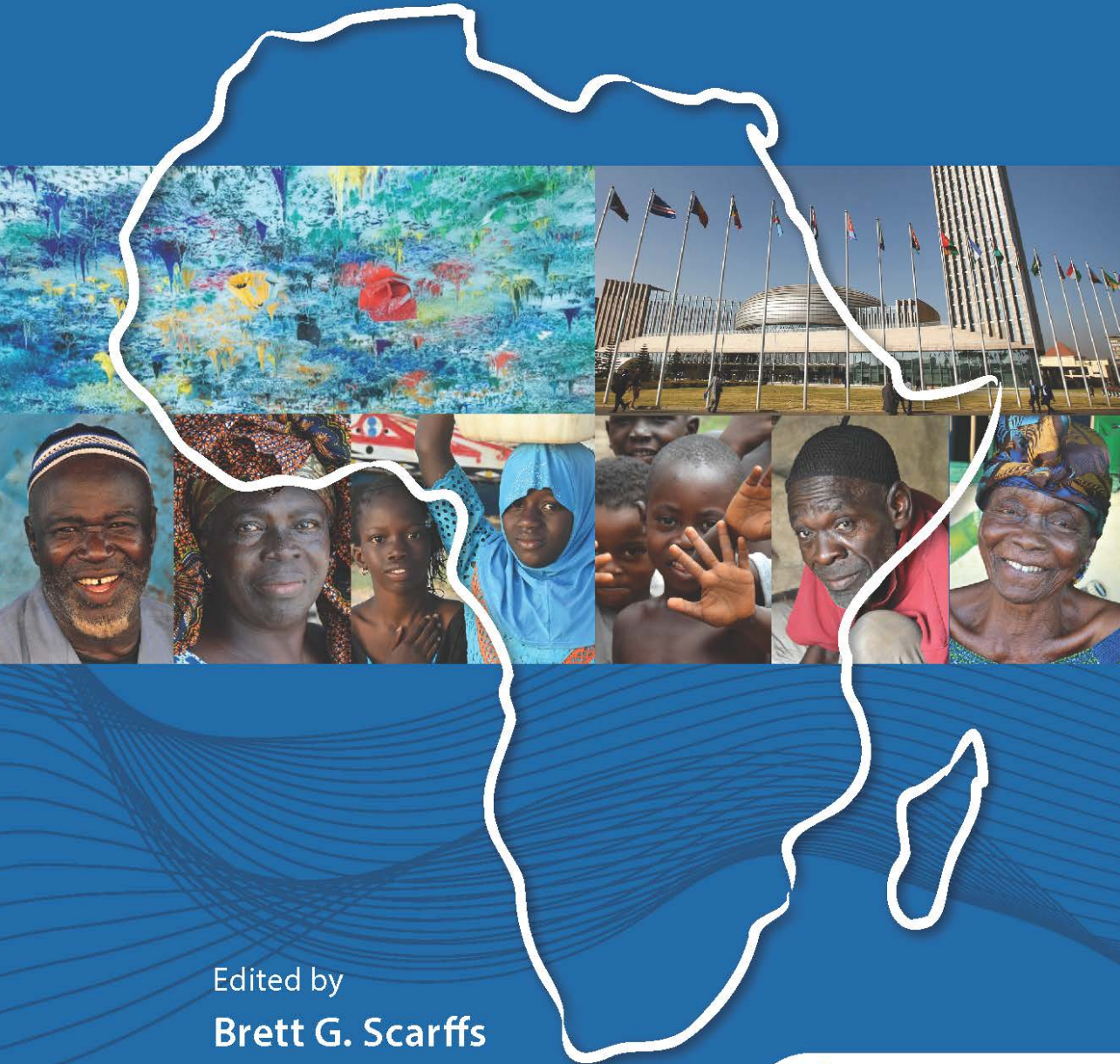


African Conceptions of Human Dignity



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2 RELATIONSHIPS, COMMUNITY AND HUMAN DIGNITY

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Obatala f'okanbale

Ohun ti o l'egbin, Ife, Agbara inu

Otito ti ko l'abawon

Omo enia ko dara tan

Omo enia a ma s'agbara

ki gbogbo nkan le gun rege.

Obatala fulfills

Purity, love, stoical strength

Luminous truth

Man is imperfect

Man strives towards perfection

Ifa verse

INTRODUCTION: HUMAN RIGHTS IN TURMOIL

In many ways, human rights philosophy has been in turmoil since its internationalisation in the Universal Declaration of Human Rights (UDHR) in 1948.² Many regions of the world questioned the document's purported universality when, in truth, two thirds of the human race was under some form of egregious breach of human rights or the other, particularly breaches that were in conflict with the right to self-determination of the emergent states of Africa and Asia. Several scholars have pointed to the European cultural origins of the UDHR, emerging, as it did, from the immediate experience of the Second World War of 1939-1945.³

Rather unfortunately, the defeat of Hitler's Germany in the Second World War by the Allied Powers led to the division of Europe along the ideological lines of communism and capitalism and the beginning of the Cold War between the then Soviet Union, on the one hand and Western Europe and the United States, on the other. The ideological divide impacted the UDHR, to the extent that when it was to be strengthened to the level of a binding international treaty, the drafting powers could not agree on a uniform document. Ultimately, it later gave rise in 1966 to two separate treaties in the form of the International Covenant on Civil and Political Rights (ICCPR)⁴ and the International Covenant on Economic, Social and Cultural

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2 Universal Declaration of Human Rights, G.A. res. 217A (III), U.N. Doc A/810 at 71 (1948).

3 Kennedy D. 2004. *The Dark Sides of Virtue*. Princeton, NJ: Princeton University Press, 3. See also Steiner H. 1996. "Some Characteristics of the Liberal Tradition", in Steiner A and Alston P (eds) *International Human Rights in Context: Law, Politics, Morals*. First Edition. New York: Oxford University Press, 187. See further Sunstein CR. 1995. "Rights and Their Critics", 10 *Notre Dame Law Review* 70:730.

4 International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force Mar. 23, 1976.

Rights (ICESCR).⁵ Ideologically, the West promoted civil and political rights as more substantive, justiciable and enforceable in preference to the economic, social and cultural (ECOSOC) rights, favoured by the Soviet Union, but which were considered as aspirational, programmatic or futuristic.

Even as the debate over political ideology and human rights subsided, the even more polarizing divide of the “cultural relativity of human rights” erupted, with the Arab and Islamic countries promoting a doctrine of “Human Rights in Islam”.⁶ Europe had blazed the trail of international regionalisation of Human Rights with its European Convention of Human Rights and Fundamental Freedoms in 1948.⁷ Other regions soon followed this trend – including nations in South America,⁸ Asia,⁹ Africa¹⁰ as well as Arab nations.¹¹ Subsequent attempts to remedy this religion-inspired colouration of human rights by promoting a doctrine of the “universality and indivisability” of human rights reached a crescendo at the World Conference on Human Rights in Beijing in 1993.¹² But the damage had been done to the universal acceptance of human rights. It is against this background that a group of experts in the field of law and religion gathered in Punta del Este, Uruguay in 2018 to formulate a “Declaration on Human Dignity for Everyone Everywhere”.

Africa’s philosophical embrace of the concept of “human rights” has always been tepid, at best. Even as the UDHR, ICCPR and ICESCR were celebrated as the “International Bill of Rights” in 1966, the emergent independent democracies of Africa were being serially overthrown and military dictatorships instituted. These included Idi Amin of Uganda, Jean Bedel Bokassa of Central African Republic, Mengistu Haile Mariam of Ethiopia, to mention a few. How could these democratic retrogressions be explained? The analysis at the time was that human rights as formulated and presented in the International Bill of Rights had failed to capture

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- 5 International Covenant on Economic, Social and Cultural Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, *entered into force* Jan. 3, 1976.
 - 6 An-Na’im AA. 1990. “Human Rights in the Muslim World”, *Harvard Human Rights Journal* 3:13-52.
 - 7 Convention for the Protection of Human Rights and Fundamental Freedoms. Council of Europe Treaty Series 005, Council of Europe, 1950.
 - 8 American Convention on Human Rights, O.A.S. Treaty Series No. 36, 1144 U.N.T.S. 123, *entered into force* July 18, 1978.
 - 9 Asian Human Rights Charter: A People’s Charter, declared at Kwanju, South Korea, on 17 May 1998. Hong Kong: Asian Human Rights Commission/Asian Legal Resource Centre. Als available at <https://www.refworld.org/docid/452678304>.
 - 10 African [Banjul] Charter on Human and Peoples’ Rights, adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), *entered into force* Oct. 21, 1986.
 - 11 Council of the League of Arab States, Arab Charter on Human Rights, May 23, 2004.
 - 12 Vienna Declaration, World Conference on Human Rights, Vienna, 14-25 June 1993, U.N. Doc. A/CONF.157/24 (Part I) at 20 (1993).

the African perspective and worldview. There appeared to be a fundamental dissonance in African and European concepts.¹³

It was Friedrich Karl von Savigny, a German law reformer at a time of the reception of Roman Law into Germany, who emphasised the importance of history and culture as predicates of the law. He proposed that law must reflect the spirit of the people, the *volksgeist* (folk spirit) of the communities who are to be governed by it. Savigny thus pioneered the historical or anthropological school of jurisprudence.¹⁴ Could this be the missing link in human rights historiography – lack of cultural content? Also relevant to our search for an African perspective on human dignity is the sociological jurisprudence of American legal scholar Roscoe Pound, who urged the “sociological study of legal history” for the purpose of “social engineering”.¹⁵ In the African context that is relevant for our inquiry, the African Charter on Human and Peoples’ Rights, provides authority for a philosophical and sociological approach to human rights that “takes into consideration the virtues of historical tradition and the values of African civilization as an inspiration for the concept of human rights”.¹⁶

HUMAN DIGNITY IN YORUBA RELIGION AND BELIEF

Only an idealised notion of human dignity will retain the view that it is a value-free, objective and quasi-scientific entity independent of and unaffected by social and economic relationships within the society. Human dignity cannot be a neutral instrument – it is part of a complex social totality in which human dignity is shaped, even as it shapes.¹⁷ The Yoruba philosophy of human dignity is not as a self-contained entity with its own logic. Human dignity interpenetrates social thought as an aspect of social reality and there is a sense in which human dignity can be said to be engraved in the community’s social consciousness. It exists in

- 13 Mutua MW. 2002. “Human Rights and the African Fingerprint”, in Mutua MW (ed) *Human Rights: A Political and Cultural Critique*. Philadelphia: University of Pennsylvania Press, 71. See also: Mutua MW. 1995. “The Banjul Charter and African Cultural Fingerprint: Evaluation of the Language of Duties”, *Virginia Journal of International Law* 35:339-380. See further An-Na’im AA. 2002. “Cultural Transformation and Human Rights in African Societies”, in An-Na’im AA (ed) *Cultural Transformation and Human Rights in Africa*. New York: Bloomsbury Press, 13.
- 14 See Friedrich Karl von Savigny. 1972. *Private International Law: A Treatise on the Conflict of Laws and the Limits of their operation in Respect of Place and Time* [1923]. Second Revised Edition. Guthrie W (trans). Hackensack, NJ: Rothman Reprints.
- 15 “Sociological School of Jurisprudence”, *IPleaders*, 11 January 2019. Online at: <https://blog.ipleaders.in/sociological-school-of-jurisprudence/> [Accessed 21 October 2023].
- 16 African [Banjul] Charter on Human and Peoples’ Rights, adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force Oct. 21, 1986, preamble. See further Channock M “Human Rights and Cultural Branding: Who Speaks and How”, in An-Na’im (ed), *Cultural Transformation and Human Rights in African Societies*, 38.
- 17 Adewoye O. 1987. “Proverbs as a Vehicle of Juristic Thought Among the Yorubas”, *Obafemi Awolowo Law Journal* 3&4.

the interstices of socio-cultural and ethical norms.¹⁸ There is no distinct or specific articulation of the philosophy of human dignity, for that is woven into the larger texts of the philosophy of the society and its social organisation. Consequently, an understanding of the sociology of the Yoruba can only provide a better appreciation of the tribal concept of human dignity. Before we delve further into the Yoruba philosophy of human dignity, we should pause to identify who the Yoruba people are and also review the sources from which their philosophy is derived.

Cultural profile of the Yoruba

The Yoruba and their descendants are to be found mainly in South-Western Nigeria, but they historically have dispersed to other parts of Nigeria (Edo, Itsekiri, Nupe, Borgu) and other countries of West Africa (Benin, Togo, Ghana, Sierra Leone), as well as to “diaspora” countries (such as Brazil, Cuba, Colombia, United States and the West Indies).¹⁹ Our method of analyzing how the Yoruba social organisation and its precepts constituted building blocks of human dignity will be to examine the Yoruba oral and written tradition encompassed in its various myths, legends, rituals, reenactment ceremonies and festivals, visual arts (paintings, sculpture and various other media) and oral literature.²⁰ In particular, the focus will be on the oral literature of the Yoruba, which Nigerian scholar of Yoruba language and literature Ogunwande Abimbola has described as including *Ifa* (verses), *Owe* (proverbs), *Ijala* (hunters’ songs) *Oriki* (individual praise poems), *Oriki-Ori* (community praise poems), *Alo* (storytelling) and *Itan* (history, myths and legends).²¹ It is interesting to note that the Yoruba poetry, prose and drama highlighted above are almost invariably linked with one Yoruba *orisha* (deity) or the other and regarded as the genetic form of all other types of Yoruba literature, whether poetry, prose or drama.

Ifa is the Yoruba traditional academic system and body of knowledge. It is a veritable storehouse of Yoruba culture and the only indisputable point of reference of Yoruba history, philosophy,²² medicine, religion, “constitutional law”, indeed the very essence of Yoruba world view. A Yoruba proverb says: “It is *Ifa* who foretells

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- 18 Adewoye, “Proverbs as a Vehicle of Juristic Thought Among the Yorubas”, Here I have substituted Adewoye’s reference to “law” with “human dignity” to which the logic extends.
 - 19 Abimbola W. 1997. *Ifa Will Mend Our Broken World*. Roxbury, MA. AIM Books, 85-101. See also: Adetugbo A. 2001. *African Continuities in the Diaspora*. Lagos: Centre for Black and African Arts and Civilisation (CBAAC). See further Fadipe NA. 1970. *The Sociology of Yoruba*. Ibadan: Ibadan University Press.
 - 20 Biobaku S (ed). 1973. *Sources of Yoruba History*, University of Ibadan, 1987. Need to confirm publisher/place/year of publication. I am seeing “Oxford, 1973” online, but no complete cites. See also Olusanya GO (ed). 1983. *Studies in Yoruba History and Culture*. Ibadan: University of Ibadan Press.
 - 21 Abimbola W. 1977. The Study of Yoruba Literature: An Assessment”. Inaugural lecture delivered 26 May 1977. University Ife. Inaugural Lecture Series no. 24, 5-7.
 - 22 Abimbola W. 1976. *Ifa: An Exposition of Ifa Literary Corpus*. Oxford: Oxford University Press, 63-113.

the future of the world" (*Ifa nii so b'aye o tiri*). *Odu-Ifa* (the *Ifa* corpus) comprises 256 chapters of 600 verses, making a grand total of 153,600 verses.²³ *Ifa* is a sacred form of literature, which is mastered only by devoted priests after many years of training in both divination and healing. Having established proverbs as a distillation of social behavioural codes, we shall use them intermittently as our gateway to understanding Yoruba psyche and how the different elements of Yoruba society interact to create harmony and enhance human dignity.

Yoruba social organisation

Yoruba cosmology perceives the world to comprise the celestial realm (*Orun*) and the Earth (*Ile-aiye*).²⁴ The celestial agencies are: Olodumare (the Creator) who has messengers, lesser gods called *orishas*. The *orishas* number between two hundred and six hundred, according to different sources. Next to the *orishas* are the ancestors, all of whom inhabit the supernatural realm. The spiritual realm is connected with *Ile-aiye* as the celestial forces of good and evil, continue to interact with man and impact on his earthly path.²⁵ The Yoruba society, like any other society, is composed of the individual and their family, extended family and community members, largely stratified and distributed into various gender, social class, occupational guilds and other groups. Our analysis here will be based on interrelationships amongst these diverse components of the Yoruba traditional community and how the interplay of their roles provides the impetus for human dignity for all.

On the earthly plane, the *Oba* (King) rules as the agent of Olodumare and other celestial powers. The *Oba* is the embodiment of the culture, tradition and beliefs of the community.²⁶ The *Oba* has his chiefs to assist him in the task of administering the community. The community is comprised of smaller units (called quarters) headed by the *Baale*. Each quarter is invariably constituted by compounds (*Agbo-ile*) wherein reside families or aggregation of families. Each family has a head appointed through seniority, accomplishment or other source of distinction. He presides over family affairs and interacts with other community authorities on behalf of his family. Families are, of course, composed of individuals, having their separate identification and role assigned depending on gender, age, social status, occupation and so on. These relationships and their connection to Yoruba belief in supernatural forces connecting the community, the family and the individual in a manner that guarantees human dignity.

23 Abimbola, *Ifa: An Exposition of Ifa Literary Corpus*, 67.

24 Ibidapo-Obe A. 2009. "A Discourse on the Yoruba Philosophy of Law", *Nigerian Journal of African Law* 2:23.

25 Abimbola, *Ifa: An Exposition of Ifa Literary Corpus*, 154.

26 Olalere JB. 2015. *Oba (Dr) Michael Odunayo Ajayi: The Making of a Modern King*. Lagos and Accra: Delight Communications.

Morality and theology in the Yoruba concept of human dignity

On the theme of human dignity, the Yoruba linguist and Christian clergyman and bishop Samuel Ajayi Crowther said of Yoruba proverbs that “the high standard of morality observable in the sayings of the Yoruba displaying as it does, peculiar virtues which are commonly regarded as being appreciated in a civilized society”, essentially containing the “moral government of the universe”.²⁷ From this, Crowther concludes:

Were we to measure this people by the standard of their proverbial morality, we would come to the conclusion that they had attained considerable height in the development of social relations having passed out of savage barbarism in which every individual lives for himself alone into a higher state of being in which the mutual dependence on one member or another is recognised giving room for the exercise of such virtues as are a sort of moral contract for the safeguard of society”.²⁸

Similarly, among the Akan of Ghana believe that there is a morality instituted by Onyame (God) who is against evil. It is a moral order which regulates the conduct of human beings and is the cause of prohibitions, taboos, customs, notions of right and wrong.

Morality is the basis of all aspects of Yoruba life, including its juristic and jural precepts. Consequently, human dignity in all its ramifications cannot be divorced from the moral milieu in which it operates. Human dignity operates in a cultural milieu dominated by belief in supernatural forces and a social structure controlled by a hierarchy of authorities. Olodumare (God) has planted in our *Igba aya* (oracle of the heart), which rules man and determines his ethical path in life, such that humans must remain positively connected to the spiritual domain. Thus, spiritually, humanity desires to live in complete harmony with the forces that rule the universe through the exhibition of good character (*Iwapele*).

As noted in the opening epigram to this to this chapter. It is a given that man is imperfect, but he must strive perfection. According to Ifa religion (*Odu Eturupon Okanran*),

<i>Iwa rere ni k’oje ka ku l’ewe</i>	It is rectitude that prevents a man from dying young.
<i>K’adagba d’ojo ogbo</i>	And live to grow exceedingly hoary.

Another Ifa verse (*Odu Eture Meji*) warns:

<i>Aisotito ko dara fenia</i>	Falsehood is not right for one,
<i>Imule-titu ko dara fenikeni</i>	covenant-breaking is not good for any man,
<i>Eni ba d’ale, a b’ale lo</i>	If anyone surreptitiously breaks a covenant
	Ills will surreptitiously befall him.

Truthfulness is an abiding theme of Yoruba theology. A Yoruba proverb teaches:

27 Cited in Parrinder G. 1968. *African Traditional Religion*. London: SPCK, 27.

28 Cited in Parrinder, *African Traditional Religion*, 27.

Iro pipa ko ni a ma lowo
Imule-titu ko ni ki a ma d'ogbo
Sugbon ojo a ti sun,
ni bebe

Lying does not bar one from becoming rich
 Covenant breaking does not debar one from
 reaching old age. But the day of sleeping,
 therein awaits trouble.

The British scholar of comparative religions Geoffrey Parrinder reinforces the fact that the moral precepts are anchored on an unmistakable belief in the reality of spiritual forces who are capable of inspiring and influencing the course of events in life in observing, "The ancestors, as disembodied spirits, are constantly vigilant. In addition to these are the complex hierarchies of gods and goddesses forever watchful with their scales of justice weighing the acts of men."²⁹ According to Wande Abimbola, the *Awise Awo Agbaiye* (Supreme Chief Priest of Ifa, world-wide): "Generally speaking, gods and ancestors do not work against man's interest and are therefore regarded as friends of man, protecting man from the evil supernatural forces."³⁰

RELATIONSHIPS AND COMMUNITY AS BASIS OF YORUBA CONCEPT OF HUMAN DIGNITY

The clan vitale

Anthropologist Oliver Onwubiko has noted how the community offers the African psychological and intimate security, as it gives unto its members both physical and ideological identity. The community remains whilst individuals come and go.³¹ The Yoruba community, like many African communities is a "living clan" (*clan vitale*) where real life is assured, where one can suffer neither social nor cultural alienation. It is a clan that is alive because life within it is human, humane and thus conducive to human dignity. The community is also the transcendent term of reference because it is the custodian of the individual's ideas in so far as the community fashions them.³²

This community spirit – communalism, some have called it – is an African phenomenon. The *Ubuntu* of the Bantu in South Africa, the *Utu* of the Kiswahili and similar concepts in other African cultures are all beliefs emphasizing the inevitability of human interdependence and the relational character of human lives existing in connection and community with others. *Ubuntu* philosophy enthuses: "I am because we are." A proverb of the Lozi people of South Africa says: "Go the way that many people go. If you go alone, you will have reason to regret."³³

Typically, the village square is the community centre, which is where the people's democracy kicks into action. It is the communal meeting place as well as the social,

29 Abimbola, *Ifa: An Exposition of Ifa Literary Corpus*.

30 Abimbola, *Ifa: An Exposition of Ifa Literary Corpus*, 159.

31 Onwubiko O. 1991. *African Thought, Religion and Culture*. Onitsha: Snaap Press, 16.

32 Onwubiko, *African Thought, Religion and Culture*.

33 Onwubiko, *African Thought, Religion and Culture*, 14.

judicial and religious centre. The Igbo of Nigeria have their *Oha*; the Zulu of South Africa, their *Ndaba*. It is the same concept of integration and interdependence. The community ethos ensured that whilst there may have been poor people in the community, there were no beggars. Community meant togetherness, family and strong communal spirit. The tradition of the strong community spirit has led some anthropology scholars, like the British South African anthropologist Meyer Fortes, to wrongly conclude that “individual rights” were subsumed and somewhat de-emphasised in favour of the collective.³⁴

Ancestors as community

A Yoruba adage sums up the importance of ancestors in Yoruba social life thus:

<i>Bi binibini o ba bini,</i>	If our ancestors did not give birth
<i>Moninioni o le m’oni</i>	to us, we would not exist

There are three main types of ancestors in Yoruba cosmology. The first and only progenitor ancestor of all Yoruba people is Oduduwa. Oduduwa settled the Yoruba race in present day Ile-Ife, which remains the holy city of Yoruba religion.³⁵ The second type of ancestors are the Deified Ancestors like Sango, the god of thunder; Ogun, the god of iron; Osun, the goddess of fertility; and Oya, the goddess of wind and tempest. Both Osun and Oya were wives of Sango.

Wande Abimbola describes Sango as the Emperor of all *orishas*: “In a sense Sango is the greatest Orisa of all. He is the only Orisa that dwells in the sky with Olodumare. All other gods dwell beneath the earth. Sango was the 4th Alaafin of Oyo Ile, the political capital of the Yoruba nation after Oduduwa, Oranmiyan and Ajaka”. The third category are the “Ancestors of the Lineage”.³⁶ Lineage ancestors are venerated because they define the family and individual lineage which is central to individual personality or personhood in Yoruba society. Ancestors are memorialised through the Oriki Orile, community and family praise poems, which typically chronicles mostly the positive exploits and activities of the ancestors in their lifetime.

The family institution as an enhancer of human dignity

Constituting the wider community are groups of family compounds (*Agbo-ile*) made up several nuclear families (*idile*). The family head (*Olori-ebi*) constitutes the rallying figure in the management of the affairs of the extended family (*ebi*). The Yoruba “nuclear” family consists of the husbands, wife (or wives) and their children. The Yoruba marriage is a loose “federation” whereby husbands and wives pursue

34 Fortes M. 1940. *African Political System*. Oxford: Oxford University Press. See further Mndende N. 2017. “Individual and collective rights in Africa. Dual worlds of law, religion and African traditional heritage”, in Green MC, Hackett RIJ, Hansen L and Venter F. *Religious Pluralism and Social Development in Africa*. Stellenbosch: African Sun Media, 157.

35 Abimbola, *Ifa: An Exposition of Ifa Literary Corpus*, 16-17.

36 Abimbola, *Ifa: An Exposition of Ifa Literary Corpus*, 158. The Alaafin is a monarch and political head among the Yoruba people.

their own economic and social interests as semi-autonomous entities operating in cooperation with each other. Each wife has the duty of direct supervision of her own children.

The name-giving ritual amongst the Yoruba is to enhance the continuity of the lineage.³⁷ A Yoruba proverb enjoins:

Ile l'aawo k'ato s'omo l'oruko It is the family circumstances (home)
that we look at before naming the child.

Thus, for example a child who is born shortly after the death of a father or grandfather may be called Babatunde (Father has returned) or Babajide (Father has risen). The Yoruba child is, in addition, given an *oriki* (praise name). Bolanle Awe, a pioneering Nigerian professor of Yoruba history and cultural studies, as well as women's history and feminist history, informs us that the purpose of the *oriki* is to invoke and evoke a record of the past history of the family to spur the child by such recital to greater achievements in emulation of the ancestor.

John Mbiti, the reknowned professor of African religions, observed that "The ancestors are present spiritually within the community and sometimes physically through reincarnation."³⁸ In some African communities, like Botswana, family identity is consecrated in totemism as the embodiment of the spirit of that family or community. The totem may be an animal such as python, or crocodile which is sacralised. One of the abiding mysteries of African existence is how such totem animals become domesticated and harmless only to members of that totem group.

Age-grade systems and communal puberty rites

The African age-grade system is one whereby boys and girls are separately initiated into adulthood within the community. Initiation or puberty rites have immense religious and cultural significance because of the emphasis placed on building character and virtue in youth. Age grades are formed by people born within three to five years of each other. As youths prepare for initiation through ethical instruction, they are able to learn caution, restraint and balanced decisions, particularly regarding sexual relationships, with a strong emphasis on virginity amongst males and females alike. A strong sense of community and socialisation outside the immediate family circle is thereby built amongst initiates. Thus, young people who have been initiated together become mystically and ritually bound to each other. For the rest of their lives they are in effect one body, one group, one

37 Ologundudu A. 2008. *The Cradle of Yoruba Culture*. New York: Centre for Spoken Words, 194-197.

38 Awe B. 1976. "Notes on Oriki and Warfare in Yorubaland", in Abimbola W (ed). *Yoruba Oral Tradition*. Ile-Ife: University of Ife, 279; Mbiti JS. 1990. *African Religions and Philosophy*. London: Heinemann, 25.

community and one people.³⁹ This is, thus, a system of youth bonding in service of human dignity.

Freedom of religion and belief within the Yoruba family

An important aspect of human dignity for the Yoruba is the freedom of religion and belief. The Yoruba believe that it is arrogant and presumptuous for any human being to claim a closer relationship to the point where *Olodumare* can only be reached through that individual's singular spiritual brokerage. There are about 401 deities in the Yoruba pantheon and each family member is free to embrace whichever *orisha* or multiple of *orishas* that he desires, without anybody trying to woo or dissuade that person from his preference. Among the traditional Yoruba, different families and compounds worship different *orisha* without any hindrance or intolerance.⁴⁰ Each family and compound has its lineage *orisha* that provides a bonding mechanism at the level of the family or clan. However, the individual can also choose a personal *orisha*.

The freedom of religion within Yoruba society enhances the individual's sense of being and dignified existence. Ironically, it was this open-minded attitude to all religious tendencies that made it easy for both the imported religions of Christianity and Islam to thrive.⁴¹ The religious absolutism introduced by the Christian and Islamic religions initially was bewildering to the African mind and offensive to his sense of human dignity.

The role of elders

Africans generally have deep and ingrained respect for old age and even when we can find nothing to admire in an old man, we will not easily forget that his grey hairs have earned him the right to courtesy and politeness. Elders are teachers and directors of the living. A proverb of the Akan of Ghana says:

The words of one's elders are greater than amulets.

The Igbo of Nigeria say:

He who listens to an elder is like one who consults an oracle.⁴²

The elders of the community are conceded leadership in the affairs of the people. Elders are considered to be the closest members of the community to the venerated ancestors whose ranks they would soon join by virtue of their age.

39 Janna I. 2017. "Igbo culture: What every Igbo youth should know about the Age Grade system", Obindigbo.com, 26 April.

40 Abimbola, *Ifa Will Mend Our Broken World*, 87.

41 Abimbola, *Ifa Will Mend Our Broken World*, 88.

42 The Yoruba version of this proverb is: *Oro agba, bio se l'owuro, a se l'ale*, meaning "The words of an Elder will come to pass, if not in the morning then at night."

A dispute between two individuals or entities within the community is a challenge to the elders to maintain “the bonds that bind humanity”.⁴³ The major role of the elders to preserve social equilibrium in the community in the face of actions of any of any member or subgroup that might threaten the common good of the whole. The adjudicatory methods and principles deployed by African elders continue to be points of reference even for modern justice systems. The singular characteristic is that the process and disposition outcome is humane and devoid of coercion and brutality. For example, there were no prisons or other custodial disposition in the African system because of its recognition that incarceration is *ab initio*, a denial of human dignity.

Several international statutes have embraced the philosophy behind the African justice system. In particular, the United Nations Declaration of Basic Principles of Justice for Victims of Crimes, 1985, provides for compensation, restitution and restoration for crime victims.⁴⁴ The African philosophy often deployed in adjudication is *reconciliation* for the transgressor and victim and *reparation* for the victim. What is defined as a crime in many jurisdictions is seen as a civil wrong in Africa. Africa has bequeathed this philosophy to world contemporary criminal justice philosophy through the “modern” concept of *restorative justice*. Restorative justice, which incorporates the twin African principles of reconciliation and reparation ensures a humane disposition that addresses the concerns of the offender and critically, restoration of social equilibrium which is impacted by deviant conduct of its members.⁴⁵ Relatedly, the United Nations Standard Minimum Rules for Non-Custodial Measures (the Tokyo Rules) makes copious provisions for state parties to begin to implement a “No prison” policy.⁴⁶

Another major contribution of the African judicial system is its abhorrence of the death penalty for any offence. In Igbo tradition for example, the ultimate punishment was banishment. There was no traditional official playing the role of executioner. The disgraced member might opt to commit suicide out of remorse or ostracism, but that is their choice.⁴⁷ Thus, the African philosophy on the death penalty is that no man or god has the right to interpose himself in the spiritual

43 Elias TO. 1990. “Traditional Forms of Public Participation in Social Defence”, in Elias TO (ed). *Judicial Process in the Newer Commonwealth, Lagos*: University of Lagos Press, 251.

44 Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, GA res 40/34, 29 November 1985.

45 Nserenko DDN. 1992. “Victims of Crimes and their Rights in African Criminology”, in Mushango TM (ed). *Criminology in Africa*. Rome: United Nations Interregional Crime and Justice Research Institute (UNICRI).

46 Standard Minimum Rules for the Treatment of Prisoners. Adopted by the First UN Congress on the Prevention of Crime and the Treatment of Offenders held at Geneva in 1955 and approved by Economic and Social Council resolutions 663 C(XXIV) of 31 July 1957 and 2076(LXII) of 13 May 1977.

47 Okafor FU. 1994. *Igbo Philosophy of Law*. Enugu: Fourth Dimension Publishers, 32-37.
See also: Uchendu VC. 1965. *The Igbo of south-eastern Nigeria*. Chicago: Holt, Reinhart and Winston.

covenant between spiritual man and God by taking a man's life in reprisal for any alleged malfeasance. This African opposition to the death penalty has since gathered international approbation in the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR) aiming at the abolition of death penalty.⁴⁸ In the African context, it is the wisdom of the elders and family heads of the community – not ultimate punishments administered by the state – that ensures a dignified and humane judicial process and an outcome that enhances rather than diminishes human dignity.

ORI: THE INDIVIDUAL AS THE BEARER OF HUMAN DIGNITY

It would be a mistake to conclude that the Yoruba emphasis on relationship and community diminishes the rights of the individual. Legal relations in the Yoruba society are based on status. Each person is expected to act in accordance with their status in the society. Despite the emphasis on the community as *clan vitale*, where individual identity is not emphasised at the expense of the community, the Yoruba still retain a healthy and consummate respect for individual self-determination.

Destiny is individual self-destination

Individual self-determination, beginning with childhood, is embedded in the Yoruba concept of *Ori*. *Ori* essentially signifies the "spiritual being" or essence. The myth or belief in the *Ori* is that every human spirit before it departs from heaven to take on life on earth will kneel before the Creator God, Olodumare, to determine what his destiny (*Ayanmo*) on earth would be. Once sealed with Olodumare, the spiritual contract does not brook any interference – not by other men, not even by the gods (*orishas*).⁴⁹ So, at the birth of a child, it is taken to the chief priest (*Babalawo*) for the ceremony of *Mori* (knowing the inner head).

According to Rowland Abiodun, a respected scholar of Yoruba sociology, "the really wonderful thing about *Ori* is that it makes people to respect the individual. The individual has a wonderful sanction to do what he or she likes without undue interference."⁵⁰ For example, as a six-year-old child, Wande Abimbola wanted to go to a primary school that had been newly established by the Baptist Missionaries in Oyo. His father, the head of the hunters' guild, wanted him to be a hunter. After initial resistance, his father capitulated to young Wande's request. Such was the

48 Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, G.A. res. 44/128, annex, 44 U.N. GAOR Supp. (No. 49) at 207, U.N. Doc. A/44/49 (1989), entered into force July 11, 1991.

49 Abiodun R and Beier U. 1991. *A Young Man Can Have the Embroidered Gown of an Elder, but He Can't Have the Rags of an Elder: Conversations on Yoruba Culture*. Lagos: Iwalewa Haus, 1-21. See also Abimbola *Ifa: An Exposition of Ifa Literary Corpus*, 113, 116.

50 Abiodun and Beier, *Conversations on Yoruba Culture* 17.

respect for the individual self-determination of a precocious child.⁵¹ *Orishas* reveal destiny as no more than self-destination.⁵² As part of a child's traditional education, he is taught the basics of Ifa – *owo ifa kan* (one hand of Ifa) particularly the ethics and obligations of citizenship or membership of the clan or community.

The fundamental ethics of membership of the Yoruba society are to be found in the twin concepts of *Omoluabi* (good character) and *Iwapele* (humility).⁵³ *Omoluabi* is the Yoruba philosophical and cultural concept to describe a person of qualitative character. It signifies courage, hard work, honesty, humility, unabrasiveness, consideration and respect for others. *Omoluabi* exhibits and incorporates the related concept of *Iwapele*, which is the essence of sound moral conduct in Yoruba culture and the core defining attribute of an *Omoluabi* – the model citizen.⁵⁴ Abiodun concludes that the divinity of the head is the embodiment of a man's past, present and future and the essence of his personality.

Thus, *Ori*, which is a fundamental part of Yoruba cosmogony, is the perfect evidence of the recognition of individualism, even in the context of his communal existence. It is why human have the freedom of individual self-determination, freedom of religion and belief and the right to personhood or privacy, all of which are important facets of human dignity. However, amongst the Yoruba, these "rights" carry overriding "duties and obligations", which the individual must perform in return.⁵⁵ "Duties and obligations" as a correlative of "rights" represents a unique contribution of Yoruba culture.

In the final analysis, the Yoruba concept of *Ori* is indicative and emblematic of the ascendancy of natural rights as evidenced in the supernatural or spiritual contract between man and the Creator, but with a focus on Olodumare rather than a Rousseauian social contract between the king and the citizen. The abiding lesson, from the Yoruba perspective, is that theology or the supernatural, will always be at the intersection of any conception of human dignity. The African Charter on Human and Peoples' Rights is unique amongst international human rights instruments for its introduction of duties and obligations as the correlative of individual rights. The "African Perspectives on Human Dignity" declaration of 2019 ACLARS conference in Botswana, which is the impetus for the present volume, rightly propagates this correlation between individual rights and citizen's duties and obligations to his community.

51 Abimbola, *Ifa Will Mend Our Broken World*, 51. See also Soyinka W. 1999. *Seven Signposts of Existence: Knowledge, Honour, Justice and other Virtues*. Ibadan: Pocket Gifts, 4.

52 Soyinka: *Seven Signposts of Existence*, 4.

53 Abimbola W. 1975. "Iwapele: "The Concept of Good Character in Ifa Literary Corpus", in Abimbola Wande (ed). *Yoruba Oral Traditions*. Ile-Ife: University of Ife, 389.

54 Awoniyi TA. "*Omoluabi*": The Fundamental Basis of Yoruba Traditional Education", in Abimbola W (ed). *Yoruba Oral Traditions*, 356.

55 Mutua MW. "Banjul Charter and African Cultural Fingerprint".

Religious freedom and self-determination

As noted above, human dignity is anchored on freedom of religion and belief. Where this freedom is relegated or suppressed, as is arguably the case with Yoruba traditional religion within the Nigerian political space through the mechanism of the Nigerian Constitution and criminal law, then Yoruba human dignity has been sorely compromised. As a distinct ethnic group with its own territory, people, language and religion, the Yoruba have the collective right to self-determination. What form that self-determination will take, whether in the form of political participation and autonomy regime or total separation from the Nigerian Federation, should be the absolute will of the Yoruba people expressed through a referendum. Were such a referendum to be conducted today by the United Nations or other appropriate body, it is possible that a majority of Yoruba might opt for an independent Yoruba nation.⁵⁶

At the level of international law, the rights of Yoruba people, as a minority group within the Nigerian state, are clearly enunciated in Article 27 of the International Covenant on Civil and Political Rights, namely, the right of minorities to community as a group, to enjoy their own culture profess and enjoy their own culture profess and practise their own religion and use their own language.⁵⁷ Also relevant is the UNESCO Declaration on Race and Racial Prejudices of 1978, under which “all individuals and groups have the right to be different, consider themselves as different and be regarded as such”.⁵⁸ Certain interpretations and applications of the Nigerian Constitution and its criminal law have resulted in adherents of traditional worship, such as the Yoruba, becoming an endangered species in the Nigerian Federation,⁵⁹ where the Christian and Islamic religions are overly favoured.

The Declaration on the Elimination of All Forms of Intolerance based on Religion and Belief of 1981 outlaws intolerance by the state as well as groups and individuals.⁶⁰ The more comprehensive Declaration on the Rights of Persons Belonging to National, Ethnic, Religious and Linguistic Minorities of 1992 is in

56 Professor Banji Akintoye, a professor of history, leads a separatist group that seeks the intervention of the United Nations. Also, Sunday Adeyemo, popularly known as Sunday Igboho, a grassroots Yoruba activist for a Yoruba nation, languishes in exile after his residence was attacked by Nigerian security forces on 1 July 2021.

57 ICCPR, art 27.

58 Declaration on Race and Racial Prejudice, E/CN.4/Sub.2/1982/2/Add.1, annex V (1982), art. 2.

59 Constitution of the Federal Republic of Nigeria, s 38(4). This section outlaws “Membership of a secret Society the definition of which in section 318 of the 1999 Constitution tallies with the manner traditional worship is organised and practised. Sections 212-216 make it a crime punishable with two years’ imprisonment to participate in “Juju Worship”.

60 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, G.A. res. 36/55, 36 U.N. GAOR Supp. (No. 51) at 171, U.N. Doc. A/36/684 (1981).

place.⁶¹ Under these documents, minorities have the right to their own culture language, religion, free movement in and outside the country and the right to political participation. Conversely the state has countervailing rights to sovereignty and territorial integrity.

At the international regional level, the African Charter on Human and Peoples' Rights 1986 is quite explicit in its provision on self-determination. Article 19 provides: "All peoples shall be equal and enjoy the same respect and shall have the same rights. Nothing shall justify the domination of a people by another."⁶² Article 20 stipulates: "All peoples shall have the right to existence. They shall have the unquestionable and inalienable right to self-determination. They shall freely determine their political status and shall pursue their economic and social development according to the policy they have freely chosen."⁶³ The implication of these international instruments is that the Yoruba, if denial of their freedom of belief persists, can exercise their right to form a separate political state.

CONCLUSION

Human dignity is universal and at the same time multifaceted and deserving of a cultural praxis that places the community and its connected relationships at the centre of discourse. For the Yoruba people, the role of the supernatural and the place of morality as a defining element of human dignity. The gods are watching human conduct and man should therefore exhibit rectitude or face the judgment of the gods. At the level of the community, human dignity simply translates into compliance with the social mores to ensure the maintenance of social cohesion. At the individual level, human beings, as bearers and beneficiaries of human dignity soon, realise that rights of personhood can only have true meaning in service to the collective good. As a minority group and religion, the Yoruba are relegated and suppressed in ways that have ignited calls for a separate Yoruba nation. Yoruba community organisations highlight and reflect a symbiotic interaction that demonstrates a commitment to human dignity as the ultimate goal of relationships and community.

61 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities, G.A. res. 47/135, annex, 47 U.N. GAOR Supp. (No. 49) at 210, U.N. Doc. A/47/49 (1993).

62 African Charter, art 19.

63 African Charter, art 20.

