free and should extend to the female population.[71]

In his discussion on domestic slavery and women's education we again find references to rights. After denouncing the effect of domestic slavery on the master (the lack of industry: 'he invariably does nothing') Horton goes on to argue that the slave, though treated well has no incentive to work hard to improve his lot. "They possess no energy; there is no life in anything they do; no intellectual vigour; no effort such as springs from the rights, duties, responsibilities, and cares of property".[72] He suggested that slaves should be freed and land should be granted to them by the government.[73] In this way, hard work shall be encouraged and development will take place.

Horton also defends the rights of women, whom he sees as the "most laborious part of the population"[74]. He praised the Egboes (Ibos) because in their societies, women "occupy their rightful status". Egboe women, "hold a superior rank in the social scale; they are not regarded... as an inferior creation and doomed to perpetual degradation."[75] Horton argues that

> ... great attention should be paid to the education and civilization of the female population. Their position in society should be well defined, and no arbitrary infringement on their rights should be tolerated; for it is they, who, in their respective spheres, would become the best expounders of civilization to the subsequent generation.76

Horton did not see rights as a prize to be won along with the achievement of a higher civilization. Rather, they were a necessary prerequisite for the attainment of civilization. Even the rights which he advocated for slaves and women were seen as instrumental in the development of society as a whole.

Horton's plans for the independence of West Africa did not materialize because the British changed course and repudiated the 1865 recommendations. The closest approximation of Horton's dreams was the abortive birth of the Fanti nation. The hastily formed Fanti Confederation drew up a constitution along the lines of Horton's ideas[77] because of the transfer of territory by the British to the Dutch, which put the Fanti in greater danger of attack from the Ashantee, the ally of the Dutch. The Africans were protesting what they saw as an affront to their rights. "The British Government has no right to transfer them like so many bullocks "[78] or to effect such a devastating change without their consent or even consultation.

Once again, African rights needed to be asserted against the presumed rights of the Europeans over the Africans.

Generally, Horton's references to rights reflect this conflict of rights. The rights which he does mention are clearly those rights of Africans which need to be reasserted against the European. He argues that Africans gave up some of their rights, presumably for certain perceived benefits, like the protection from hostile neighbours, and retained other rights. If those rights which were bargained away are not restored to the Africans, they cannot be expected to develop into civilized societies like those of the West. Horton agreed with Armistead's point that "it is only when the Negroes are in possession of privileges and advantages equivalent to the rest of mankind, that a fair comparison can be drawn between the one and the other."[79]

Human Rights

So, Horton's arguments in favor of independence and in favor of African rights began with his arguments for racial equality. Since the rights he mentioned were based on the idea that all men are equal and share the same rights, we can classify them as modern ideas of human rights even though he never specifically

refered to them as such. The emphasis on equality makes them equivalent to modern ideas of human rights. Horton's references to rights, however, were viewed from the Africans' perspective in a collective manner. He argued that Africans had rights equal to European rights and that African slaves and women had rights equal to the rights of other Africans. Therefore, we can say that he saw rights fundamentally in terms of claims for equal treatment for all groups, whether racial or sexual and argued for the elimination of groups of humans without rights, i.e. slaves. He did not argue for rights of individuals but for the inclusion of particular groups into the category of rights-holders.

Horton's ideas of rights, then, were closer to the ideas of Cugoano and Equiano than they were to his contemporary, Alexander Crummell. Instead of emphasizing the equal distribution of rights, Crummell appeared to view rights in a hierarchical fashion. The whites, who developed the idea, were accorded the most rights, and the native Africans, the least. The 'civilized' black man stood between the westerner and the African. It was this group who would then take the idea of human rights from the west and transfer it to Africa, and eventually to all Africans as well.

These ideas of Crummell's reflect the interests and aspirations of the Afro-American returnees to Liberia to the detriment of the native population and cannot be considered 'African' ideas of human rights.

While Crummell argued that human rights were abstractions found only in the highly civilized societies of the West, Horton saw rights as something everyone, including native Africans, are born with and, hence, exist prior to 'civilization.' Indeed, Horton argued that a people denied their rights, would be unable to develop and progress. To get Europeans to accept the idea that Africans had the same rights as themselves, Horton believed that one must eliminate the myth of racial inferiority and stress the equality of man. These are points made by Cugoano and Equiano in their condemnation of the slave trade. Horton carried their arguments on equality of rights further when he advocated the total elimination of domestic slavery and the equal rights of women in the name of progress and civilization.

On the other hand, while Crummell also preached the equality of the races, he fell prey to racist suggestions that native Africans had no rights as nations. Horton's defense of African rights included the first investigation of the possibilities of modern independent nation states in Africa based on

the traditional ethnic communities. These ideas were beyond the grasp of returnees like Crummel who completely shunned the traditional past for a vision of civilization which emanated from Europe.

However, even Horton's picture of a modern African civilization was too close to the image of British society for the taste of some of his contemporaries. Indeed, July tells us that both Horton and Crummell

> reach similar conclusions regarding the superiority of European philosophy and techniques to anything which had been produced by indigenous African societies... it was the standards of the West even more than the genius of Africa which were required to ensure the success and the prosperity of the people of Africa.79

In the next chapter, we shall see if the criticisms of European civilization launched by the 'cultural nationalists', those who vigorously defended African culture, in any way determined a different approach to African ideas of human rights.

NOTES

1. See Christopher Fyfe, History of Sierra Leone (London: Oxford University Press, 1962).

2. See C. Abayomi Cassell, Liberia: History of the First African Republic (N.Y.: Fountainhead Publishers, Inc., 1970).

3. Olaudah Equiano, Life of Ouladah Equiano or Gustavus Vassa The African, 1789, Introduction by Paul Edwards (London: Dawsons of Pall Mall, 1969) p. xxx.

4. Philip Curtin, The Image of Africa (Madison: University of Wisconsin Press, 1964) p. 104.

5. Although Granville Sharp's original constitution for 'The Province of Freedom' is replete with references to rights, we shall not discuss them here as African ideas of rights. The reasons are threefold. First, Sharp was not an African and we have defined African ideas simply as ideas of Africans. Second, Sharp's political structures and corresponding rights were never fully implemented or practised by the African setlers. Third and most important is the point made by Henry S. Wilson in Origins of West African Nationalism (London: Macmillian & Co., Ltd., 1969) p. 16, "Sharp's frankpledge system and the Nova Scotian rebellion never became part of the general stock of political ideas" in West Africa. They never became "reference points for future political discussion." This is crucial. If there is a body of work that can be considered modern African political thought, then it must exhibit a certain amount of continuity. The writings of particular authors of the past must be referred to and reacted to by later authors. In this way, selected writings constitute a tradition. Ideas of rights within this tradition of African political thought are then African ideas of rights. Ideas outside this tradition are not.

6. Curtin, op. cit., p. 119.

7. Ibid., p. 124.

8. J. Ayo Langley Ideologies of Liberation in Black Africa 1856-1970: Documents on Modern African Political Thought from Colonial Times to the Present (London: Rex Collins, 1979).

9. Christopher Fyfe has written a biography of Horton. See C. Fyfe, Africanus Horton: West African Scientist and Patriot (N.Y.: Oxford University Press, 1972).

10. Alexander Crummell, The Future of African: Being Addresses, Sermons, Etc., Etc., Delivered in the Republic of Liberia by Rev. Alexander Crummell (N.Y.: Charles Scribner, 1862) p. 134.

11. Walter L. Williams, Black Americans and the Evangelization of Africa 1877-1900. (Madison: The University of Wisconsin Press, 1982). p. 10.

12. Ibid., p. 176.

13. Ibid.

14. Ibid., p. 6.

15. J. Ayo Langley, Ideologies of Liberation in Black Africa 1856-1970: Documents on Modern African Political Thought from Colonial Times to the Present (London: Rex Collins, 1979) pp. 24-25.

16. Crummell, op. cit., p. 18.

17. Ibid., p. 31.

18. Ibid., pp. 216-217.

19. Ibid., p. 277.

20. Ibid., pp. 216-217.

21. Ibid.

22. Ibid., p. 89.

23. Ibid., p. 98.

24. Ibid., p. 99.

25. Ibid., p. 89 & p. 222.

26. Ibid., p. 231.

27. Ibid., p. 90.

28. Williams, op. cit., p. 7.

29. Crummell, op. cit., p. 94.

30. Ibid.

31. Ibid.

32. Ibid., p. 151.

33. Ibid., p. 94.

34. Ibid., p. 52.

35. Ibid.

36. Ibid., p. 122.

37. Crummell, "Our National Mistakes and the Remedy for Them" from Crummell's Africa and America (1891) cited in Wilson, Origins of West African Nationalism (Oxford: Clarendon Press, 1969) p. 111.

38. Crummell, The Future of Africa, op. cit., p. 49.

39. Crummell, "Our National Mistakes..." op. cit. p. 110.

40. Ibid., p. 111.

41. Ibid.

42. Ibid.

43. Crummell, The Future of Africa, op. cit., p. 51.

44. Ibid., p. 19.

45. Ibid., p. 25.

46. Ibid., p. 31.

47. Horton actually quotes Crummell, "All civilization is... handed over from the superior to the inferior by means of the principle of imitation..." James Beale Africanus Horton, West African Countries and Peoples 1868 (Edinburgh: at the University Press, 1969) p. 158.

48. Ibid., p. 175. These are Horton's own words.

49. Ibid., p. 163.

50. Fyfe, Africanus Horton, op. cit., p. 52.

51. Horton, op. cit., p. 45.

52. Ibid.

53. Ibid., p. 15.

54. This was actually the subtitle of Horton's pamphlet, "Political Economy of British West Africa" 1865 See Fyfe, Africanus Horton, op. cit., p. 64.

55. Ibid., p. 63.

56. Ibid.

57. Horton, op. cit., p. 45.

58. Davidson Nicol, ed., Africanus Horton: The Dawn of Nationalism in Modern Africa (London: Longmans, Greend & Co., Ltd., 1969) p. 113.

59. Ibid.

60. Ibid.

61. James Africanus Horton, West African Countries and Peoples, 1868 (Edinburgh: at the University Press, 1969.

62. Ibid., p. 3.

63. Ibid., p. 4.

64. Fyfe, Africanus Horton, op. cit. p. 63.

65. Horton, op. cit., pp. 189-190.

66. Ibid., p. 219.

67. July, op. cit., p. 115.

68. Horton, op. cit., p. 240.

69. Ibid., p. 239. Also pp. 108-109.

70. Ibid., pp. 108 and pp. 233-235.

71. Davidson Nicol, ed. Africanus Horton: The Dawn of Nationalism in Modern Africa (London: Longmans, Gren and Co., Ltd., 1969) pp. 96-97.

72. Horton, op. cit., p. 108.

73. Ibid., p. 235.

74. Ibid., p. 99.

75. Ibid., p. 156.

76. Ibid., p. 173.

77. David Kimble, A Political History of Ghana: The Rise of Gold Coast Nationalism 1850-1928, (Oxford: at the Clarendon Press, 1963), pp. 222-264. This is a detailed account of the Fanti Confederation 1868-73. Kimble argues that Horton was consulted by the Fanti but his assistance in drawing up the constitution was merely suspected by the British and very difficult to prove. Kimble, op. cit., p. p. 252.

78. Ibid., p. 226.

79. Robert July, The Origins of Modern African Thought: Its Development in West African during the 19th and 20th Centuries (N.Y.: Praeger, 1967) p. 109.

CHAPTER V

CULTURAL NATIONALISM - THE RIGHTS OF THE RACE

The idea shared by Horton and Crummell that the 'civilizing' influence must come from outside implied a rejection of indigenous culture and traditions. It is true that Horton proudly declared that, "Africa, in ages past, was the nursery of science and literature..." But, he also accepted the argument that successive generations of Africans, after the time during which "Ancient Egypt taught Greece and Rome", had been living in "utter darkness." He explicitly stated that the ancestors of present day Africans "never received any culture for nearly a thousand years."[1]

To Horton, this explains why the Negro cannot now compete with the Caucasian. The hope for the regeneration of Africa lay in the superior knowledge of those who had sojourned in the West. For Crummell, the missionary, it was the ex-slaves who returned to Africa with the superior Christian culture they had imbibed while in exile who would transform the 'kingdom of Satan' into prosperous Christian nations. For Horton, the medical doctor, it was the native African sent abroad to be educated in the latest scientific knowledge who would bring back progress and civilization to the continent.

Horton and Crummell both had faith in the eventual advancement of the Negro because of his ability to imitate. Horton praised the Negro for his "pliable and plastic nature", his "greed of absorption", his "principle of receptibility".[2] All of these qualities allowed the Africans to 'catch up' with the West by building a model of western civilization on African shores.

Many Africans of this period agreed with Horton and Crummell but went to the extreme in their imitation of the West. For example, there were

> ... West Africans who delighted in being 'Black Englishmen', Sierra Leoneans who regarded the description 'Negro' applied to them as slander, and Yorubas who, when they came back from study abroad, paid interpreters to avoid having to use their 'uncivilized mother-tongue.'3

These attitudes, the result of western propaganda on many who were full blooded Negroes, were deplored by another faction of the African educated elite. A strong reaction in favor of racial pride and a defense of indigenous culture developed as a response to such a total rejection of one's origins. This movement of the 19th century is generally referred to as 'cultural nationalism'. It marks the first major revolt against western cultural dominance.

Cultural Nationalism developed as a reaction against cultural imperialism. Since it was all Africans who were denied the dignity of being considered as human beings with a culture by the West, it was necessary to defend the culture of all Africans. This defense therefore, was made in the name of the race. Juxtaposed to a single 'Western culture' was an equally monolithic 'African culture'. The differences among and between the various African peoples' cultures were submerged and cleavages among Africans were made instead on the basis of race alone. The darker skinned returnees were accepted as Africans but the mulattoes were a mongrel race, an impure manifestation of the rape of the womanhood of Africa. Unable to repudiate Western ways without in turn rejecting a part of themselves, they were unable to fully appreciate African culture and hence were unqualified to develop and cultivate the 'African Personality'.

Not only mulattoes, but missionaries, the major agents of this enforced imposition of Western culture, were bitterly attacked along with those Africans who accepted uncritically everything that they were taught by such sources. The cultural nationalists argued that to reject the traditions of one's ancestors in favour of the practices and beliefs of an alien race was actually to concur in the judgement of the West that

Africans had nothing to offer the world except labour in the form of slavery. It was important to resist such notions and to respect rather than repudiate the culture of one's own people or race.

The cultural nationalists attempted to foster racial pride above all things. Africans were admonished to be proud not only of their culture but even in the physical features of the race; witness the Negro Creed:

> I believe in the Negro pure and simple, the ebony image of God: within the bounds of his habitation equal to any, superior to many. I believe in his black skin, his crisp hair & in all his physical, mental and moral characteristics, when normally developed...4

At this time, many who agreed with such sentiments changed Anglicized names back to their original African forms and/or doffed European apparrel. These were abandoned because they were the outward signs of 'cultural imperialism.' But they were clearly only superficial changes and the more thoughtful African also rejected the imperialism of the mind. Ideas, not only names or attire ought to have an African source, for "The slavery of the mind is far more destructive than the slavery of the body."[5]

Concepts of rights, then, like all other ideas, needed to be understood from the perspective of traditional African culture, which for the cultural

nationalist, was the culture of a race. Since culture was the dominant theme of this period and believed to be a characteristic of race, it is not surprising to see rights as being understood in terms of race. African culture was glorified and certain rights were claimed to have existed in the traditional practices of African societies but the rights declared and fought for in this period were more the rights of the race to retain this culture than the traditional rights themselves. The culture of their ancestors was considered mainly as a base from which to develop new ideas. For the cultural nationalists did not deplore any and/or all changes but rather insisted only that the core or the soul of the race must not be demolished; otherwise the African identity would be destroyed in the process.

After emancipation, the major injustice experienced by the African was the continuation of racist ideas which denied the Negro race the dignity of human beings with a past and a culture of which to be proud. The cultural nationalists reacted to this in terms of demands for the collective rights of the race to the same dignity and respect accorded to other races. Hence the collective perspective on rights of the race continues throughout this period. The conflict between blacks and whites remains the background within which

to articulate the idea of rights. The rights of the Negro race as a whole were still in conflict with the rights of the Caucasian race as a whole. But the battle had reached a new level. The whites, no longer asserting a right to enslave Africans, were challenged when they claimed a right to 'civilize' Africans. Europeans cannot rob the Negro of his dignity by virtually eradicating African culture, primarily in the name of Christianity. The African has a right, not only to his labour, but also to his cultural identity. Fundamentally, the African has a right to be different and to preserve his own way of life.

However, the demand was made to preserve and not to fossilize the 'African way of life'. Change was welcomed, even change which had come from abroad. The cultural nationalists advocated an amalgamation of cultures rather than an eradication of one culture in favour of the other. Except in biological terms (the rejection of miscegenation) the need for purity was not asserted. The African culture was seen as a base upon which to develop new ideas which would be universal in scope. This way the African could make his own special contribution to a universal culture. It was generally believed that the African genius lay primarily in spiritual matters. The European could learn a lot about the soul's salvation from the African.

Christianity was criticized but not abandoned. It was accepted as a universal religion but its non-essential characteristics, mainly in terms of forms of worship, were rejected. Islam, another universal religion, was generally praised for its incorporation of African customs. But it was indigenous churches rather than a mass conversion to Islam or a return to traditional African religions that were endorsed by the cultural nationalists as the way to assert the cultural rights of the race. The advocation of the right to ecclesiastical independence was, historically, the next step on the road to the elimination of Western control over African affairs.

One individual name stands above the rest as a prolific proponent of these ideas: the Reverend Edward Wilmot Blyden. Lynch claims that Blyden's "impact on the world of ideas was greater than that of any of his Negro contemporaries".[6] Let us examine his works in detail as a prime example of the most characteristic form of African assertion in the 19th century: cultural nationalism.

Edward Wilmot Blyden

An African by descent not birth, Blyden was born in the West Indies on the then Danish Island of St. Thomas in 1832. He emigrated to Liberia in 1851 and became a citizen of the fledgling republic.

Blyden spent the remainder of his long life as a resident of West Africa, dying in Sierra Leone in 1912. He was an ordained Presbyterian minister and his varied career led him to be a scholar, educationist, diplomat and politician as well. But he was most effective as a preacher and propagandist for his race.

One contemporary reviewer of Blyden's book Christianity, Islam and the Negro Race, published in 1887, argued that Blyden had a "right to be heard", as the first voice from Africa audible to the outer world. This reviewer's characterization of Blyden's book as the "great, dumb, dark continent"[7] at last beginning to speak, would have angered Blyden. His own opinion on the subject was expressed in a letter to Mojola Agbebi, first president of the Native Baptist Union of West Africa, where Blyden sa "The African has something a great deal, to say to the world which it ought to hear".[8]

To Blyden, it was Africa and Africans, who had a right to speak. Time honoured African ideas and customs were original, individual and peculiar to the race. Hitherto, they had been scorned by Europeans and "educated" Blacks alike. The Negro must reclaim his African heritage and develop African ideas along the lines of his forefathers.

Blyden condemned the practice of mouthing foreign ideas. He believed that the mind of the Negro and Caucasian run on "entirely different channels... the political economy of the white man is not our political economy; his moral philosophy is not our own moral philosophy and far less is his theology our theology..." Blyden ridiculed the "intelligent" Negro in America and tended to agree with whites that this group has nothing new to say.[10] He argued that they must come back home to Africa to find the only source of their inspiration.

Even those who had made the physical journey to Africa appeared still to have a long road to travel mentally. Blyden berated his fellow countrymen: "We call ourselves Americo-Liberians or Afro-Americans, that is to say, Africans with the prejudices and predilictions - the bias and the aspirations of white men."[11] Blyden suggested that the appropriation of these foreign ideals diverted the attention of the Liberians and sapped both their desire and ability to study their own problems and to find plausible solutions.[12] He entreated his fellow citizens to shed their past of degradation and to embrace the glorious past and continuing traditions of their "unexpatriated brethren."[13] Blyden believed strongly that to do anything else would be to commit a form of racial suicide,[14] to atrophy and die.[15]

> All our traditions and experiences are connected with a foreign race. We have no poetry or philosophy but that of our taskmasters... They sang of their history, which was the history of our degradation ... Now if we are to make... a strong nation we must listen to the songs of our unsophisticated brethren as they sing of their history, as they tell of their traditions... We shall in this way get back the strength of the race.16

Clearly, for Blyden, contact with the West had contaminated and not improved Africans, as his contemporaries, Horton and Crummell would argue.[17] To Blyden, Africans needed to purge themselves of the overwhelmingly negative influence of western culture. "Liberians need to be emancipated from the social, industrial and religious themes which they brought with them from America."[18] He urged them to develop new ideas, new forms representing the African idea: "... for the African is not always to be an intellectual pauper: a pensioner of other lands doing nothing but importing foreign ideas and quoting foreign expressions."[19]

Given these predispositions, clearly, if there is a distinctly African approach to the subject matter of human rights, we should find it articulated in the works of Edward Wilmot Blyden.

Natural Rights

For Blyden, it appeared that Nature's Laws, made by God, were the source of the legitimate rights of a people. It was one's place in nature which determined one's rights. And God had decreed that the Africans' place was in Africa. To examine the natural rights of Africans, therefore, one needed to look to the continent and leave behind the misconceptions rampant in the white man's land regarding the Negro's place in nature.

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Blyden firmly believed that the European who thought he had a right to remove the African from his homeland and generally treat him as an inferior being would ultimately be proved wrong. All of the rights over Africans which Europeans seized for themselves would disintegrate in the course of time. God's plan for mankind could not be denied. His creation of distinct races was deliberate. The reason was not so that one race may serve another, but rather that mankind may flourish in different forms and that each race may develop its own peculiar characteristics, its own idiosyncracies.

Blyden preached for the individuality of the races and against the individualism of the West. He did not argue in terms of the unique nature of each individual. Rather, he declared that, "The individual

dwindles and the race is more and more."[20] Blyden criticized the European belief that the aggregate must bend to the individual if he is superior to other individuals in intellectual or pecuniary might. He felt that this idea led to the unacceptable tenet that, "The more favoured race must dominate and control the less favoured race".[21]

Blyden was of the opinion that God did not favour one race over the other. All were equally important in the scheme of things. The place in nature which each race held was equal to the others. The races were not identical but unequal; they were distinct and equal.[22] To wipe out these differences would be to deny God's wishes. God gave every race a soul and a right to develop its unique gifts into a separate nationality. These beliefs impel Blyden to declare, "Every nation and every tribe has a right to demand freedom of life and abundance of life, because it has a contribution to make peculiar to itself towards the ultimate welfare of the world."[23]

Blyden's belief that God's natural division of the world into racial groups is reflected in the references to rights found in his writings. Distinct claims or rights are made for each racial group. But all of these group rights are understood by Blyden from the perspective of the Negro race.

Rights of Europeans

Blyden makes reference, always in a caustic, bitter tone, to the presumed rights of white men over Blacks. The white man had long held misconceptions about his rights, often of a religious nature. Blyden reminds us that "Generations descending from Hugeneout and Puritan ancestry were trained to believe that God had endowed them with the rights to enslave the African forever."[24]

Blyden quotes "good men" in America who argue against immediate abolition on the grounds that "the peace of society demands that the breaking up of long established rights and customs shall be a gentle and gradual process."[25] To these sentiments, Blyden angrily retorts "What condition can be worse to a rational being than that which deprives him of the right to exercise those powers which God has given him... and makes him a tool and chattle of another man with whom he stands equal in the eye of the Creator?[26]

Blyden had no patience with those whites who tried to argue that Africans were incapable of "enjoying and appreciating a better condition"[27] than that of the cruel system of Negro slavery. The white man deprives the African of his "natural and

inalienable rights"[28] by making him a slave and then also enacts stringent laws prohibiting the slave from learning to read. Blyden says the reason for this is obvious:

> they know he <u>can</u> learn what his rights and privileges as a man are - and that if he should learn them; he will be rendered altogether unfit for a state of bondage. They therefore, debar him from all means by which men are improved above the level of the brute.29

The white man denies the African his right to liberty and his right to a normal, natural physical and mental development while he claims for himself not only the right to own Negro slaves but also the right to keep them unfit for anything but slavery. Unfortunately, the process does not end at this point. The same white man then measures the capabilities of the entire race in terms of the most degraded and stunted examples produced by the most intolerable conditions of exploitation and deprivation. The next step is to add to the white man's list of presumed rights, the "right to despise others."[30] Once again, Blyden challenges these beliefs and declares that this attitude is against Christ's teachings. The white man has no "right... to parade... his contempt for other races."[31]

But all of modern European culture is tainted by racism. So it is not surprising that its ideas of rights are determined by race. Blyden records his observation of the American society of his time and remarks that while "the white trash enjoyed social and political rights, the descendants of nobles and offsprings of slaves all were 'niggers' having no rights that their oppressors were bound to respect".[32] Blyden also cites the decision of the Dred Scott Case of 1856, that "the Negro has no rights which white men are bound to respect", and claims that this is the "political counterpart of the dogma of the Southern Assembly of the Presbyterian Church /which is/ to conserve the system of African slavery".[33]

Emancipation itself did not eliminate racism and the Negro continued to be denied his rights in practice. Blyden was of the opinion that constitutional rights in the U.S. were meaningless to the Negro.[34] They do not protect the Negro from social and private intolerance. He says, "From that high and improving fellowship which binds together the elements from Europe, however incongruous, the Negro child is excommunicated before he is born".[35]

There were those who, for reasons of their own, shared Blyden's conviction that legal rights for the Negro were ineffective. Blyden quotes an American

Christian writer of the post-slavery period who "shudders at the thought of a Negro president". This man openly asserts that, "the law may declare the Negro to be the equal of the white man but cannot make him his equal."[36] Blyden counters this with what he understands to be the Islamic position on the subject: that it is "morally possible and religiously right that if a Blackman, having the necessary qualifications, he should rise to the head of government."[37]

Blyden's dissatisfaction with the Christian Church is understandable. After all, it was a Bishop, writing in 1884 who declared that, "my conviction is that Negroes have no right on juries, in legislatures or in public office". This 'man of the cloth' also claims that, "higher education, so-called would be a positive calamity to the Negroes... If Negroes were educated, intermarriages in time would breed trouble."[38]

Rights of Mulattoes

What intermarriages breed is mulattoes and Blyden would agree that this meant trouble. He saw this group as the proverbial thorn in his side. While he preached racial pride and the development of a race individuality those with white blood in their veins were more likely to identify with the white race,

consider themselves superior to their 'blacker' brothers, and lead the pure Negroes down the path of racial destruction: integration.

The white man was not the only group who was mistaken about his rights and Blyden did not reserve his sarcasm for Caucasians alone. The descendants of slaves who were of mixed blood tended to think that mixed schools were a "natural and inalienable right for which he was bound to contend."[39] Most Negroes were either indifferent or opposed to such integration with the whites, but the mulatto was a confusionist who was detering the pure Negro from his true path to glory: emigration to Africa.

However, Blyden suggests that those who are, "fair-eyed enough and blue-eyed enough" should remain behind and "go altogether with the whites."[40] Since they identify with the white race and aspire to be accepted as white, Blyden as no objections to them merging with the dominant race in America. He even states that they have "a right to do so."[41] All Blyden asks of this group, is that they leave the 'real' Negroes alone.

Blyden's letters to the American Colonization society became progressively more openly critical of mulattoes. Blyden argued that while this group

may speak eloquently of the "wrongs and rights of the race" their "sympathies and admiration go to the dominant class." These individuals make "unsatisfied and unsatisfactory colonists."[42] Eventually, Blyden flagrantly denies mulattoes the right and privilege to emigrate to Liberia and asks the colonization society to send only those of pure Negro stock.[43]

This is not surprising. Perhaps because of his clashes with the ruling mulatto group in Liberia, Blyden harbored a particular hatred for those "who hanker after the fathers who spurned them."[44] He considered them to be a mongrel race,[45] destined to wither away. For someone who believed that race was all, there could be no greater condemnation. Blyden heaped scorn upon the mulattoes precisely because they had no racial identity,[46] but rather a misconception that they would be accepted as part and parcel of the white race. Blyden was convinced that for those who could not hide their blackness, there was no possibility of such acceptance or even of equal treatment.

Rights of American Negroes

However, Blyden was aware that many American Negroes felt "duty bound to remain /In the U.S.7 and give their attention exclusively to acquiring for

themselves and perpetuating to their posterity, social and political rights."[47] Some even "thought that the idea of sending him away to a barbarous shore was... robbing him of his right to remain in the land of his birth."[48] Blyden's own opinion was that all Negro Americans who hope 'against all experience' that they may someday 'enjoy social and political rights'[49] in the U.S. are deceiving themselves. "It ought to be clear to every thinking and impartial mind, that there can never occur in this country an equality, social or political, between whites and Blacks"[50] Blyden dares the American black to open his eyes and see the indisputable "fact that the souls of near three millions of men, in the land of FREEDOM AND EQUAL RIGHTS!! have been crippled, dwarfed and blinded."[51]

It was the question of race that determined the need for the Negro to return to his motherland if he was ever to enjoy his rights. Once in Africa, Negroes could build a strong nation which would earn the race the respect it deserved. Blyden boldly declared, "We have as much right as any other people to strive to rise to the very zenith of national glory."[52]

The African continent (Liberia in particular) was the only environment which held out the promise of real and effective rights for the Negro race. In fact,

like his contemporary, Alexander Crummel, Blyden claims that the Negro Americans have a "hereditary right"[53] to the continent.

> The exiled Negro, then has a home in Africa. Africa is his, if he will. He may ignore it. He may consider that he is divested of any right to it; but this will not alter his relations to that country, or impair the integrity of his title... He is entitled to a whole continent by his constitution and antecedents.54

When speaking of the sometimes hostile relationship between the natives and the settlers, Blyden comments, "The Battles of the African Pilgrims were not for empire over an alien race: not for power or dazzling wealth, but for room in the land to which they had a hereditary right."[55]

Again like Crummell, Blyden was worried least the riches of Africa should fall into the wrong hands: the whites. He entreats the Negro Americans to "create an African power which could command the respect of the world and place in the possession of Africans, its rightful owners, the wealth which is now diverted to other quarters."[56] But unlike Crummell, Blyden's advocation of the right of the Negroes of the Americas to the African continent and its riches does not in any way disenfranchise the native Africans.

To Blyden, the right to the continent which Negro Americans had inherited from their forefathers would be exercised by emigration to Liberia. Rather than living among other races, simply by their permission or their endurance,[57] Negro Americans must return to Africa and build up Negro states. Liberia was to be the first of such states. It was to be the starting point of a great and powerful 'Negro Nationality'. Blyden consistently and persistently argued for a reaching out by Liberians to their brethren in the hinterland, not in order to transform them into fellow 'Americo-Liberians' by teaching them the English language and alien customs, but to seek inspiration from their traditional cultural practices in order to build a distinctly African or Negro nationality. His ideas of rights in Liberia relect this.

Rights in Liberia

Blyden's critical reaction to the presumed rights of Europeans continues when he is considering the rights of Liberia as a nation. Blyden, when speaking about Liberian history points out that as a colony, Liberia "had no rights which the laws of nations could respect. These facts aroused... the desire for an independent national existence."[58] To assert their rights, however, Liberia needed more than paper rights

in those days of scramble for Africa and the contempt for rights not backed by a show of force. Blyden notes the necessity for a more effective form of control over Liberia's coastline than mere paper rights to territory.[59] Generally, Europeans still showed nothing but scorn for the rights of Africans even in Africa itself. No wonder Blyden argues that Liberia cannot be liberal beyond her means and advocates the policy of no political rights for whites.[60]

Yet, Blyden appears to be accepting certain aspects of European ideas of rights as a model to follow when he warns his fellow Liberians that the world is watching to see if a purely Negro government will be able to sustain certain freedoms and liberties:

> The nations are looking to see whether order and law, religion and morality, the rights of conscience, the rights of persons, the rights of property, may all be secured by a government controlled entirely and purely by Negroes. Oh, let us not by any unwise actions compel them to decide in the negative.[61]

But once he is disillusioned by the behaviour of the mass of the Liberians over the Edward Roye affair,[62] Blyden becomes critical of the applicability of such rights in the Liberian context. Blyden sarcastically suggests that Liberians are perhaps too quick to grasp their new found rights. They tend to grab hold of them and exercise them to the detriment

of the body politic as a whole. Blyden refers to the Liberians as 'spoiled children' and complains that

> It is exceedingly difficult to get the masses to surrender any portion of what they feel to be their rights and privileges... to declamations concerning personal rights and the privilege of every man to fill the highest position, they are abundantly sensitive.63

For Blyden, the inability to know how to exercise their rights comes from the lack of preparations for such freedoms. Ex-slaves brought up to be servile for generations are not in a position to understand the meaning of ideas of individual rights which they were never allowed to exercise before arriving in Liberia. Blyden soon became conscious of the difficulties of:

> establishing and maintaining a popular government, with a population, for the most part, of emancipated slaves. The government is thrown into the hands of the people, and they are called upon to give their opinions upon all the subjects which can effect us as a nation: upon all the difficult subjects of finance, of legislation and the most intricate points of constitutional law. Not only do they utter their opinions, but it is their right and privilege to act upon these opinions and they do act upon them - with what success, alas! We are all too aware.64

Perhaps to excuse the the excesses of Liberians, Blyden even goes so far as to decry the republican form of government. It is not natural to man, according to Blyden. It is merely an ideal which is not fully

realized anywhere in the world.[65] Therefore, how can one expect it to work in Liberia? After all, "Their desire to emigrate to this country did not spring from an earnest longing for the function of self-government, but merely from a vague and uneasy desire to be free from certain physical restraints and proscriptions in the land of their birth".[66]

It is important to note that for Blyden the deficiencies of the Liberian people were not as a result of racial inferiority, but rather the result of the negative environmental influences of their past. Blyden believed that Africans who never left the continent showed no such signs of inadequacy. He beseeches his countrymen to look to the strong well developed tribes of the interior, untouched and uncontaminated by European contact. It is there that they will find Africans exercising rights which have existed from time immemorial. These are the rights which Liberians need to emulate, not those developed in the West for the white man.

Traditional Rights

Blyden never tired of reiterating the value of preserving traditional African life and customs. His response to the Western idea of the African living in a savage and barbarous condition devoid of any elements

of civilization, was to swing the pendulum to the opposite extreme and to glorify the traditional institutions of the Africans. He argued that the African way of life was in many ways superior to the European mode which missionaries were trying to impose in the name of Christianity. Certainly, for the African himself, these institutions were the result of an evolutionary process carried on over centuries to arrive at the most suitable way of life. Within Blyden's simplified description of traditional culture, we can find some references to rights.

Some Europeans, tended to disbelieve that Africans had any ideas of rights before the white man suggested such a concept to them. Blyden clearly argues the opposite and warns the Europeans in their intercourse with Africans, not to:

> deprive them of rights and advantages which they valued and enjoyed before you came, and which were in accordance with justice and equity, without making it clear to them that you give them their equivalent. The sense of justice is as keen in the African as in any one else.65

The African's sense of justice, however, may even be stronger than the European's if we accept the rosy picture painted by Blyden of life in an African village. Blyden emphasized the communal nature of the economic and industrial system in African societies. He contrasted the co-operative

spirit of the African with the egoistic or individualistic nature of European life. Since land and water were collectively owned in Africa, there was equal accessibility to these natural objects. "Everybody has the right to sail upon river, lake or sea and retain for his own use and benefit every thing which may be the result of his efforts in these elements."[68] Also, there existed no law of property in Africa that could deprive a needy person of a sufficient supply of food or clothing. This meant that: "the necessity and habit of theft do not arise, because everybody has his right and everybody has enough."[69]

Blyden also speaks of the full conjugal rights[70] enjoyed by all women who are parties to a polygamous marriage. Rather than ostrasizing one's mistress and keeping her hidden in some 'back street' in adherence with the 'monogamous principle', the African treats all his wives with equal respect. This fact, according to Blyden, along with the possibility of rest between pregnancies and the elimination of spinsterhood and prostitution, all make polygamy a superior form of family organization. Africa had therefore 'solved the marriage question.' Polygamy, to Blyden, was "founded on the law of nature and not upon the dictum of any ecclesiastical hierarchy."[71]

Blyden also praised the hospitable and considerate treatment of foreigners by Africans. He claimed that this aspect of African culture was a true expression of Christ's teaching to love thy neighbor, because it showed respect for "his rights, even though he may not belong to one's clan tribe or even race."[72]

Blyden sums up all these positive points regarding African culture by pointing out that under the African system there is no poverty, criminality or insanity, no workhouses prisons or asylums as there is in the social structure of Europe.[73] The inmates of these institutions cannot be said to be treated the same as everyone else in European society. In contrast, Blyden seems to be saying that in Africa, everyone enjoys equal rights.

However, Blyden's review of traditional life in Africa was deliberately and grossly overgeneralized in order to present a single African social system which could be used as a weapon in the ideological struggle against the racist West. African ideas of rights did not treat everyone equally. Even Blyden had to admit that the institution of slavery existed in Africa as well as Asia, Europe and America. Yet this limitation to traditional rights does not invalidate Blyden's arguments that Africans did have ideas of rights which

may differ from European notions. He quotes Mary Kingsley to emphasize the importance to the African of his right to land:

> Buying and selling the African from people from whom he thought you had the right to buy him never shook his love for England; but go and take away his own land in his own country when you said you would not, in treaties and by word of mouth for more than a hundred years; go and make him, without consulting him, a tenant at-will where he was once absolute holder, and a trustee for his future generations in the bargain and you will give him an agrarian grievance...74

An agrarian grievance was a serious complaint which would engender uprisings. Custom allowed buying and selling of people but did not sanction the alienation of land. His land meant more to the African than the European could ever imagine. Here was a difference which Europeans needed to understand.

Another example of the limitations of traditional rights is found in Blyden's description of a visit to the Boporo country, north of Liberia where he gave a report of a trial held for the perpertrators of a slave revolt which ended in the beheading of sixty-five slaves. In a rare admission of an underlying similarity of the human race despite racial differences, Blyden argues that the execution of the slaves was not an example of Negro barbarity, but rather an example of the "essence of human nature." No slaveholder,

anywhere, would accept that the desire which everyman has to be free, is sufficient cause to deprive him of his property. Blyden concludes, "Everywhere, unenlightened and unsanctified men are alike..."[75] Here we see that although African life and customs were worthy of praise rather than derision Blyden firmly believed that they could be improved through the agency of the Gospel, the word of Christ, our Lord.

Ecclesiastical Rights

Blyden was most vociferous in demanding ecclesiastical rights for Africans, the right to organize and establish indigenous churches.[76] Blyden defended traditional religions only to the extent that he declared them to be more than superstition and to be essentially monotheistic. The African is not a worshipper of false gods; he worships the one true God, albeit "imperfectly seen." The African, who is more spiritual than the European (there are no atheists or agnostics among Africans)[77] needs to have the words of Christ revealed unto him, but not necessarily through the European missionary. The African must retain his culture and worship Christ in his own way. To Blyden, this is his right, a right which Europeans, as usual, tried to deny him.

Blyden urged Africans to break away from the hierarchy of European churches and to establish their own independent churches which would develop an Africanized Christianity. In 1886, he resigned from the Presbyterian Ministry and became a "minister of truth".[78] He heartily endorsed the activities of groups such as the Native Baptist Union of West Africa and its president, Mojola Agbebi.[79]

When speaking of the Providence Baptist Church in Liberia, Blyden declared:

> This church has a right and a claim, which it ought at once to assert, to form itself into an organization to develop the true African religion begotten by the teachings and nourished by the pure and sincere milk of the words of Christ.80

Educational Rights

Besides the right to develop their own churches, Blyden declared the Negro's right to educate himself. Both of these rights were necessary if the Negro was to escape from the continued inculcation of racial inferiority. African churches and African schools with African priests and African teachers would instil in the Negro racial pride and eliminate the cancerous preaching of the alleged superiority of European culture to all things African.

Blyden believed that the development of new forms and ideas based on traditional African customs and beliefs would emerge from education based in Africa. Rather than attempting to answer Crummell's question posed by Europe, "What right do you have to exist?" Blyden claims that Africa has a right to demand of Europe the answer to the following question: "If we abolish customs known tried and helpful to us, and adopted yours, what shall we do with our submerged tenth, our thieves and prostitutes?" To those Europeans who wish to impose their brand of civilization on the African, Blyden says, "... great and good friends, you grapple with your domestic and social problems and leave us to grapple with ours."[81] Education in Africa, by Africans, is the only way to develop solutions to the problems of Africa.

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Blyden believed that Africans must educate themselves and proposed a curriculum which included the Greek and Roman classics but excluded all writings from the West of the modern period because they were tainted with racist ideas.[82] He argued that Europeans were obliged to assist in the demolition of the myth of racial inferiority which they created for their own selfish ends. Europeans owed Africans a "great debt" and must pay back and atone for their crimes by the funding of Negro education in Africa. Africans,

by virtue of centuries of unrequited physical labour, were in a position to demand financial assistance from Europeans to undo the harm they had done by poisoning previous generations of Negro's minds. Blyden says, "we feel that we do not simply ask it as a favour but claim it as a right when we entreat their aid as civilized and Christian Governments in the work of unfettering and enlightening the Negro mind."[83]

So, Africans had a right to demand payment for services rendered. But, by making such payments, the Europeans created for themselves a right to interfere in the running of the institutions. The source of funding is also the source of control. Blyden was not unaware of these difficulties. The financial support for Liberia College came mainly from Boston and New York. Blyden complained bitterly that progress would be prevented, "as long as others were responsible for the support of the institution, so long as they had the right to suggest, if not to shape, the mould in which our opinions should be formed."[84] Outside funding, although a right, was merely advocated as a temporary measure. Blyden always argued for eventual self-reliance in all things.

Political Rights

Self-reliance, although desirable was not always immediately possible. The political rights of Africans had to wait in line for their turn as top priority with later generations of African writers. Blyden actually believed that a brief overlordship by the European powers might be beneficial to Africa and Africans. His advocation of Africans' rights to control their own schools and churches was less equivocal than any assertion of political rights for Africans. Lynch suggests that Blyden's failure to receive enthusiastic support for his demand for this small measure of cultural independence may explain his belief that African assertion in the political sphere was as yet premature.[85]

In order to understand Blyden's 'holding pattern' approach to the political rights of Africans, one must recognize that despite his praise of traditional life and customs and his insistence that Africans had been ruling themselves for thousands of years,[86] Blyden's vision of Africa's future was in terms of modern nations which could compete on a world scale. He was not interested in any whole scale break with the outside world and closing in on the continent. Liberians were not supposed to abandon Monrovia and

return to the hinterland becoming absorbed in one traditional society or another. His idea was that Liberians should reach out to the interior and incorporate the African tribes, not by force but by a sympathetic union and merging of peoples. This could only be accomplished if the Americo-Liberians would abandon their idolatory of the West and cease to despise all things African.

During his time, Blyden's visions were not shared by the majority of his fellow West Africans. Meanwhile, the European scramble for Africa had the potential of unifying the disparate tribes and hence beginning the process of formation into modern states. It was on this basis that Blyden welcomed the British, whom he believed were more likely to allow Africans to maintain their racial identity than the French who would try to turn Africans into Frenchmen.[87]

Blyden's controversial advocation of imperialism did not entail any acceptance of the European's idea that he had a right to rule over inferior races. Instead, Blyden believed that Europe and Africa could mutually benefit from a brief overlordship. Legitimate trade with Europe would elevate the African economies and provide Europe with necessary items. Blyden says, "the depressed factories of Lancashire are waiting to be inspired with new life and energy by the development

of a new and inexhaustible trade with the millions of Central Africa."[88]

However, Blyden had no illusions about a European presence in Africa nor did he fail to see the irony of the situation. "The imperialist powers are at once the invaders of the African's land and the protector of his Rights."[89] Blyden realized that any successful invaders would have assumed a right to the persons and labour of the natives.[90] He also knew that there was no evidence to suggest that Europeans would be less unscrupulous with the Native Africans than they had been with the natives of America who had the "deplorable distinction of being civilized off the face of the earth"[91]

But, God has forbidden such a destiny for the Negro race. Only Africans can survive in Africa. West Africa is aptly called the white man's grave. Any sojourn on the continent would 'naturally' be short. Imperialism necessarily would be only a brief stage in the history of Africa. The white man had once again tried to claim a right which he did not have.

> Those who instead of humbly searching for a knowledge of Nature's laws arrogate to themselves the right of making laws for nature must always fail.[92]

This failure of the Europeans was inevitable. Ultimately, Africans would rule modern nation states in Africa and the world would sit up and take notice of a great and powerful race reigning in all its glory.

Human Rights

For Blyden, humanity was divided into distinct racial groups. The superior perspective, in religious and moral terms, was that of the Negro race. It was the experiences of his race which gave rise to his understanding of human rights. He stated this explicitly when he argued that it was the historical experience of the Negro which caused "human rights /to be/ better understood and... placed on a firmer footing than ever before..."[93] It was only the peculiarly cruel nature of the trans-atlantic slave trade that forced the conscience of the world to question the time honoured institution of slavery. What was once universally accepted had become completely unacceptable as a result of the "Negro's residence in America". Blyden asserts that "the right to hold slaves was deeply rooted in the minds of men... until the Negro emancipation first established the principle that nothing justifies the making or holding of slaves."[94]

In this statement, we can see Blyden contrasting two competing conceptions of right: the Negro's right to be a free man and the white man's 'right' to enslave him. Blyden argues that, in terms of the understanding of human rights, the end of Negro slavery was a triumph over European misconceptions and a victory for an expanded and more accurate idea of human rights arising from the Negro experience.

The Europeans, Mulattoes and those American Negroes who wish to remain in the U.S. were all mistaken about the true nature of their rights. The Europeans had wrongly positioned themselves above all other races and would eventually loose all the rights they have improperly assumed. The rights of Mulattoes are non-existent because they are merely a mongrel race destined to be enveloped by other racial groups. They cannot have any real rights as a group. American Negroes also have only illusory rights in the U.S. However, if they return to their original homeland, they will be able to practice the rights of their race.

In Africa, traditional rights clearly existed which were superior in some aspects to European ideas of rights. Blyden, however, was aware of their limitations and never advocated a whole scale withdrawal into traditional communities but rather an incorporation

of traditional practices into new forms envisaged by Liberian scholars. Liberians and their fellow Africans needed to work out new forms, which would apparantly include new ideas of rights, based on traditional ideas rather than theories imported from the West. However, this was a process that Blyden never really carried out himself. He only took the first step of calling for this kind of development which he envisioned would take place at some future date. But to ensure that such a development would ever take place, the rights of Africans vis a vis Europeans needed to be asserted immediately.

Before there could be any separate development of an African idea of rights that could be used within a nation, there needed to be a change in the international relationship between the races. Hence, his discussion of rights in Liberia is problematic and even contradictory. At times Blyden entreats Liberians to follow a western model of rights and then he shifts ground and deplores their activities when they are expressing their 'rights'. Perhaps this is because the projected new African ideas had not yet been sufficiently worked out while the imported ideas of rights did not fit the human material (ex-slaves). Other times, Blyden takes the western ideas of the "rights of free men" for granted while placing them

in their proper perspective. "The form of government is a mere incident and does not interfere with the original idea and special work /of Liberia and Sierra Leone which is/ the upbuilding and honour of the race".[95]

For Blyden, the task for Africans, at this stage in history, was not to develop "the rights of free men" from either a western or African perspective. The immediate need was to develop the collective rights of the Negro race to develop a separate African personality and to restore the 'ebony image' of the African to its rightful place in the world, alongside the other races as their equal.

While Blyden clearly asserts the equality of the races, he rejects arguments made by other African writers regarding the similarity between the races. Blyden, above all, claims the Negro's right to be different from the white man. The African has a right to retain his cultural practices and he must not allow the European to sweep them away in the name of progress and civilization. Fundamentally, Africans have a right to be themselves. For Blyden, this right was primarily expressed in cultural rather than political terms. This right engendered the right to worship God in the African manner and to organize African churches, as well as the right of Africans to

educate themselves and to run their own schools. Blyden insisted that the African had a right to practice his own customs and did not need to be remade in the mold of the Europeans.

All of these rights for which Blyden seriously agitated can be summed up under the category of the right to dignity and respect. When Blyden talks of rights he is fighting against the historical event of Negro slavery and the long-lasting racism which it engendered and demanding that Africans be treated as human beings deserving the same respect and dignity now reserved for fellow white men. In this sense, he is echoing the argument of African abolitionists of the previous century and adding to it the right of the African to be treated as an individual who is a member of a race with its own characteristics. Blyden demands that the Negro be free to develop a separate and distinct African personality which God has given him to cherish and unfold.

Blyden's discussion of rights can be put within the category of human rights because he speaks of the rights of men based on their characteristics as part of humanity. He is advocating an equality of rights or equal treatment because we are all human beings created by God. But he does not speak of rights in terms of the relationship between man and man as

individuals per se. Instead, he is more interested in the relationship between the races, white and black. His experience and knowledge of the unjust treatment accorded to blacks by whites necessitates an emphasis on this aspect of human or natural rights. Though he speaks primarily on the collective nature of the rights of a race as a whole, he in no way precludes the existence of rights of the individual.

Blyden tells us that the rights of free men do not interfere with the rights of the race,[96] except perhaps in the case of the African who denies his racial identity and trys to behave like a European. But this is an 'unnatural' position for an individual to take. It is also a position which the racist West will merely ridicule. Truly, the only salvation of the African is to be himself. But he must leave the nations where they teach him that to be himself is to be nothing, or worse than nothing, everything dark and horrible.[97] Instead, the Negro must return to his own land where to be black is no disgrace. Blyden observes that only on the shores of Liberia to the settlers first feel a sense of individual importance.[98]

To Blyden, the Black man can only be an individual once he is accepted and treated as a member of a race which itself is worthy of respect. It is the race

itself which must be respected before any individual member of it can be treated with the dignity befitting a fellow human being. Therefore, it is the rights of the race which must first be regained. The rights of individual Africans can only exist once the collective rights of the race are accepted in the world at large.

Blyden's contribution to the meaning of human rights, then, is to add an African perspective which emphasizes the collective nature of the rights of the race as a whole. The rights of the race were seen in terms of their relation to other races, other collective entities. Blyden was not advocating the rights of the group over the rights of the individual when he claimed the right of one race to be treated as an equal by another race. This perspective based on the injustices suffered by Africans as a whole adds a new dimension to the philosophical discussion of human rights because it demonstrates that human rights, strictly so called, need not be restricted to the rights of individuals.

Blyden's preliminary discussion on traditional rights was and still is reproduced by many later African theorists. But, this simplified description of traditional African societies must be seen as a reaction against the racist idea that Africans

had no culture rather than any evidence of the existence of African ideas of human rights much less evidence of 'African Socialism'. Later day attempts to argue for traditional ideas of human dignity as an alternative to western ideas of human rights are perversions of Blyden's ideas. While Blyden would not deny the dignity of individuals within traditional African settings, his understanding of the rights of Africans is rather a collective right to dignity of the entire race vis a vis other races. This view of human rights represents a reaction to a real historical situation of oppression and injustice and gives rise to the cry for freedom from discrimination on the basis of race.

Blyden's call to salvage the remnants of African culture in order to build a distinctly 'African personality' does not mean that African ideas are found only in traditional societies, uncontaminated by Western contact. Indeed, Robert July calls Blyden the first African personality,[99] and by so doing, illustrates the fact that Blyden's understanding of the soul of the Negro race lies not in Africa's past, but primarily in her future. To carry on in the tradition started by Blyden is to develop new ideas based on African customs which will promote the welfare of Africans everywhere.

NOTES

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15. Ibid., p. 122.
16. Blyden, op. cit., p. 91.
17. See Chapter four, passim.
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29. Ibid., pp. 7-8.

30. Blyden, op. cit., p. 139.

31. Ibid., p. 138.

32. Ibid., p. 274.

33. Ibid., 35.

34. Blyden, op. cit., pp. 350-351.

35. Ibid.

36. Ibid., p. 291.

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38. Ibid., p. 323

39. Lynch, Pan-Negro Patriot, op. cit., p. 106.

40. Lynch, Black Spokesman, op. cit., p. 16.

41. Ibid.

42. Blyden, op. cit., pp. 354-355.

43. Lynch, Pan-Negro Patriot, op. cit., p. 105.

44. Ibid., p. 109.

45. Lynch, Pan-Negro Patriot, op. cit., p. 38. Lynch quotes a correspondent of the African Times 23 June 1871: "There has been for along time a great division amongst the black population and half-caste. The mulattoes look down on the blacks as inferior and claim the right to govern and want to have always a mulattoe or half-caste as President."

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47. Lynch, Black Spokesman, op. cit., p. 25.

48. Blyden, op. cit., p. 97.

49. Lynch, Black Spokesman; op. cit., p. 26.

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89. Ibid., p. 338.

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91. Ibid., p. 69.

92. Ibid., p. 349.

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CHAPTER VI

PROTO-NATIONALISM - THE RIGHTS OF THE ABORIGINES

Blyden's call to forge new ideas inspired by the traditions of one's ancestors went virtually unheeded in Liberia. But in the then Gold Coast, modern day Ghana, his message was not lost. Cultural nationalism flourished and in the hands of men like John Mensah Sarbah, J.E. Casely Hayford and the Rev. S.R.B. Attoh Ahuma, the movement blossomed into an embryonic form of political nationalism. Here were full-blooded, born and bred sons of the soil whose education abroad had provided them with the tools necessary to express to the Englishman their countrymen's desire for internal self-government along the lines of their forefathers.

This next generation of educated Africans continued to champion the rights of the race to develop the African culture. However, unlike Africans of the diaspora, they were raised within a particular African society. Their first hand experience of 'African culture' led to a different form of expression of African life and customs than the ideas of a returnee like Blyden. The assertion of an ethnic identity was an important part of their understanding of an African cultural renaissance.

In 1889, the Mfantsi Amanbuhu Fekuw (Fanti National Political Society) was formed in Cape Coast. This was an association of educated Africans who desired to promote a 'return' to their culture in terms of dress, language and names, all aspects which they considered to be part of their "nationality". Their aim was to encourage "Educated Fantis not europeanized natives. We simply want our education to enable us to develop and to improve our native ideas, customs, manners and institutions."[1]

Blyden would have concurred wholeheartedly with these aims, but the gradual consolidation of colonial rule meant that Africans' cultural rights needed to be asserted beyond the educational and ecclesiastical spheres. Africans, at the turn of the century, began to shift their attention away from the missionaries to the colonial administtators and demanded the right to develop all institutions on African soil, the secular as well as the religious. This was because legislation supposedly aimed at improving the lot of Africans often had the effect of infringing their traditional rights. Hence, in 1897, the predominantly cultural organization of the Fekwu, transformed itself into a more politically oriented grouping with a new name: The Gold Coast Aborigines Rights Protection Society.

This change of focus was occassioned by the 1897 Lands Bill which attempted to give the British Crown rights of administration over so called waste lands. As Mary Kingsley had warned her compatriots, the infringement of the native's right to his land was cause for an 'agrarian grievance' which would not be easily assuaged.[2] This was the beginning of a concerted effort by educated Africans and their chiefs or kings to confront the colonial administration whenever the interests of the natives were threatened. During this period, deputations were often sent to London to fight "constitutionally" for the preservation of Africans' traditional rights.

The ideas of the African writers in English of this period continue to be fundamentally a reaction against European oppression of Africans. The specific injustice to which the Africans reacted was the expansion of colonial rule and the concommittant undermining of traditional values and institutions. These sentiments were summed up in the statement found in a petition of 1889: "Today we are being ruled as if we had no indigenous institutions, no language, no national characteristics, no homes."[3]

The Africans admonished the colonial administrators for their ignorance of traditional customary law. Attempts were made to bring to the

notice of the colonial rulers and the British public as well, the complexity of traditional African ideas of equity and justice. As early as 1897, John Mensah Sarbah published his work, Fanti Customary Law. This was followed by his Fanti National Constitution in 1906 and J.E. Casely Hayford's Gold Coast Native Institutions in 1903.

These works which all began as monographs to marshall arguments against the Lands Bill of 1897, were produced in order to clarify the nature of traditional rights. This clarification was needed to help protect the rights of the original inhabitants or aborigines against encroachment by the Europeans. In these works, the oversimplification and over-generalizations of the early cultural nationalists when discussing traditional values and norms, were absent. They had been superceeded by detailed and scholarly case studies of particular African societies. In this way, Africans moved beyond merely asserting the existence of African culture to the defense of specific traditional rights as well as the defense of the social structures which accompanied them.

The treaties made between African peoples and Europeans were reproduced as proof that the aboriginal peoples were recognized each as a "nation under their

own rulers invested with rights of sovereignty."[4] Europeans were accepted only as a 'protecting power' who could rule over the external affairs of African nations, but the people had a right to mold their own local institutions upon their own lines.[5] The Africans had reserved the right to legislate for themselves and to install and destool their own 'natural rulers', the traditional leaders. Attempts by Europeans to usurp the rights of the king-makers, formalized in the various Native Jurisdiction Ordinances, met with hostile opposition.

Europeans needed to be made to realize that they were not dealing with a savage people without a past who were merely striving to copy foreign institutions,[6] even at a national level. The councils of traditional societies were cited as an indication that representative government was part and parcel of the indigenous culture. Therefore, the demands made by Africans for representation at the wider level of the unified territory marked off by the colonial boundaries was not seen by Africans as an extension of a European idea to the African continent. Rather, it was the adaptation of a traditional idea to meet the changing needs of a different historical situation.

Change does not usually come without conflict. After an initial alliance, the right to represent the African people in the colonial legislative councils was hotly contested by the traditional rulers and the non-traditional elite, those with western education.

Eventually, the educated elite, representatives of an already changed social structure, moved beyond the preservation of traditional rights. As they seized the initiative from the colonialists in uniting Africans beyond the national level into a wider Pan-African forum like the National Congress of British West Africa, they began the onslaught that was to fundamentally change the colonial situation. Let us examine in detail the ideas of rights found in the writings of these proto-nationalists in order to trace the historical progression of an African concept of human rights.

Land Rights

Some of the ideas, the thought, the political wisdom of this period are to be found in the writings of the members of the Aborigines Rights Protection Society. Indeed, the Society has been characterized by later generations of the African intelligentsia as "the noblest embodiment of the nation; in consistency and political sagacity, in unanimity and patriotism, it represented the best thought of the Gold Coast peoples."[7]

Although Kimble informs us that the Society was a continuation of the Mfantsi Amanbuhu Fekuw under another name, it is generally accepted that the A.R.P.S. "came into being as a direct... action to oppose the attempt to declare all lands in the Gold Coast to be Crown lands."[8] This threat to the African's right to his ancestral lands was the spark which ignited concerted opposition to colonial policies. It was generally believed that there was no "greater or more sacred right."[9] J.E. Casely Hayford remarked on the unifying consequences of the threat to this right, "the common danger to our ancestral lands has made us one - one in danger, one in safety."[10]

Land or property rights were determined by custom and tradition and the need to assert these rights against British encroachment was done through reference to the customary laws of the various affected African societies. According to Hayford, based on his knowledge of customary law, rights to land were not acquired through conquest. He cited examples from his experience at the Gold Coast Bar which suggested that "the usage of war among the aborigines would seem to be that after the conclusion of peace, the vanquished still retained their lands."[11] Generations after expulsion from land through conquest,

the original inhabitants retained the right to lease the land and collect ground rent. The right to their ancestral land, then, was clearly an inalienable right of the natives which even superior military might could not demolish.

This right was inherited from their ancestors and was vested in the natives because they were the original inhabitants. Their status as aborigines confered on them such rights. Hayford said, "We are the lineal descendants of the Aborigines of the land known as Gold Coast."[12] He discounted arguments which tried to claim that the current natives were foreigners because their forebearers were immigrants from Timbuctoo. Although proud of the appellation, 'sons of the soil', Hayford was quick to point out that "We do not base our indefeasible rights on the fact that as natives we originally sprang from the soil like the products of the teeth of the dragon..." He then added that there could be no absolute right in this line of argument unless the battle ground became the Garden of Eden.[13] He still contended that the natives as aborigines had more rights to the land than the British could ever claim.

In fact, the British had no counter claim to any lands in the Gold Coast. Hayford quoted a document from the Colonial Office on the "Historical Geography of the British Colonies" which describes the Gold Coast as a settlement of "isolated forts and factories /which/ lined the water's edge, but they had no territory or territorial rights attached to them."[14]

Given these historical facts, the British were challenged when they attempted to pass legislation which would give them the right to administer the lands of the country as public lands. The general reaction to this was that the Government was trying "to take away from the people all their lands".[15]

Even the retreat by the Government to a position whereby only waste and forest lands, unused and unoccupied lands, were to come under its control was opposed. James Brew argued that "long before the advent of the European, every inch of land had been owned by some Chief, individual, family, or community ..."[16] Sarbah supported this contention, "that every piece of land in the Gold Coast had an owner, whether or not it was described as 'waste'".[17] He added the information that, "Family land remained the property of the family, whether cultivated or not: only on the failure of successors... did it fall back into the common land of the village, subject to

the control of the Chiefs and elders."[18]

Hayford clarified the rights of the Chief or King as regards the land. "The King, as overlord of all, would undoubtly, exercise sovereignty over the whole land, every inch of which, however, would have an individual family owning it."[19] It is important to realize that sovereignty or paramountcy was not the same as ownership. Hayford specifically stated that the King "does not own all the lands of the State."[20] The limits of his propriety rights were strictly defined. There was the ancestral property of the King held with the sanction of members of his family and land attached to the stool which the King can deal with only with the consent of the Councillors.[21]

So, the aborigines had entrenched property rights which even their own leaders could not infringe, much less the European government. The refusal of the Europeans to recognize the existence of such rights continued to be the major injustice suffered by the African at their hands. Obviously, the colonial administrators were not totally unaware of the general foundations of customary law regarding land. In 1891, the then Chief Justice, J.T. Hutchinson, pointed out that "all the land in the colony and the Protectorate, whether occupied or not,

had according to native law an owner."[22] Clearly, they merely wished to overlook certain aspects which interfered with their greater control, in this case over mining and timber concessions, purportedly 'for the greater good of the natives'.

Although accepting that all the land belonged to someone, they avoided the tricky question of compensation by arguing that the Crown does not take the land for itself. It would simply be holding the land for the natives of the Gold Coast as a trustee. This they considered would dispose of the moral questions which "at first seemed serious." Kimble suggests that, "Unfortunately, the 'Natives' were never able to follow this line of reasoning and the moral issue to them remained serious."[23]

The moral issue involved, from the perspective of the natives, was clearly the preservation of ancient rights and liberties. To the Chiefs and people alike, the Government was trying to "legislate away their rights".[24] The main objection to the Bill was the fundamental alteration of their natural right of absolute ownership into that of mere holders and settlers.[25] Sarbah reminded the British that "... rights, whether public or private are not to be taken away or even hampered by mere implication from the

language used in a statute."[26] The natives were not prepared to give up their rights even in exchange for benevolent paternalistic protection from the British.

Democratic Rights

It was argued that this had been the attitude of the people of the Gold Coast since the beginnings of contacts with the Europeans. Britain, as merely the current protecting power, did not have any right to the people's lands. It also had no right to usurp the people's right to elect and install and, when necessary, depose their own traditional rulers. The right of the people to choose their own leaders was based on the time honoured customs of the natives. Hayford emphatically stated:

> The office of the King is elective. No King, that is to say, is born a king... It is the right of those who placed him there to put him off the stool for any just cause. But no other authority can rightly interfere with his position, if his people are satisfied with him.27

The democratic rights of the African people were asserted with reference to their traditional cultural practices. Sarbah declared: "The customary law is cogent and clear on the point, that he who serves and is bound to obey must have a voice in the election of the person who is to command."[28] He agreed with Hayford's contention that 'no one was born a King.'

It was the right of the people to select a 'fit and proper person' as the successor to the present Chief or King. Occassionally, 'in extreme cases' the people had a "right to select some person not a member of the heritable blood at all and place him on the stoll."[29]

Hayford claimed that the idea of representative government was "widely diffused among the people." In what he called the 'Native State System', "the right of every adult male member of the community to be represented in the State Councils is fully recognized and guaranteed."[30] Sarbah reported that it had been observed by Cruickshank, sometimes Governor of the Gold Coast, among others that, "Any person of respectability in the community has the right to attend the court of the ruler and councillors."[31] The right of a free trial was an idea found in traditional societies and Sarbah documented the "right to demand"[32] that a case be heard by the councilors. Again we hear that even slaves have certain limited rights.[33]

Sarbah also asserted that "in the public deliberations of any matter affecting the country, each family, through its headmen and the elders had a right to be present and be heard through well

defined channels.[34] He argued that in traditional societies, every person had a certain position in the community and "the relative duties and rights between rulers and principle men in the community in administrative as well as executive affairs" was carefully mapped out according to what he called a 'national constitution.'[35]

These statements are in agreement with Mary Kingsley's message in a letter to Sarbah, that it is "necessary for us to demonstrate the existence of the African state."[36] We can see that the ideas of the African writers in English of this period continue to be fundamentally a reaction against the European 'image of Africa'. Refuting the idea that barbarism and savagery ruled the land before the arrival of the European entailed the demonstration of a native state system where the chiefs were not despots with absolute power of life and death over their peoples. The discussions on customary law painstakingly showed the existence of the ancient rights and liberties of the people vis a vis their chiefs.

If the King or Chief was chosen by his people, if his powers were limited by certain rights of the people while he was on the stool, if his successors could also be chosen by the people, then surely he

was not a savage despot but a legitimate ruler of his people. He had sovereign rights over his country and his people. These were not absolute but they could not be limited or eliminated by any unilateral decision by the Europeans.

Historic Rights

Traditionally, the aborigines generally had rights to their ancestral lands and democratic rights to chose their own rulers which the educated elite of this period began to assert vis a vis the British Colonial Government. At first, the Africans did not see any need to reassert these rights vis a vis their own chiefs because there had been no serious erosion, in their own minds, of the relationship between the Chiefs and their people. Rather, it was the relationship between Britain and the aborigines which was the cause for a renewed statement and struggle for the retention of rights. These arguments took the form of a detailed analysis of the history of the relationship between Britain and the Gold Coast peoples.

Speaking generally of this relationship, Hayford said:

> ... the relations between Great Britain and the Gold Coast originated in friendship, mutual trust, and commercial alliance. It will be seen, therefore, that the people have a right to mould their institutions upon their own lines, Great Britain being merely a Protecting Power, and only properly concerned with their relations with the outside world. It will be also seen that at no time have the people divested themselves of their right to legislate for themselves.[37]

It was constantly and consistently argued by the Africans that at no point in history did the people of the Gold Coast give up or lose their ancient rights to the British. The Gold Coast should rightly be called a Protectorate. It cannot be considered a colony because the territory had never been obtained by 'conquest, purchase or cession.'[38] Instead, an agreement had been made between the Chiefs of Fantiland and the British, called the Bond of 1844, which ceded to the British only certain limited rights in exchange for protection. Hayford quoted colonial records which stated:

> The Bond /of 1844/ grants her majesty's officers the right to try and punish crimes and offences and to repress human sacrifices, panyarring, and other unlawful acts and barbarous customs. It is silent as to the Queen's right by her officers and delegates, to collect customs, to administer civil justice, to legislate for the public health, or erect municipalities, to provide for education, to construct roads and regulate the industrial and social economy of the protectorate.[39]

By their own admission, the Bond gives Britain very limited rights. Attempts to declare rights not expressly stated in the Bond were therefore unlawful and unjust acts, a specimen of what Hayford called "the 'solvent influence' of British administration over native rights."[40]

Rather than from any feeling of duty to the native population, the sole reason for the presence of the Europeans, from the beginnings of contact to the present, was Trade, according to Sarbah. He quoted from the Journal of African Society, 1904: "It was obviously a necessary condition to efficient trading on the coast that,... quarrels should be settled..."[41] Sarbah characterized the true nature of the relationship with Britain thus: "The African rulers with their people have been allies of Great Britain on several occassions against a common foe, /the Ashanti/."[42] The swearing of allegiance to the Crown did not mean anymore than the granting of military services of vassals to a superior. Sarbah pointed out that Cruickshank knew that, "Native laws and customs were never understood to be abrogated or affected by /this allegiance/." Sarbah emphatically declared that the rulers in their agreements with Britain "never thought of giving up every semblance of power, right and jurisdiction to British authority."[44] Therefore, it should not

be surprising if the aborigines refuse to do it at any later date.

The Bond of 1844 was clearly understood by the Africans as a contract of government, an agreement between their leaders and the British to set up the colonial government with certain limited powers or rights, mainly for the extended protection of the inhabitants. Aboriginal rights existed before the contract and continued to exist after the contract. The Africans surrendered or waived only a strictly limited number of their rights and retained the rest. Attempts by the colonial government to overstep the bounds of the agreement were unlawful. Any subsequent assumption of rights not already mentioned needed to be negotiated and agreed upon. Sarbah emphatically stated that the colonial government had no right or power except with the consent of the aboriginal rulers.[45] In a reaction to alleged abuses by the colonial powers, Hayford stated, "The Local Government has infringed the law, and trerpassed upon our sacred rights and privileges thereby breaking with impunity the contract or bond betwixt us."[46]

It is not difficult to see that the idea that the obligation to obey, derives from the free consent of the governed, could emerge directly from the experience

of traditional societies where Kings were not born to be Kings but elected by the people and controlled by the people through the council, "the very center or heart of the body politic."[47] This traditional understanding of the relationship between the rulers and the ruled was merely extended to the British overlordship.

To the Africans, by virtue of various agreements made betwixt their leaders and British officials, Britain was nothing more than a protecting power. The natives had their own traditional conception of the rights and duties of that status. Sarbah declared that:

> The relative duties, rights and position of the protector and protected are thoroughly understood by the people. The protector cannot legislate for, or deal with, the property of the protected against his will. The protected can at any time seek the protection of some other person or state.48

Treaties of friendship and protection attest to this position. Yet, a fundamental change of status was unilaterally engineered by the British in 1901 after the Asanti wars, when not only Asanti was declared a British possession by right of conquest but all Gold Coast territory, the land of the allies to Britain in the wars, was also declared to be a portion of the British Dominions. In this manner, the Colony,

originally only the territory of the forts and settlements was merged with the Protectorate. It was argued by the British, that as British subjects, the natives were "entitled to ampler privileges than protected aliens."[49] But Sarbah commented that there was no explanation of "where the ampler privileges are to be found or how many enjoy them..."[50]

Clearly, the Africans did not claim rights cut off from their past and born anew as British subjects. Instead, they claimed ancient aboriginal rights existing before contact with the British and maintained throughout their history by their leaders in specific treaties, bonds, agreements and contracts made by their natural rulers with the British officials.

Rights of the Traditional Rulers

This clarification, with reference to history, of the standing or status of the Aborigines vis a vis the British was necessary for an accurate determination of respective rights. Africans argued that history showed that the traditional rights of the people had never been handed over to the British. Therefore, those rights were still in operation and could not be denied. Specifically, the sovereign rights of the traditional rulers were still intact. Hayford argued that "The Native Chief, in his own country and among

his own people, has the undisputed right of exercising his functions administratively as well as judicially in accordance with Customary Law."[51]

At first, the educated elite saw themselves as acting on behalf of the people and the chiefs. Sarbah explicitly stated that it is "the duty of every educated African not in any way to belittle the Kings, Chiefs and Headmen, or push them into the background, or seem to do so; he should rather... raise them up."[52] The intellectuals did so by defending the position of the traditional leaders and protesting against the erosion of their rights or powers by the British administration.

Africans, generally, challenged the right of the British to depose and install a chief. Hayford suggested that, "It would be strange to say that a King ceases to be a King if... the Governor chooses to say he does not recognize him."[53] Sarbah even claimed that it was doubtful "whether a chief so dismissed is thereby deprived of his position as stoolholder... and must give way to a new chief. The right of dismissal is in the people not in the Crown."[54] Hayford even admonished the British, "Surely the people of the country have the right, in the election and enstoolment of the Kings and Chiefs, to be governed by their own Customary Law."[55]

In this way, the educated African asserted a right of the African people to rule themselves through their traditional leaders. The British had never acquired any right to interfere with local institutions, the rights of the natural rulers, consistent with customary law, had to be respected.

However, the claim of a right to manage their internal affairs was not restricted to the local level. Africans demanded that they also had a right to play a role in the wider colonial governmental set up. Sarbah and Hayford had been members of the Legislative Council and argued strongly for an increase in African membership to that body. In the 1920's, Hayford launched the National Congress of British West Africa (NCBWA) as an organization designed to represent the interests of Africans in all the British controlled territories of West Africa. But the issue of who had the right to represent the Africans, the chiefs alone or in conjunction with the educated elite, had a disintegrating effect on the alliance between the two groups.

In a famous debate in the Legislative Council between Hayford and Nana Ofori Atta, a traditional ruler and unofficial member, the right of the educated African to speak for anyone other than himself was challenged. Ofori-Atta argued that, "It is the

native authorities... who were the only natural, rightful, and legitimate embodiment of the popular will."[56]

Hayford replied that Ofori-Atta was merely an unofficial member, an unelected government nominee and therefore did not represent the people in this body. Neither the chiefs nor the people had chosen him to speak for them. Traditionally, the chief was merely the people's head and not their spokesman. In fact, the people made known their views through a special spokesman or linguist. The chief then, as chief, had no inherent right to speak for the people.

Hayford also felt a need to remind Ofori-Atta that the chiefs were not autocrats. They could not deny an individual his right to express an opinion on a public issue.

> This was a curious and dangerous doctrine, for while there seemed to be nothing in traditional practices to prevent private individuals from commenting on matters of common interest, it was precisely the chiefs themselves who were expressly denied such a right.57

After the British had sided with the chiefs in this power struggle, forming a new constitution which increased their power vis a vis the educated elements, Hayford spoke in exasperation, "... In every part of the world those who lead public opinion are qualified to

do so, men of training, men of experience, men of sound education."[58]

The decision of the colonialist to side with the chiefs was not surprising considering the longstanding prejudice of the colonialist against the educated African. As early as 1969, an influential Colonial Office Memorandum attributed all the troubles arising in the West Coast of Africa to the educated natives.[59] A sharp distinction was made between the people in the rural areas and the educated Africans in towns. The urbanized group could then be dismissed as "unrepresentative."

In reaction to this longstanding attitude, Hayford argued that the educated class are 'sons of the soil' and represent the bulk of the inhabitants. Once educated, the African does not cease to be a native, he does not cast off his tribal allegiance or kinship obligations. I, myself, Hayford once said, am a member of an African family and an African community.[60] "I should like that this idea that there is a distinction between the educated and other classes be removed... We simply ask for a certain amount of interest and control in the conduct of our own affairs."[61]

Herein lied the crux of the matter. As Kimble remarks, once educated, the Africans were not "so easy to manage, and were apt to challenge authority in unpredictable ways."[62] The colonialists preferred to deal with uneducated Chiefs and villagers. The Administrators then camouflaged their interests in the matter by juxtaposing the 'noble savage' to the unprincipled 'scholar' who was no longer a native but merely a 'counterfeit European'. Even the joint venture of the chiefs and the educated elite in the Constitution of the Fanti-Confederation of 1871 was characterized by the colonialists not as an instance of the solidarity between the two groups but rather the evil influence of educated 'scoundrels' over 'misguided' chiefs.[63]

Yet it was the colonialists who had gathered the various African peoples together under one administration in the Gold Coast uniting Fanti and Ashanti and including the Northern Territories as well. The chiefs could only represent those Africans who were from their respective areas. A non-traditional basis of leadership, then, was necessary for a non-traditional grouping of peoples. The elite stepped into the vacuum created by the changed circumstances.

Rights of the Non-Traditional Elite

Kimble comments that it was "inevitable that education should carry with it a claim - even if strictly non-traditional - to enhanced status within the community."[64] In fact, an A.R.P.S. petition as early as 1891 "set forth a definite claim to leadership on behalf of the educated Africans."[65] Kimble argues that within this very small group of about 200 Gold Coast Africans, there were "several men of high calibre and if their right to leadership was rejected, certainly there was no one else who even claimed to represent the interests of the African population generally."[66]

The right of the educated elite to represent the African people could not be justified with reference to tradition, for they had no position within the traditional framework. Instead, they asserted "their right to national leadership simply because they were educated."[67] They claimed that they could best represent the masses, who after all make up the bulk of the community, precisely because they were most qualified to do so.

Sarbah argued that it was their education which gave them greater insight into political issues. Their informed opinions helped to shape public opinion generally.

> ... for all practical purposes, definite public opinion about the acts of government and legislation emanates from the educated classes... whenever the untaught masses study and examine political questions... they gain a great deal of their knowledge and ideas from what their privileged educated brethren tell them.68

Therefore, Sarbah goes on to conclude that, "It is natural to expect the opinions of this class to gain force and weight as time goes on and to become prominent at last".[69]

Hayford argued that their prominence was already evident in another area: the economy. The educated class contributed heavily to taxation and therefore had a "right to ask /for/ a voice in the disbursement of the money that is derived from taxation."[70]

> After all who buys the motor cars, the patent boots, the high collars, the fine shirts, who builds the fine houses?[71]

The educated elite had gallantly fought the colonialists to preserve the customary rights of their people. But the defense of traditional rights could not cope with the problem of representation on a national or supra-national scale. Arguments confined to cultural nationalism and aboriginal rights limited the African to his ethnic group and bound him in an exclusive loyalty to his traditional leader. With eyes on wider horizons, the educated elite shifted ground slightly. Alongside aboriginal rights, certain

rights which were common to mankind were claimed by the Africans in their relationship with the British.

> We claim, in common with the rest of mankind, that taxation without representation is a bad thing, and we are pledged, as all free people have had to do, that in our several communities the African shall have that common weapon for the protection and safeguarding of his rights and interests, namely, the franchise... by our vote, we shall determine by what laws we shall be governed and how the revenues which we help to put together shall be utilized.72

The broader perimeters of history necessitated a broader theory on which to base rights. It was argued that the African's right to rule himself did not disintegrate once one reached the traditional ethnic territorial boundary. The demand for full control of internal affairs did not only mean non-interference with traditional customs, it also meant that those Africans qualified to do so, should play a greater role in the colonial administration.

The rights of the aborigine merged with the rights of the race once the injustice fought was the racial prejudice of the colonialists which denied qualified Africans a place in the administration of their own country. The educated elite argued for the right of Africans to take up appointments in the West African medical service, the civil service and as judges.[73] The Africans deplored the injustice of the

current situation where Africans were barred from advancement merely because of skin colour. They demanded equal rights and equal opportunity, a civil service examination connected with West African appointments and an end to the anomaly where "a blackman, however well educated and whatever his merits, is relegated in rank, salary and emoluments, to an inferior position to that of a European."[74]

This move of the educated elite to try to infiltrate the machinery of the colonial government and to organize on a supra-national scale in the National Congress of British West Africa, for every right of free citizenship within the British Empire[75] was what brought down the condemnation of the chiefs upon their heads. Sensing themselves displaced by their one-time advisors, the chiefs tried to pull the educated elite back to a mere preservation of aboriginal rights. The traditional rulers saw their positions undermined once the ideas of cultural nationalism began to be transformed into an incipient political nationalism with a call to the common right to self-determination.[76]

Yet, at this stage, the interpretation of the 'right to self-determination' still retained echoes of the Fanti Confederation. The right that was demanded referred to the right of a people to freely

determine under which protecting power they wished to live. Just as the grievance of the Fanti's in 1871 had been the transfer from the British to Dutch 'protection' without consultation, the proto-nationalists protested the partition of Togoland between the French and the English and the handing over of the Cameroons to the French government without reference to the wishes of the people as a denial of their "right to self-determination."[77]

Here we can plainly see that the claim for the 'common rights of mankind' was not made without reference to African history. Africans had always been aware of their rights and did not hesitate to fight for them. Sarbah pointed out that history shows that "the natives did not tamely submit to any oppressive measures, whether from the Dutch, Danish, or English."[78] The movement from the defense of traditional rights to a call for common rights did not mean that the educated elite had abandoned its reliance on African customs as the basis for its arguments. Hayford may have argued against Ofori Atta for his right to speak as an individual but he did so within the context of African customs. It was his right as an individual aborigine[79] that he asserted both against the chiefs and the British administration.

Since the British denied individuals their rights as aborigines ostensibly because of the alleged inferiority of the race, the proto-nationalists used this idea of the rights of an individual as an aborigine and added to it the rights of the aborigines as a race. They also carried the argument one step further to the rights of the race as a nation.

Rights of a Nation

The African population generally, it was argued, constituted a nation. The boundaries were as yet unclear. The Gold Coast itself was in a state of flux. Perhaps the 'nation' contained all the British colonies of West Africa. At times, the term 'African Nationality' was used to encompass all members of the race wherever they might be found, all over the world. In each case, the nation was made up of African peoples and whatever its limits, it had rights as a nation, or should have them, according to the African writers of this period.

The Rev. S.R.B. Attoh Ahuma, in 1911, argued that the Gold Coast was already a nation, a nation within the British Empire. He demanded "the common rights, privileges and status of nationality",[80] for the Gold Coast peoples as a unit. He felt that a nation

already existed, but national consciousness needed to be forged. Once united as a people, they could act "to save the country, to develop its resources, to maintain its rights and privileges and to advance its interests."[81]

Just as it was the educated elite who would lead this nation, it was the proper kind of education that would develop a "national character racy of the soil."[82] Aware that it was not the most promising or brillant students but those whose parents or guardians had the means to send them to Europe who were given the opportunity to enrich their knowledge, Sarbah lamented the loss sustained by the race and the nation.[83] The importance, then, of a system of "national education"[84] could not be overemphasized. But according to Sarbah, suitable education meant "something better and higher than the mere passing of the low standards in elementary subjects set by West African Boards of Education."[85] Hayford remarked that, "Experience has taught us that it is oftener than not, the half-educated African who is deafricanized rather than the thoroughly educated African." The elite wanted the African to be 'trained by the African with an African outlook'[87] and demanded the early foundation of a British West African University.

Meanwhile, Hayford spoke of the defense of "national rights and national integrity".[88] He argued that Africans must not stop at West African Unity, but must pursue "an African nationality which will tend to focus world opinion upon African interests generally."[89]

Unity with Africans of the diaspora was encouraged. Resolutions sent from West Africa and from Marcus Garvey's U.N.I.A. to the Versailles Peace Conference were reported in the Gold Coast as signs that the "Negro peoples throughout the world are demanding, not as a favour but as a right, their place among the Nations of the Earth."[90]

Race and nation were sometimes used interchangeably in the writings of this period. Sarbah spoke of "the doctrine of individualism or distinct characteristics of each nation or race."[91] The status of nationhood was demanded as a right of the race by African peoples whether or not their nations had the attributes of European nationalities, such as common language or common customs.[92] The denial of their right to full nationhood was seen as a racial slur because it was accompanied by an argument which declared Africans to be 'unripe' for independence. To the proto-nationalists, Africans were as 'ripe' as any other people for internal self-government. Presumably

referring to Canada and Australia, Hayford said he would rather not believe that the British would reserve the right of free citizenship within the British Empire for "those English-speaking colonies whose populations are nearly or wholly white."[93] Instead, he believed that the British would yield to the 'logic of facts' and grant full representative government to African nations or risk losing them as they did the American colonies.[94]

Africans were demanding a right in common with all other human beings, the right to self-government or full control over internal affairs. Beginning with the defense of ancient aboriginal territorial rights, their message was clear: it is our land, our country, our nation and all these bear the distinctive stamp of the race. Africa's own history and its traditions contained the seeds of good government and there was no need to wait until 'the wisdom which took Europe centuries to acquire was crammed into the heads of the Africans.'[95] An embryonic form of African nationalism had been conceived and would come to full fruition all over the continent in the 1960's.

Human Rights

The proto-nationalists did not use the term 'human rights'. Instead, they focused on the ancient

rights of the aborigines as distinct from the acquired rights of the foreign intruders. However, they did claim that these rights of Africans were found in the specific traditional cultures of the people and at the same time existed as rights which were 'common to mankind'. Rights which are shared, which apply to all alike, which are held in common by all human beings are rights which can be included in the category of 'human rights'.

The defense of African traditions developed into a political weapon to be used against the Europeans. It was with reference to traditional cultures that Africans demanded their property rights and their rights to representation in the emerging nation states. It was argued that all of these rights were embedded in African institutions. They were claimed not only because Africans were human and as such had the same rights as Europeans but also because there was ample evidence to prove that such rights existed in the traditional societies of Africa.

But the colonialist remained unconvinced by this line of argument. Instead, the European incorrectly assumed that once the educated elite began to use phrases like: 'no taxation without representation' and the 'right to self-determination', that the

Africans had ceased to present an African point of view and were employing European concepts learned during their studies abroad.

The speeches of Sir Hugh Clifford, one time Governor of Nigeria as well as the Gold Coast, attest to such an attitude. He emphatically stated that democratic self-government was a conception of Greek origin and insisted that "it must be regarded as the distinctive fruit of European and in a special degree, of British political genius..."[96] He chided those members of the educated elite who believed that they could 'represent' the African masses and described the attempts to do so by the N.C.B.W.A. as 'farcial'. These people, he considered to be:

> ... a handful of gentlemen... who... have peacefully pursued their studies under British teachers, in British schools, in order to enable them to become ministers of the Christian religion or learned in the laws of England, whose eyes are fixed, not upon African native history or tradition or policy, nor upon their own tribal obligations and duties to their Natural Rulers which immemorable custom should impose on them, but upon political theories evolved by Europeans to fit a wholly different environment, for the government of peoples who have arrived at a wholly different stage of civilization.97

The 'different stage of civilization' referred to here was of course a much lower one than that already reached by the European, especially the British. As long as this inferior position was accepted,

Clifford, for one, was happy to allow the Africans the right to retain their culture. A truly 'Backward's Movement' which kept Africans in their place as a subject race was the interpretation of cultural nationalism which the colonialist could accept and even promote as the "natural expressions of their innate political genius".[98] But a retreat from a European mode of life and a 'return' to African life and customs accompanied by agitation for greater political control over their own affairs meant a "recrudenscence of savage superstitution accompanied by universal lawlessness."[99]

Obviously, the Africans did not agree with these sentiments. Their call for the "common rights of mankind" was made precisely because the specific rights demanded were not alien but common. They existed everywhere, in African culture as well as in European culture. These rights were not different from the experiences of the Africans but similar to what they had always known.

Learned not only in the laws of England, but also in their own customary laws, men like Sarbah and Hayford demonstrated that the councils of the 'Native State System' were a democratic form of government where every adult male had the right to be represented. The

African people had the right to choose their own leaders, their kings were not born kings, and indeed the "authority of the rulers was derived from the sovereign will of the people."[100] Therefore, when the Africans condemned the practice of 'taxation without representation' and demanded their rights to decide for themselves how their money should be spent as well as a right to vote into office the people they believed would safeguard their numerous rights and interests, they were actually agitating for rights they shared with all mankind. Since these rights could be traced back to traditional African political practices they could not be denied the African on the basis that he was 'not yet ready' for such rights. It was only the long established rights of the African people vis a vis their leaders, be they Chiefs or British administrators which the elite claimed as being "common to all mankind."

Africans shared with the rest of mankind not only a desire to be free but the past and future development of institutions which promoted freedom and protected liberties. The Europeans were distorting the natural development of such institutions by wiping out all semblance of African character and replacing it with a wholly European design, completely under European control. If Africans were given back

control over their own affairs this trend towards the destruction of their 'individuality' or 'nationality' would cease.

The proto-nationalists, then, argued for rights which Africans shared with all other human beings. These rights can be summed up as the right to fully develop one's individual character. This right entailed not only the cultural rights of the race which was carried over from the early cultural nationalists but must necessarily include the political rights of the nation. Back to Horton and down to Nkrumah and other nationalists of the post-world war two period, an African concept of rights was developed as a collective response to the injustices suffered by the Africans at the hands of the Europeans. These experiences of oppression led to a call for complete emancipation from all forms of European control over not only the bodies and souls of Africans, but their lands and nations as well.

NOTES

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10. Kimble, op. cit., p. 375.

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14. Ibid., p. 138.

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19. Hayford, op. cit., p. 44.

20. Ibid.

21. Ibid., p. 45.

22. Kimble, op. cit., p. 332.

23. Ibid., p. 332.

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25. Kimble,op. cit., p. 345.

26. Sarbah, op. cit., p. 133.

27. Hayford, op. cit., p. 33.

28. Sarbah, op. cit., p. 22.

29. Ibid., p. 20.

30. Hayford, op. cit., p. 126.

31. Sarbah, op. cit., p. 33.

32. Ibid.

33. Ibid., p. 22.

34. Ibid., p. 87.

35. Ibid., p. 85.

36. Ibid., p. 260.

37. Hayford, op. cit., p. 129.

38. This phrase reads like a refrain in petitions and protests of the period, Kimble, op. cit. p. 338. See also Sarbah, op. cit., p. 88.

39. Hayford, op. cit., p. 354.

40. Ibid., p. 226.

41. Sarbah, op. cit., pp. 74-75.

42. Ibid., p. 88.

43. Ibid.

44. Ibid.

45. Ibid., p. 108.

46. Hayford, op. cit., p. 315.

47. Sarbah, op. cit., p. 115.

48. Ibid., p. 87.

49. Ibid., p. 114.

50. Ibid.

51. Hayford, op. cit., p. 211.

52. Sarbah, op. cit., p. 151.

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56. Robert W. July, The Origins of Modern African Thought: Its Development in West Africa during the Nineteenth and Twentieth Centuries (N.Y.: Praeger, 1967) p. 451. (my emphasis)

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59. Kimble, op. cit., p. 89.

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66. Ibid.

67. Ibid., p. 396.

68. Sarbah, op. cit., p. 239.

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72. Sampson, West African Leadership, op. cit., p. 68.

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84. Ibid., p. 252.

85. Ibid., p. 248.

86. Sampson, West African Leadership, op. cit., p. 73.

87. Ibid.

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89. Kimble, op. cit., p. 550.

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92. Ahumah, op. cit., p. 1.

93. Hayford, op. cit., p. 127.

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98. V.B. Thompson, Africa and Unity: The Evolution of Pan-Africanism (London: Longman Group Ltd., 1969) p. 47.

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CHAPTER VII

AFRICAN IDEAS VERSUS WESTERN IDEAS OF HUMAN RIGHTS

The early modern African writers whose works we have just investigated, used rights as claims to be treated in a manner which is equal to the treatment of any other member of the human race. Their emphasis was therefore on equality of rights. Although freedom from injustice, oppression, exploitation and domination were all important aspects of their ideas of human rights, their major point was the insistence on equal treatment. Africans as a race, should have the same rights as all other human beings. The white man could not have rights which his African counterpart did not have as well.

It was the rights of the Negro race as a collective entity vis a vis the Caucasians that were asserted by the African thinkers. This conflict of rights, this denial of the rights which whites had assumed over blacks, was behind all the discussions of human rights by Africans examined here. The whites had no right to enslave the black man. They had no right to underestimate the ability of the black man to develop. They had no right to attempt to 'civilize' the black man. They had no right to stamp out the African heritage. They had no right to the African's labour, his soul or his

land. They had no right to rule his country. If the African was the equal of the white man then the whites must be stripped of all such rights which imply a position of superiority.

Is this idea of equality of rights a European idea, imported to Africa by the humanitarian segment of the Western population? Underlying the question itself is the assumption that Africans cannot think for themselves. For it is only if no ideas existed before the European came to fill the vacuum that the African must 'borrow' the idea of equal human rights from the West. But if we honestly accept racial equality, we must also accept that political thinking is as old as human society itself. All the more reason that we had to begin our search for an African concept of human rights in Africa before there was any contact with Europe, in the ideas and practices of the traditional societies of Africa. In chapter two, we examined the existing literature but could not find Western ideas of human rights based on equality before a Christian God in traditional African societies. Yet, why should we even look for such an anomaly? We could find ideas of rights, however; but those ideas of rights were based on the kinship categories of traditional African societies and did not stress the equality of

men in terms of individual rights to be treated all alike. So, we cannot say that we found either European or African ideas of human rights but only the precursors or forerunners to the modern idea of human rights in Africa.

If we reject western claims to racial and cultural superiority and recall that human rights is a political concept which has developed over time, we realize that a similar distinction can be found in any detailed examination of the history of the idea of rights in the West.

History of the Western Concept of Human Rights

Westerners usually trace their cultural heritage to ancient Greece, but cannot, although some try, trace human rights to that source.[1] David Miller categorically states, "The Greeks... lacked our concept of a moral or legal right".[2] Yet, the story of Antigone, who defied the order of a tyrant to leave her brother unburied is often given as the earliest example of the idea that the individual has rights (in this case to a proper burial) according to a natural law which transcends human decrees.[3] However, Ritchie pointed out that Aristotle referred to this case as an example where

an appeal is made to custom and traditional religious beliefs and not to a nature which is higher than all human institutions.[4]

Appeals to custom and tradition are not equivalent to appeals to natural rights. Natural rights actually challenge custom and tradition in the name of nature. Custom will vary across societies (not every community buries its dead) and what is natural is supposed to be universal in the sense that it applies to all equally. More importantly, custom often divides even members of the same society into categories each with its own rights or claims to be treated in a particular manner. Mbiti's discussion on death in traditional African societies makes it plain that custom decrees that one's right to a proper burial depends upon one's status in the community. An extreme example is provided by the Batoro who beat up the dead body of an unmarried person "with a thorny bush to show that he deserves no respect in the eyes of society."[5] Clearly, the idea of natural rights is far from the idea of customary rights.[6]

In the West, the idea of human rights is considered to be a distinctly modern concept and earlier conceptions of rights bear only a faint resemblance to later theories of natural or human

rights. Those with knowledge of the history of natural rights in the West make no serious claims to suggest that these early ideas of rights were applicable to all members of society. Instead, it is recognized that even the classic examples of the Magna Carta, The Golden Bull of Hungary and the Kings Chapters of the Swedish Country Laws were actually declarations of certain privileges demanded by the aristocratic classes from the crown.[7] Because these rights or privileges were always restricted to a small group, they are considered to be only the forerunners of the idea of human rights. Once it is accepted that all men are born free and equal with natural rights, then this idea of equal rights actually contradicts the idea of selected privileges. The real origin of human rights, in the West, is the theory of the natural rights of man which did not arise until the seventeenth century in Europe.

The theory was expounded by John Locke, popularized by Thomas Paine and played a major role in the American and French revolutions, but Ritchie argues that Puritan England "produced the theory of natural rights."

> The theory of natural rights is simply the logical outgrowth of the Protestant revolt against the authority of tradition, the appeal to private judgement, i.e. to the reason and conscience of the individual.[8]

Natural rights, then, is the appeal to the natural equality of mankind as common descendants of Adam and Eve. Thomas Paine refers to "the divine origin of the rights of man at creation."[9] He argues that each child born is created anew by God with the same rights as the first man. This conception of natural rights is a turning away from the historic rights of a people, towards a claim to rights by nature or birth alone. In its full grown state, the idea appears to be detached from history even when it is a product of historical circumstances.

The earlier natural law doctrines which preceded the theory of natural rights in Europe were fundamentally different because they placed moral limitations on the existing government not in the name of the equal rights of the individual but in the name of God or Nature which was equivalent to what was good or right.[10] Traditional African societies also limited the powers of rulers primarily through sanctions which had a religious basis. But equal individual rights to life, liberty and the pursuit of property were not considered good or right in the West until people began to question the 'naturalness' of the feudal order.

Feudal traditions which attach privileges to positions according to birth were attacked by the idea of universal natural rights of individuals. However, the claim to universality of the western idea can be seen to be only nominal. With private property at its base, the western theory of natural rights actually reserves even its rights to life and liberty for those who are men of property.[11] Louis Henkin admits that these rights were originally the rights of gentlemen and not the rights of men generally.[12]

In this sense, even these 'universal' individual rights are also the rights of particular groups. The real difference between the premodern ideas of rights in the West and theories of natural or human rights is that for the latter, the equality of the human race becomes the new justification for the rights of man. In practice, however, the particular content of the rights relates to the interests of an emerging new class in western society.

From our investigations, we can see that the African concept of human rights runs a parallel course to this history of the Western concept. Early formulations of rights in traditional African societies were also privileges or powers of

aristocratic classes in the centralized societies. The non-centralized societies had more equalitarian ideas about rights in comparison; but even there, rights were distributed according to age, sex and position in a well-defined kinship structure. The major challenge to time-honoured privileges ultimately came from the new class of Africans which emerged as a result of the impact of Western forces. But before this group could attack the inherited rights of chieftancy, a united effort was required to combat the threat to the rights of all Africans which came from the West. It was the reluctance of Europeans to concede humanity to Africans that first necessitated a struggle between the two racial groups for the recognition and realization of the human rights of Africans.

Ideas of human rights are generally expressed in the negative as a reaction against injustices perpetrated upon a people. The gross injustice of the European rape of the continent begat the cry of Africans that they too were human and as such deserved equal treatment with whites. Frantz Fanon put this ideas succinctly and forcefully:

> I find myself suddenly in the world and I recognize that I have only one right alone, that of demanding human behaviour from the other.13

It was the experience of the inhuman treatment accorded to their race in its contact with the West that gave rise to the need for Africans to begin to consider rights in terms of human beings generally.

Rights of the Slave Traders and Owners

If there is still any doubt that ideas of human rights expressed by Africans can be attributed to their experiences of oppression instead of a 'borrowing' of western concepts, we need only to look at another opposing idea of rights which had been developed in the West. Alongside a progressive doctrine of human or natural rights in the West is the history of another conception of rights which directly opposed any admission of rights for Africans. The right to trade and own Negro slaves is a western concept with an ignominious history.

It begins in 1493 when two Papal Bulls were issued which gave Portugal exclusive trading rights in the whole African continent.[14] By 1517, the Asiento, an import license giving the bearers the right to supply the Spanish colonies with Negro slaves, was first granted by Charles V. of Spain to one of his favorite courtiers.[15] This man sold the Asiento to a group of Genoese merchants who acquired their shipments of slaves from the Portuguese.

This right or privilege "became one of the most highly coveted and bitterly contested plums of international diplomacy", according to Williams.[16]

In 1698, "The right of free trade in slaves was recognized as a fundamental and natural right of Englishmen"[17] and the Royal African Company lost its monopoly in this lucrative endeavor. The English felt so strongly about this right that there was general rejoicing in the country in 1713 when the Asiento was conceded to England.[18]

Even after the passing of the Abolition Act in Britain in 1807, the trade in slaves continued. These strictly illegal activities were often referred to as the 'romantic' period of the trade, when gallant buccaneers defied the "despotic Act to curtail free trade among nations."[19]

In the seventeenth century, the right to own slaves was virtually unquestioned.[20] Even as late as the 19th century the rights of the slave owner as well as the rights of those countries which relied on slave labour were still not to be denied, violated or questioned. Williams notes Lord Wynford's opinion that the elimination of the right to own slaves would mean the end to all property rights. A state of affairs which could only be described by

the good Lord with the exclamation, "God Forbid!"[21] The "Just rights of the West Indian possessions" were also being constantly declared! Meanwhile, the right of the imperial parliament to legislate on their internal affairs was questioned and challenged by the West Indian planters.[22]

The United States had fought the War of 1812 for its rights vis a vis Britain and refused to aid her imperial majesty's attempts to prevent the traffic in slaves on the high seas by allowing her a 'right of search' of American vessels. On Nov. 2, 1818, John Quincy Adams, then Secretary of State of the U.S. later to become its President, wrote in a letter:

> The admission of a right in the officers of foreign ships of war to enter and search the vessels of the U.S. in time of peace under any circumstances whatever would meet with the universal repugnance in the public opinion of this country.23

The willingness of the U.S. authorities to help those Africans who were illegally being transported to be sold as slaves was restricted to activities which would not jeopardize the rights of the U.S. Adams sent four U.S. warships to West Africa to patrol but considered that "admitting the right of search by foreign vessels... would be making slaves of ourselves."[24] This conflict of rights, then, was

solved in the following manner: better for a few more unfortunate Africans to be real slaves than for any Americans to be made slaves in a mere figurative sense.

Any notion of the "inconsistency of slave owners talking of rights and liberties was dismissed as the 'clamour of ignorance' by Hamden. "Look to history, /he said/ you will find that no nations in the world have been more jealous of their liberties than those amongst whom the institution of slavery existed."[25]

Did those segments of the West who accepted these ideas of rights just enumerated believe that the slaves had any rights? Manrix quotes M. Tarver of Mississippi as seriously suggesting that the southern U.S. should establish its own cotton mills operated by slave labour. Slave labour was preferable to free labour because the slave had "no right to prescribe the hours for working... and they would have no right to leave employment at leisure." This lack of rights of the slave made him a superior "species of labour" to the Irish and German immigrants of the North.[26]

British intellectuals like Colderidge were 'strongly opposed' to frequent discussions of the 'rights' of the Negroes, who should be "taught to be thankful for the providence which has placed them within the reach of the means of grace."[27] Others had a more 'charitable' view. The Negro slave does have one right, according to Carlyle, "an indisputable and perpetual right to be compelled to do competent work for his living."[28]

These are all examples of western ideas of rights. They are ideas which the African writers refuted with their own ideas of their rights as human beings.

Plurality of Western Ideas

Hountondji cautions against the failure to recognize this plurality of ideas in Western history. He says, "When we speak of western civilization, we may not be clear what we are talking about and there is a danger that we will confuse currents that are opposed and irreconcilable".[29] The characterization of Western civilization as a unitary civilization which can serve as a yardstick to measure other cultures, is labeled ethnocentrism by Hountondji. He argues that "this attitude had its heyday in the second half of the nineteenth century and is

historically linked to colonialism."[30] The imaginary nature of a single unified Western civilisation should be enough to dislodge the idea of its inherent superiority. To truly reject ethnocentrism or cultural imperialism, is not to reject all ideas which may appear similar to western ideas. It is to reject the over-simplified version of Western culture which reduces it to a unified whole.

At any particular time period, conflicting and opposing ideas of rights exist simultaneously in the West as elsewhere. The ideas which are chosen to pass on to posterity are those which reflect the changing historical circumstances which gave rise to the ideas in the first place. Williams argues convincingly that the humanitarian sentiments of the abolitionists gained wide acceptance only because the slave trade and slave based production were no longer as profitable as they had been in the past.[31] As slavery declined as an economically viable institution the ideas supporting it also waned. Natural or human rights ultimately triumphed over the rights of slave owners in the West.

In the meantime, Africans began to develop their own ideas of their rights as humans in response to the inhuman treatment perpetrated upon their

people by the Westerners. Instead of feeling proud of the so-called western origin of human rights, people of the West should accept responsibility for the barbarous conditions which first created the need for a concept of human rights among the Africans.

Individual Rights Versus Collective Rights

It was the rights of collective entities primarily the racial group, which the African was asserting when he demanded the equal treatment of all members of the human race, including Africans. The need for racial emancipation began with the demand to abolish slavery so as to restore to Africans their equal rights to liberty. It continued with arguments in favour of cultural rights primarily in the educational and ecclesiastical spheres. The demand for equal political rights started with declarations of the sovereign rights of traditional rulers, moved through demands for rights to equal participation in the colonial administration of African territories and ultimately led to the position of the rights of the African nations to equal status with other nations in the international system.

The fact that Africans viewed human rights from a collective perspective rather than an individual basis ought to be enough to distinguish African ideas from European ones and to indicate the existence of a separate theoretical tradition for African ideas. It must not be forgotten that despite the Wilsonian doctrine of self-determination, the United Nations Declaration of Human Rights does not include a right to self-determination. It is a declaration of individual rights. Individuals are considered to be "born free and equal in dignity and rights",[33] but the acceptance of "limitations of sovereignty" found in the Declaration means the acceptance of the unequal status of certain territories. Of course, this need not or even must not excuse denials of rights to <u>individuals</u> in dependent areas. Discrimination against individuals on any basis, including the "political, jurisdictional or international status of the country to which a person belongs",[34] is condemned by the Declaration.

It was not until Dec. 14, 1960, nearly twelve years to the date of the adoption of the Declaration of Human rights, that the omission of a right to self-determination was corrected by the Declaration of the Granting of Independence to Colonial Countries

and Peoples. This declaration stated as its first principle: "The subjection of people to alien subjugation, domination and exploitation constitutes a denial of fundamental Human Rights."[35] Article two of this declaration later becomes the first article in the two International Covenants formulated in 1966 to give effect to the Universal Declaration of Human Rights. Both the Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights begin with the words: "All peoples have a right to self-determination: by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development."[36]

It is significant but not surprising that it was not until there was some input from the Third World that the collective right to self-determination was accepted as a universal human right. Shivji is correct when he argues that an historical approach to human rights in Africa would give pride of place to the right to self-determination and the fight against imperialism.[37] We have demonstrated that earlier ideas of human rights in the African tradition of social and political thought lead up to the collective demand for independence of the African peoples from the chains of foreign domination. The

writings of African leaders like Kwame Nkrumah and Julius Nyerere on the right to self-government stem not from their education abroad, but from a historical process of revolt against European control beginning as early as the establishment of contact with the West.

It is important to recognize that the collective nature of the African perspective on human rights does not preclude the existence of individual rights. The collective right to self-determination as well as 'third generation' rights to peace and development are exceptions to the rule that the rights of a group, usually the society or the state, obliterate the rights of the individual.[38] The Africans were arguing for the collective rights of one racial group against the collective rights of another racial group. They were not opposing or submerging the rights of the individual to the rights of the group.

Africans rejected the Western conceptions of individual rights which were imbued with ideas of racial superiority and inferiority and opposed to them ideas which proclaimed the equality of man. There is no reason to call these ideas, expressed by Africans, Western. They are not alien ideas, but ideas generated by the historical experience of

Africans. William Abrams reminds us that it is not necessary for African ideas to be unique to Africa.[39] As long as they have been developed within Africa or at least by Africans themselves, that is all that is necessary to consider them to be African ideas.

African ideas of human rights are the ideas of Africans who have declared equal rights which are claimed on the basis of membership in the human race. The works of Africans like Equiano, Horton, Blyden and Hayford all provide us with the raw materials with which to examine such ideas in detail. These ideas began as a result of the relationship with the West, not because Africans needed Europeans to teach them the idea of humanity, but because it was Europeans who taught Africans what it meant to be treated as less than human.

Once formulated in opposition to Western practices, Africans continued to use a concept of human rights in a manner which diverged from the western understanding of the doctrine. The African writers examined here all declared their human rights as Africans and spoke from a racially collective perspective in response to racial oppression. This reactive nature of ideas of human

rights was not restricted to the thought processes of the African. Western ideas of human rights were also determined by historical circumstances as indeed are all social and political theories. The recognition of this fact highlights the equal value of Western and African traditions of ideas of human rights.

Our examination of social and political ideas in Africa has served to show that their inspiration comes from the changing circumstances of the African and does not entail any 'borrowing' of western concepts. When the real origins of modern African political thought are examined, the writings from the diaspora as well as the knowledge of traditional culture, there can be no doubt that the ideas are indigenous. They spring from African soil and represent an African point of view.

NOTES

1. For a brief overview of the history of the western concept of rights, see Richard P. Claude, "The Classical Model of Human Rights Development." in Claude, Comparative Human Rights (Baltimore and London: John Jopkins University Press, 1976), pp. 6-50. This article is good except for his mistaken comments on Greece in the preface to the book. For this period, see P.J. Rhodes, "A Graeco-Roman Perspective" in F.E. Dorwick, Human Rights, Problems and Perspective, (Westmead: Sazon House, 1979) pp. 62-77. For more detailed discussion on the idea of natural rights in the West, see David G. Ritchie, Natural Rights: A Criticism of Some Political and Ethical Conceptions (London: George Allen and Unwin Ltd., 1894) and Leo Strauss, Natural Right and History, (Chicago: University of Chicago Press, 1953).

2. David Miller, Social Justice (Oxford: Clarendon Press, 1976) p. 3.

3. Claude, op. cit., pp. 3-4.

4. Ritchie likens Aristotle's suggestion: appeal to the law of nature and quote the Antigone of Sophocles, to this modern contemporary bit of advice, "No case: talk about the law of nature," is a more lofty suggestion than "No case: abuse plaintiff's attorney," but is equally a rhetorical device. Ritchie, op. cit., p. 31.

5. John S. Mbiti, African Religions and Philosophy (London: Heinemann Educational Books, Ltd., 1969) p. 141.

6. The distinction between natural rights and customary rights is belaboured by Edmund Burke in Reflections the Revolution in France, his response to Thomas Paine's Rights of Man. For a good summary of Burke's position see Jack Donnelly, The Concept of Human Rights (London: Croom Helm, 1985) pp. 61-88.

7. Claude, op. cit., p. 8.

8. Ritchie, op. cit., p. 10.

9. Ibid., p. 6.

10. See the introduction by A.P. D'Entreves, ed., to Aquinas Selected Political Writings (Oxford: Basil Blackwell, 1965) and Jack Donnelly, "Natural Law and Rights in Aquinas' Political Thought" Western Political Quarterly 33. 1980. pp. 520-535.

11. Joy Hendrickson, "Human rights: Fundamentally for Whom?" Nigerian Journal of Political Science, Vol. IV, Nos. 1 & 2, 1985, pp. 134-147.

12. Louis Henkin, "Economic-Social Rights as 'Rights': A U.S. Perspective" 2 HRLJ (1981) pp. 227.

13. Frantz Fanon as quoted by L. Adele Jinadu, Fanon: In Search of the African Revolution, (Enugu: Fourth Dimension Publishers, 1980) p. 149.

14. Daniel P. Mannix, Black Cargoes: A History of the Atlantic Slave Trade 1518-1865. (N.Y.: Penguin Books, 1962), p. 3.

15. Ibid.

16. Eric Williams, Capitalism and Slavery (London: Andre Deutsch, 1944) p. 33.

17. Ibid., p. 32.

18. Ibid., p. 4(.

19. Ibid., p. 138.

20. Mannix, op. cit., p. 171.

21. Williams, op. cit., p. 133.

22. Ibid., p. 199.

23. Mannix, op. cit., p. 205.

24. Ibid.,

25. Williams, op. cit., p. 199.

26. Mannix, op. cit., p. 268.

27. Williams, op. cit., p. 195.

28. Ibid., p. 196.

29. Paulin J. Hountondji, African Philosophy, (London: Hutchinson & Co., 1983) p. 156.

30. Ibid.

31. Williams, op. cit., p. 34.

32. European critics of human rights tend to attack the excessive individualism of the western version. Besides a quarrell over the possible meaning of nature and natural, the individualistic aspect of natural rights is Ritchie's main bone of contention. Also, it is this aspect of the doctrine which Marx focused on in his criticism of the rights of Man found in his "On the Jewish Question."

33. Ian Brownlie, ed., Basic Documents on Human Rights, (Oxford: Clarendon Press, 1971) p. 108.

34. Ibid.

35. Ibid., p. 115.

36. Ibid.

37. Issa Shivji, "Research on Human Rights in Africa: First Reactions to the Literature", CODESRIA Bulletin, Number 2, 1988.

38. See Jack Donnelly, The Concept of Human Rights (London: Croom Helm, 1985) p. 88, footnote 5.

39. W.E. Abraham, The Mind of Africa, (London: Weidenfeld and Nicolson, 1962) p. 104.

CHAPTER VIII

IS THERE AN AFRICAN CONCEPT OF HUMAN RIGHTS?

The argument has been made in chapter I that all ideas of human rights are the reactions of human beings to perceived injustices. Therefore, Africans have as much right to their own understanding of the term as Europeans have, despite the 'universal' nature of the sentiment which gives rise to expressions of human rights. Chapter II has then examined traditional ideas of rights in Africa and has concluded that these can be seen as precursors or forerunners to the idea of human rights as it is found in modern African political thought. The manner in which selected Africans have used the term rights when writing in the English Language has been examined in chapters III through VI. An African concept of human rights has therefore been determined according to their understanding of the term. Chapter VII has compared the African concept with the European version of human rights and concludes that the African idea is distinct and emerges from the African experience.

Critical Review of the African Writers

But can the ideas of all the authors chosen accurately be labeled 'African' ideas of rights? We think not. We need to exclude the ideas on rights of

Sancho and Crummell from our picture of African ideas of rights. We also need to be cautious regarding the printed throughts of Cugoano.

Despite Ogude's characterization of Sancho as the 'unified symbol of all blacks', 'the intellectual pivot of black consciousness', 'the artistic and intellectual spokesman for the black man,' we are forced to admit that his use of the term rights in his works is more of an indication of his through "grasp of English social habits."[1] Sancho's ideas on rights must be seen as expressions of an English cultural tradition and not as examples of African ideas. There is no African context to Sancho's use of the term rights, there is no connection with his African origins. Despite Sancho's continued identification with Africa, we must conclude that he has no specific contribution to make to our understanding of an African concept of human rights.

This conclusion of ours is similar to Hountondji's position on Anton Wilhelm Amo. Hountondji accepts the label of African philosopher for Amo, because the man was and remained an African, but declares Amo's philosophical works to belong entirely to a non-African theoretical tradition. Hountondji therefore, cannot consider Amo's work to be an example of African philosophy.[2] We, however, do consider Amo's dissertation

on the rights of Africans as an example of African ideas of human rights. It is a work written by an African which reflects the position of Africans during a given historical period. However, its contribution to our understanding of an African concept of rights is neglible because the full text is lost.

Cugoano, with his lengthy discourses on the Christian Bible seems to be writing within a European tradition when he declares the 'common rights and liberties of mankind'. Ogude, besides pointing out the lack of literary merit in Cugoano's work shows how much of the so-called eloquent passages derive from contemporary tracts and essays on the 'negro cause.' But Ogue goes on to conclude, "Still if we deny /Cugoano/ the thought, we must grant him the sentiment.[3] Cugoano's work is written within the idiom of liberation movements and righteous indignation. "What is not in doubt", declares Ogude:

> is the sincerity of the anger that produced many passages threatening war and dire consequences to procurer and holder of slaves... men who think that the stealing, robbing enslaving and murdering of men can be no crimes.

Apparently Equiano is also in debt to the English literary tradition. Several works point to the similarities in form between his Travels and other

fictional autobiographies of the time, most especially Robinson Crusoe.[5] But the use of the term rights in Equiano's works is clearly a direct expression of the Negro slaves' feelings and opinions. Ogude, claims that Equiano probably saw the publication of his book as "the culmination in his struggle for black rights".[6] While Sancho was the symbol of the black man's intellectual achievements, Equiano becomes the symbol of the black man's struggle for liberty. This Ogude claims, Equiano intuitively recognized when he signed himself The African. To Ogude, the character of Equiano in the Interesting Narative emerges as an expression of the African personality. The book creates a world of imagined deeds of heroism and wish fulfillment.[7] It is perhaps the first deliberate attempt to celebrate black achievement.[8]

Equiano's work begins the tradition of protest literature by Africans in English. He is one of the first to examine the issue of the rights of Africans vis a vis the Whites from the perspective of the African. Horton, Blyden, Sarbah and Hayford all follow in this distinctly African tradition. Indeed, modern African political thought as a whole exhibits a certain amount of continuity. The writings of previous authors are often referred to by later authors. In this way, selected writings constitute a tradition and "reference points for future political discussion".[9]

Ideas of rights within this tradition of African political thought are then African ideas of rights. Ideas outside this tradition are not.

Crummell seems to fall squarely outside this tradition. His insistence that the idea of human rights is an import from the more highly developed West is an explicit denial of any such tradition. Crummell, despite his attacks on the racism of western culture, completely accepted the superiority of western or more specifically English, moral, religious and political traditions. His total adherence to the Providential Design theory of slavery,[10] where those Africans who came into contact with civilization at its height would be freed in order to bring the fruits of such contact back to the dark continent, blinded him to the worthwhile aspects of the traditions of his ancestors who never left the continent.

Crummell's acceptance of the idea that native Africans were barbarians with no rights as a nation was antithetical to Horton's argument for the independence of the various ethnic nationalities of western Africa. Although Horton envisioned the development of a new African civilization based on European norms and disparaged many of the traditional customs practiced by Africans at the time, he argued

that Africans did have political communities and national governments each with its own sovereign rights.

Horton's ideas became the basis for the constitution of the Fanti Confederation which later constituted a 'major reference point' in the continuing discussion of the rights of Africans vis a vis Europeans. Horton, unlike Crummell, must be placed within the tradition of African political thought.

Meanwhile, the cultural nationalists like Blyden realized that the social and political traditions of the Negro race had two sources, neither of which was the English heritage. Blyden encouraged the development of the cultural traditions of the Liberians' unexpatriated brethren. It was a mixture of this traditional African culture with the critical approach of Africans who had learnt first hand of the moral degradation of western culture that constituted the social and political ideas associated with the 'African Personality'.

Hayford was a staunch supporter of Blyden and carried on in this two-fold approach to the African tradition of protest against the encroachment of the Europeans. Although his understanding of African

culture included detailed knowledge of the rights according to customary law of his particular ethnic group, the Fanti, he did not hesitate to think in terms of African unity in response to European usurpation of African rights. He argued for the return of the Asantehene, Prempeh from his exile in Seyschelles despite the historical enmity between Fanti and Ashanti.[11] He would point out the common language and cultural traditions of the wider ethnic group, the Akan, which included both hostile neighbors.[12] His desire for unity on a Pan-African scale was predominantly the reason for the rift of the previous alliance with the chiefs whose rights to represent the African people could not extend beyond their particular ethnic groups.

Men like Hayford, were in a position to go beyond ethnic boundaries and understand African rights in terms of the interests of all people of African descent. His ideas were far-reaching and included racial consciousness, racial reconstruction and racial emancipation. Hayford believed that co-operation and united effort were the only means to achieve such goals. "As there is an international feeling among all white men, among all brown men, among all yellow men, so must there be an international feeling among all black folk. And it is no good pretending otherwise."[13]

man to articulate what most blacks feel, that the fate of the slave was ultimately the fate of the race."[17]

Beginning with the slave trade, Africans started a dialogue with Europe in European languages to demand the emancipation of their race. The rights of the African slave were articulated as the collective rights of a race to be as free as any other racial group. At first, religious arguments were used to support declarations of equality of all men before God. Abolitionists like Cugoano and Equiano argued that Africans were not mere beasts of burden; they were human beings with human rights.

Even as the institution of slavery in the West began to decline, Europeans maintained their image of Black Africans as an inferior race and gradually acquired judical rights and political control over those Africans who remained on the continent. The returnee's and 'recaptives', articulate in the language of the oppressor, continued to decry the European efforts to place themselves above the African. Horton used his medical knowledge to refute arguments of biological inferiority. With equality as his starting point, he argued that Africans could develop their traditional ethnic units into independent modern nation states.

The cultural nationalists also argued for an African or racial nationality but emphasized independence from Europe in educational and religious matters more than political affairs, as the way to assert the rights of the race to its cultural traditions. It was argued that Africans, while equal to Europeans, had distinct characteristics which distinguished them from Europeans. The right to be different was demanded by those who wished to preserve the collective soul of the race, the African personality.

The ideas of the proto-nationalists take us up to the eve of the wave of nationalist movements which once again changed the political map of Africa. This set of ideas marks a transition stage from defensive traditionalism to purposive mass action as a means to racial emancipation. At this stage in African history, a new class of Africans make their first bid for political leadership.

The educated elite claimed a right to lead their people because they were best qualified to represent the interests of the African people vis a vis the colonialists. It was in the interest of the African people to defend the culture and institutions of their ancestors against British ideas of barbarism and savagery; to defend the right of the people to their

ancestral lands against British attempts to confiscate it and defend the right of the people to elect, install and depose their traditional rulers against the British usurpation of those functions.

Clearly, racism had coloured the British reactions to these issues. It was the belief in the superiority of the British and their civilization which led to actions which did not take into cognizance the African's right to their culture, land and institutions. Racial emancipation demanded not only the right to direct local institutions according to traditional customary law but the right to participate in the colonial administration on an equal basis with whites. Africans qualified to hold posts in the administration of the colony should not be barred merely because of colour. The discrimination of blacks even after death in segregated cemeteries on their own soil was an injustice which helped to unify the cause of blacks everywhere.[18]

The rights of the aborigines, the original inhabitants of the land were asserted not only with reference to the specific customary laws of certain ethnic groups but with the rights of all Africans in mind. It was the Africans as a race who originally inhabited Africa, and though some Africans had been dispersed throughout the world, all had rights which

needed to be asserted against the European tendency to view the African as an inferior being, ineligible for human rights. It was the continued emphasis on racial emancipation in the ideas of the proto-nationalists which gives even the specific rights of a particular ethnic group according to its own history of contact with the Europeans and its own peculiar customs, the flavour of a Pan-African outlook. It is not surprising, therefore, that the demand for internal control of political affiars by Africans led to an attempt to unify all the territories of British West Africa.

Once it is realized that the idea of human rights in African political thought is primarily a reaction against European attempts to deny Africans their dignity, respect, and equal rights as human beings, there can be no doubt that with the exception of Sancho, Crummell and perhaps Cugoano's work, the African writers examined here represent an African, as distinct from a European, point of view on the subject matter of human rights. These authors all considered themselves as Africans. African, to them, meant a member of the Negro race. A highly developed consciousness of colour, a consciousness of belonging to a particular race is evident in their writings. This racial perspective is not found in the ideas of traditional African socieities

and is clearly a reaction against western ideas of racial hegemony. The early modern African writers rejected the attempted domination by the white race through a robbing of Africans of their rights and dought for African control over African affairs. They saw themselves as spokesman for the race as a whole and presented what they conceived as a collective point of view of the race.

Class Position

Was this false consciousness on their part? Did they overlook the fact that the various members of the Negro race were not all equal economically? Didn't their own superior class position, vis a vis other Africans, condition their ideas, including their ideas of human rights? Or did they commit class suicide by replacing class consciousness with racial consciousness and identifying themselves with the position of all Blacks who were dominated and exploited by the white race.?

We cannot assume that just because they occupied petty bourgeois or middle class positions that they did not represent the mass of Africans. Let us not find ourselves agreeing with the colonialists' attempts to brand the educated elite as counterfeit Europeans and deny them their African origins. This idea should

be seen as a tactic to deprive the African people of leadership. As we have been arguing throughout this work, the ideas of the African educated elite are African ideas. Hountondji, while emphasizing the importance of the 'position' of the author in determining the true meaning of ideas of human rights, distinguishes two senses of the term position. The first is the author's objective place in a society and the second is his position taken with respect to these objective determinations.[19] So, the individual does occupy a particular position in society but has the capability, the choice, of repudiating that position in order to speak for those less fortunate than himself. Karl Marx and Fredrich Engels did this. Amilcar Cabral[20] and Frantz Fanon[21] indicate the necessity of such a repudiation by the African intellectuals if the liberation of all Africans is to be a reality.

But we need not assume self-sacrifice or the voluntary mass 'suicide' of a class in order to associate the ideas and interests of the African petty bourgeoisie or educated elite in the historical period up to the second world war in Europe, with the interests of all Africans. The demands for equal rights to liberty made by Equiano and Horton, Blyden and Hayford were obviously beneficial to all Africans.

Even if Equiano's fight for the abolition of the slave trade or Blyden's fight for greater control over churches and educational institutions, or Hayford's demand for equal access to civil service jobs and judicial appointments, directly benefitted those segments of the African population who were already in closer contact with Europeans than the peasants in the countryside, these demands opened the way for future benefits to accrue to all Africans because the fight was fought in the name of the race. This racial perspective was necessary given the historical conditions of foreign domination and control by an alien race. Thinking in terms of the race as a whole had an initial unifying effect and submerged differences among Africans based on class position.

Historical circumstances often determine an initial overlapping of the interests of different classes. Marx, when speaking of the bourgeois revolution in France tells us,

> The class making a revolution appears from the very start, if only because it is opposed to a class, not as a class but as the representative of the whole of society; it appears as the whole mass of society confronting one ruling class. It can do this because to start with, its interest really is more connected with the common interest of all other non-ruling classes, because under the pressure of hitherto existing conditions its interest has not yet been able to develop as the particular interest

> of a particular class. Its victory, therefore, benefits also many individuals of the other classes which are not winning a dominant position, but only insofar as it now puts these individuals in a position to raise themselves into the ruling class.22

So long as they remained in opposition to the foreign ruling class of intruders, the African writers were expressing the interests of all Africans. But once this class actually seized power, the situation changed. The right to self-determination had been a moral reaction to the injustice of colonial rule. Unfortunately, the African demand for a right to self-government also expressed the aspirations of the group which would assume power after the colonialists left. Once the revolutionary nationalists had achieved their objectives, they were in a position where they could defend their right to rule against any who might challenge them. Their method was a colonial hangover: preventive detention, or the legal recognition that individuals who disagreed or fell outside their group (The ruling party) had no legal rights to speak against them or even to live as long as they constituted a threat to their hard won 'right to rule' (which could not be alienated from them by so flimsy an act as an election!)

However bleak this development may appear to be, it is important to recognize that it was not an example

of the backwardness of African culture reemerging once the Europeans had departed. Instead, it was merely another example of the 'sword of the revolutionary transforming itself into the shield of the reactionary.'

Once in power, the interests of the ruling class were no longer in tandem with the mass of society. To continue with the quote from Marx:

> Every new class, therefore, achieves its hegemony only on a broader basis than that of the class ruling previously, whereas the opposition of the non-ruling class against the new ruling class later develops all the more sharply and profoundly.23

Therefore, the continuation of a racial perspective and an outer-directed approach to African political thought in the post-colonial period betray a weakness and a failure to face up to present problems and conditions. It was in a dialogue with Europe, in European languages that Africans developed an African concept of human rights. But the need to face Europe in order to challenge its dominant position in the name of all Africans has passed. The time has come for Africans to once again engage in a dialogue with other Africans in order to continue to develop African

ideas[24] about human rights which will reflect the current realities of injustice within the continental framework.

This is not to suggest that injustice has ceased to exist in the relationship between the West and African nations. New ideas of human rights which reflect the continuing unjust economic relationship must be included in African ideas. African students' claim that the imposition of the IMF 'conditionalities' is a denial of their human rights[25] must be taken seriously. But the need for Africans to face internal problems is more acute now than in the past. If African political thought is to continue to enrich our understanding of African problems, it must focus on Africa as it is now, in the 1980's and 90's, not as it was one hundred or one thousand years ago.

Conclusion

Be that as it may, an African concept of human rights can be said to exist because we can see a parallel yet distinct development of the idea of human rights as used by Africans when compared to similar ideas within the European tradition. Our examination of the African perspective on human

rights began with the pre-colonial period and has emphasized the development of the idea over time. While there is no evidence to suggest that a full blown concept of human rights existed in traditional African societies, the forerunners to the African version of human rights can be found in the ideas of the ancestors of modern Africans. The rights of Africans as human beings were first articulated by certain segments of the African population beginning as early as the eighteenth century. These rights were asserted as a reaction against the violations of such rights perpetrated on Africans by non-Africans. They were also asserted with reference to the traditional practices of Africans and can be seen as an updating of those customs in order to fit the changing historical realities on the continent.

Africans, due to historical circumstances, defined their human rights in a racially collective form rather than in individualistic terms. Africans fought for their human rights as a people of a particular race which was seen as a distinct part of the human race as a whole. It was believed that this race had its own peculiar characteristics which distinguished it from other races. It had its own personality or soul, so to speak, found in

its own customs and institutions evolved over centuries which if allowed to flourish would continue to develop along its own lines.

The assertion of both equality and distinctness of the race when compared with other races was what informed early versions of the concept of human rights as articulated by Africans. It also generated the African interpretation of the right to independence from colonial rule. It was not the "political ideas of the West /That/ were generating the forces of African nationalism."[26] Let us bury the image of the "West African witch doctor with the usual fetishes and a copy of Paine",[27] for once and for all. The seeds of the theory of African nationalism of the 1940's and 1950's with its insistence on the collective rights to self-determination for African peoples can be found in African traditions of social and political thought.

However, at another level, as part of the broader category of the human race, Africans also had things in common with other races. The African past was not so different from the European one, and the African future also need not be so different. The African vision is that ideals of equality in

economic terms will ultimately become a reality. African ideas of human rights, like all other ideas of human rights, evolve out of a historical tradition of ideas. This tradition is merely the ongoing expression of the social and economic conditions of particular time periods. The ideas within such a tradition change and develop as circumstances change. All humans have human rights, by definition, and all humans have ideas of human rights which reflect their distinct positions within a historical framework. African ideas of human rights betray "a definite African slant, an express concern for African society, an African way of life, indeed for man in Africa."[28] This is merely because Africans are humans, but they are Africans as well. As Julius Nyerere has said:

> We can only join this march of humanity as Africans; we have no other choice.29

NOTES

1. S.E. Ogude, Genius in Bondage: A Study of African Literature in English (Ile-Ife: University of Ife Press Ltd., 1983) pp. 103 & p. 115.

2. Paulin J. Hountondji, African Philosophy: Myth and Reality (Hutchinson & Co., Ltd., 1983) p. 128.

3. Ogude, op. cit., p. 126.

4. Ibid., p. 125.

5. Ibid., p. 35.

6. Ibid., p. 143.

7. Ibid., p. 130.

8. Ibid., p. 138.

9. Henry S. Wilson, Origins of West African Nationalism (London: Macmillian & Co., Ltd., 1964) p. 104. 16.

10. Walter L. Williams, Black Americans and the Evangelization of Africa, 1877-1900 (Madison: University of Wisconsin Press, 1982) p. 12.

11. David Kimble, A Political History of Ghana 1850-1928 (Oxford: Clarendon Press, 1963) p. 484.

12. Ibid., p. 487.

13. Magnus J. Sampson, West African Leadership: Public Speeches Delivered by J.E. Casely Hayford, (London: Frank & Cass & Co. Ltd., 1969) p. 79.

14. Ibid., pp. 64-65.

15. Ibid., p. 75.

16. Ogude, op. cit., p. 11.

17. Ibid., p. 105.

18. J.E. Casely Hayford, Ethiopia Unbound (London: Frank Cass & Co.,1969).

19. Paulin J. Hountondji, "The Master's Voice - Remarks on the Problem of Human Rights in Africa" in Paul Ricoeur, ed. Philosophical Foundations of Human Rights (Paris: Unesco, 1986).

20. Amilcar Cabral, "The Weapon of Theory", Revolution in Guinea: Selected Texts by Amilcar Cabral (New York: Monthly Review Press, 1969) P. 110.

21. Frantz Fanon, The Wretched of the Earth (New York: Penguin Books, 1978).

22. Karl Marx, "The German Ideology" in Robert C. Tucker, ed., The Marx-Engels Reader, 2nd ed., (N.Y.: W.W. Norton & Co., 1978) p. 174.

23. Ibid.

24. Paulin J. Hountondji, African Philosophy: Myth and Reality op. cit., and E.E. Osagahae, "Colonialism and African Political Thought" Nigerian Journal of Political Science Vol. 6, No. 1 (forthcoming).

25. "Nans to Protest Tomorrow against IMF Loan" New Nigerian, Dec. 9, 1985.

26. Prof. J.H. Burns, 'The Rights of Man since the Reformation: an Historical Survey" in Sir Francis I. Vallet, ed. An Introduction to the Study of Human Rights, (London: European Publications,) p. 30.

27. Ibid.

28. Ogude, op. cit., p. 21.

29. William Edgett Smith, We Must Run, While They Walk (N.Y.: Random House, Inc., 1971) pp. 289-290.

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