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Contents

1.	Monadologism, Inter-subjectivity and the Quest for Social Order —Fashola, Joseph Omokafe & Offor, Francis	1
2.	Surrogate Motherhood and the Harm Factor: A Consequentialist Critique —Oyekan, Adeolu. O., PhD & Amara, E. Ani	11
3.	Corruption and the Problem of National Sustainable Development: A Socio- Religious Approach—Johnson-Bashua, Adepeju Olufemi, PhD	26
4.	The Imperative of Individual Rights in African Communitarianism —Amosu, Kehinde Olorunwa	38
5.	Artificial Intelligence and the Limits of Epistemic Justification —Akande, Michael Aina, PhD	51
6.	An Assessment of Women's Rights in Islam: Lessons for Contemporary Marital Challenges in Lagos, Nigeria—Paramole, Kabir Olawale, PhD & Sanni, Mubarak Oluwadamilola	63
7.	The Question of African Identity and Intellect: A Heuristic Survey of African Ethno-Medical Genius—Olatade, Damilola Peter	78
8.	The Interface between Indigenous Culture and Societal Development in Nigeria—Osawaru, Osamede Christopher	87
9.	Marx's Critique of Capitalism and the 21st Century Environmental Crisis —Ikeke, Mark Omorovie	104
10.	Ethics, Accountability and the Fight against Corruption in Nigeria: The Quest for an Antidote—Moshood, Abdul-Wasi, Babatunde, PhD	115
11.	Further Reflections on Karl Popper's Critique of Plato's Totalitarian Justice —Afisi, Oseni Taiwo.	132
12.	Exploring Mathew Lipman's Philosophy for Children as a Basis for the Development of Reasoning for Moral Judgement —Surakat, Ajibola Moruph.	140
13.	Geomantic Code as Nonverbal Communication in Yorùbá Novels —Adesanya, Ahmed O	151
14.	The Mathematical Nature of Curves in Relation to Art —Olubunmi, David	166
15.	Civil Disobedience and Justice: An Appraisal of Hannah Arendt's concept of "Power Lying in the Street"—Aja, Ngozi Chukwuemeka	177
16.	Tolerance among Undergraduate Christian Religious Students: A Case Study of Penultimate-Year Students of Lagos State University, Ojo —Kuponu, Selome	190

The Imperative of Individual Rights in African Communitarianism

Amosu, Kehinde Olorunwa

Abstract

Individual rights in African communitarian thinking are regarded as compatible with African moral and political reality. This assumption is predicated upon the idea that African societies are basically communitarian with justification for collective rights. As such it does not recognize nor accommodate individualistic claims to rights and liberty. This inherent communitarian value neither guarantees nor safeguards individual rights, though it argues that rights are protected in the notion of human dignity and conception of human nature in African communitarian theory. The idea of collective rights as separate from individual rights is of philosophical interests. Individual rights are subsumed and attributable to the collective to the extent that it seems possible to assume that there are no such things as individual rights. This idea of collective rights as distinct and separate from individual rights is of philosophical interest. Thus, this article argues that a moral and political philosophy that prioritizes individual rights over collective or group rights would better guarantee and safeguard collective rights. This approach makes it easier to attend to issues which may be wrongly presented. Reducing rights to rights of individual members of a community or group also gives room for better explanation of collective or group rights as the aggregate of individual rights. The individual seen as integral part of the whole informs the collective or group rights necessary for peace and justice in modern African societies.

Keywords: individual rights, collective rights, African communitarianism

Introduction

In modern societies, the debate over which political and moral ideologies are best for the achievement of dignity and respect for the rights of individuals and groups has become paramount, especially when there is contention between individual pursuance and assertion of his rights to be different and the community's demand for conformity and obedience to its norms and authority. Libertarian ideologies argue that social and moral values can be achieved through individual autonomy and that human dignity is frustrated when individuals are not allowed to choose their own ends. Daly M. harps further on that, individual political and civil liberties take priority over any good that could be accomplished by rescinding or circumscribing those rights. Thus, it is in protecting of a more basic human liberty that one can justify the curtailing of another. Therefore the inviolability of basic individual rights is found-

ed on the equal worth and dignity of each individual human being (Daly, 1994:xvi). Communitarianism observes that collective values and goals of the community are superior and have overriding considerations for morality and social justice. Masolo, D.A. reveals that instead of such values as interests, autonomy, universality, natural rights, and neutrality, communitarian philosophy is framed in terms of the common good, social practices and traditions, character, solidarity and social responsibility (Masolo, 2004:483).

This communitarian view proceeds from the assumption that welfare, values and goals of the community are specifically communal, and conceive public goods as rooted in communal practices. This implies that the interests of the individual are subsumed in that of the community which takes precedence over individual will and expression of rights. The continued existence of the community, the communitarians maintain, has overriding consideration over that of individual (Daly, 1994:xvi). Hence, there is a continuous sharp debate between individualistic realities which assert individualistic tendencies as definitive of authentic person and communitarianism which emphasizes the community as predominating and prior to individual existence. This conflict is a claim to hegemony that the community has over the individual and vice-versa. The debate has generated heated discourse beyond intellectual parlance to political spheres as philosophers have offered various ideas suitable for human dignity and solidarity through their competing notions of the self, rights and social responsibility.

These contending positions raise fundamental questions such as: (1) what are the philosophical bases (ontological, moral and social) postulates that justify the rights of the individual to assert his differentiation and pursue same against the preference(s) of the community, especially in communities where individual right are not accommodated; (2) On what ground would the community justify the imposition of responsibility on the individual to obey or conform to its authority (especially when such conformity violates individual personal preferences? The issue of rights remains one of the issues dominating socio-political discourse in contemporary Africa not only because of the political and moral significance of the various responses to them, but also because the questions themselves raise fundamental moral issues about the individual and his social relations. This article argues that the accommodation and acceptance of individual rights in African communitarianism is germane to the sustenance of peace and justice in contemporary African societies. It advances the position that the well-being of individuals in the community is imperative to the community's.

African Communitarianism

The values and ideas defended by African communitarianism are basically communal. It emphasizes collectivity rather than individuality. The individual in African communitarianism is seen as intrinsically communal being, embedded in a context of social relationships, having common values, interests and goals. Mbiti emphasizes that in Akan thought, the kinship of all members of the tribe is paramount. He states further that in traditional life, the individual does not and cannot exist alone expect corporately. He owes his existence to other people, including those of past generations and his contemporaries. The community therefore makes, creates or produces the individual, for the individual depends on the corporate group (Mbiti, 1970:141).

Segun Gbadegesin (1991:20) observes that the Yoruba normative concept of personhood is accomplished in the social arena. The individual existence is linked to social existence. Thus, any attempt to understand the individual outside of his social status does not fully represent the concept of personhood.

African communitarianism can be understood from two different perspectives: Radical and moderate communitarianisms. Radical communitarianism insists on the moral primacy of the community without consideration for individual rights. It gives an exaggerated conception of the community in which the community is considered as prior to the individual. It denies the individuality of the individual and the rights that naturally belongs to a human person as essentially autonomous (Menkiti, 1984:180; Mbiti, 1969:10).

Radical communitarianism is a view that gives priority to the community over the individual. The community is construed as prior and superior to the individual and that the realities of the communal world take precedence over individual realities. It also argues that personhood and rights are derived from the structural rights of a community (Menkiti, 1984:171). Individual rights and values are subject to that of the community, as such individuals do not contribute to their existential realities, rather it is the community that wholly defines and determines personhood. Rigid communitarianism as expressed in "African worldview states that it is the community that defines the person as person and not some isolated static rationality or quality, will or memory" (Menkiti, 1984:172-174). Menkiti's communitarian view expressed here, derives from Mbiti's notion of radical communitarianism as evincing of the relationship between the community and the individual in what he describes as a version of Descartes 'cogito ergo sum'. "I am because we are, and because we are, therefore I am" (Mbiti, 1969:181). From the brief attention given to the radical arm of communitarianism, some weaknesses

may be easily deduced. First, it gives an erroneous account of the relationship that exists between the individual and the community by maintaining that the community is the sole determinant of personhood. If this were the case, there will not be any propensity towards individuals challenging any such imposition from (by) the community.

Second, it fails to give adequate recognition to the differences in the nature of African worldviews (philosophy). The universalization of African philosophy by radical communitarians is wrong. It is better to talk of multiplicity of African worldviews and the questions of what traits or trends running through the multiplicity that will qualify them as 'African' is a different issue entirely. There are boundaries in different cultures. Thus, it was difficult for African leaders to postulate a uniform African philosophy (Hountondji, 1983).

Third, it fails to accept the autonomy of individual right from that of the community. It fails to recognize the central or even the primary role of rights as a good belonging to an individual (Molefe, 2016:40).

The submission here is that, individual rights and community rights are not co-terminus neither are they interchangeable. One cannot be subsumed for (to) the other. The community's right cannot be substituted for the individual's and vice-versa. Hence it is only the protection of a more basic human liberty that can justify the curtailing of another (Oyeshile, 2010:106). Thus, the inviolability of basic personal right is founded on equal worth and dignity of individual human being (Daly, 1994:xvi).

Moderate communitarianism, on the other hand, emphasizes the inclusion of rights in African political thought. It embraces the global culture of rights by proposing a moderate stance that can find a dynamic balance between the demands of communitarian and the libertarian demands for rights especially with the demand of modernity and modernization (Gyekye, 1997:52). Kwame Gyekye defends a moderate communitarian view in which he tries to strike a balance between individual rights and that of the community. He argues that equal moral worth should be ascribed to both individual rights and social responsibilities. That is the balancing of social forces and individual autonomy (Gyekye, 1997:52). Gyekye is of the view that individual rights and social responsibilities are better reconciled rather than ascribing supremacy of individual rights as the libertarians (Rawls, 1971) and emphasizing primacy of communal values by communitarians such as Menkiti (1984).

Gyekye's version of communitarianism is motivated by the need to prevent over celebration of the community unlike other strands of communitarianism motivated by the need to prevent over-celebration of rights

(Famakinwa, 2010:67). The need to refrain from the over-celebration of the community, to Gyekye, is necessary because various communal values and beliefs require at times, critical evaluations and reformation in order to encourage the overall development of the community. Thus, the salient feature of Gyekye's moderate communitarianism is the recognition of individual rights. Gyekye (1997:45) avers:

... The recognition of rights is necessary because the society is absolutely communal or absolutely individualistic. Therefore, moderate communitarianism will not be opposed to the doctrine of individual rights for the reason that the individual and the community, while closely interacting must maintain their unique spheres.

Unlike Menkiti (2004:170), who sees the African man as wholly defined by his community, Gyekye, argues that, despite the natural sociality of a human being which at once places him in a system of shared values and practices and a range of goals, there are nevertheless grounds for maintaining that a person is not fully defined by the communal or cultural structures. Individual human being naturally possesses some inherent attributes such as rationality, having a moral sense, capacity for virtue and making moral judgment (Gyekye, 1992:111).

He argues further that, it is necessary to accommodate the ideal of individual rights within the notion of communitarian ethos in addressing the socio-political and cultural problems confronting various societies. He maintains that "The concept of rights in relation to the idea of moderate communitarianism makes possible a socio-political system that is more flexible and open than the one found in strict communitarianism" (Gyekye, 1997:65). However, Gyekye admits that when there is tension between the individual and the community, the community's interest should be considered above that of the individual. Gyekye captures this as follows:

Moderate or restricted communitarianism gives accommodation to communal values as well as to values of individuality, to social commitments as well as to responsibility to oneself... guided by the assumption about the dual features of the self with an implied dual responsibility, it should be possible to deflate any serious tension between the self and her community (Gyekye, 1997:45).

Gyekye's moderate communitarianism is a partial constitution of the individual by social relationship, yet he accepts the communitarian primacy thesis – the moral supremacy of the community over the individual (Gyekye, 1997:71). From the above analysis of Gyekye's moderate communitarian view, we observe the following logical inconsistencies:

Firstly, Gyekye's recognition of individual rights in his theory is for the community's interest and not that of the individual. He points out that "the individual capacity for evaluating the communal structure of the community deserves recognition because it serves the overall community interest (Gyekye, 1997:57; 62-63).

Secondly, his acceptance of communitarian primary thesis sets him back into rigid communitarianism which he sets out to reject because he did not follow the logic of his preposition to the end (Gyeke, 1997:71).

However, in response to the challenges highlighted above, some African philosophers argue that these are not actually problems (Munamoto, 2018; Menkiti, 1984). They argue that the issue of rights does not exist in African communitarianism, because the individual is subsumed in the community, therefore, his rights and interests are embedded in the rights and interests of the community. Hence, there is no such thing as individual rights but a collection of rights claimed by community as a whole. This is well captured in Mbiti's famous maxim "we are, therefore, I am" (Mbiti, 1969).

If the individual is seen in this light, then African communitarianism poses problems. Firstly, the extent to which individual rights can be guaranteed and safeguarded within African society without being overridden by community's norms is problematic. Secondly, the boundary of community's demand for conformity to its norm without violating the rights of the individual leaves much to be desired. Thirdly, the limit of individual's pursuit and expression of her rights while accommodating and respecting the rights of others needs to be examined. The responses to these are that the issues can be resolved on the basis of human rights and not individual rights. The argument is that equal and individual human rights are insignificant and as such, claims to human rights in African communitarianism are unnecessary (Eze, 1998:105; Shirvji, 1990:70-73).

African Communitarianism and Individual Rights

African communitarianism expresses a kind of community cooperation and a framework for virtue of unity, harmony and a communal-like existence. Unlike the individualistic tendencies and abstraction emphasized by libertarianism, the rights of the individual, the communitarians argue, must be derived from the community and the rights of individual must not be above that of the collective. This position has been a problem at the fore of African philosophizing concerning the notion of rights; that is the non-accommodation of individual rights in African communitarianism. It has been noted that African communitarianism is understood within the following normative frameworks:

- i. That the defining characteristics of African societies is communitarian;
- ii. That the community has ontological primacy over the individual;
- iii. That the nature of African societies is egalitarian; and
- iv. That African communitarianism accommodates respect for the dignity and liberties of the individual and this incorporate individual rights.

These frameworks portray some contradictions following the views of radical communitarians such as: Menkiti (1984); Famakinwa (2010). Menkiti admits that individual rights are secondary and alienable to the individual person in an African context. This communitarian position stands as the basis from which the debate about human rights/individual rights can be approached. While libertarianism emphasizes the primacy of individual moral values, and insists on rights and autonomy of the individual to make his life choices and the dignity of the individual to express her freedom, unique qualities and differentiations which must be respected by the community, as the framework for individual or human rights to basic civil and political rights which must be protected against any oppression or threatened by whatsoever collective interests. African communitarianism endorses the rootedness of the notion of rights found in communal principles which gratifies the collective over the individual. Driving home the collectiveness of African conception of right as collective human rights rather than individual rights, Yougin-dra Khushalani asserts that "African law in general is a law which favours the group – a law of the group, not only because it applies to the tribe, ethnic group, clan, family, but also because the role of the individual in it is not significant" (Khushalani, 1983:415). This idea is not tenable in contemporary African societies because it defends an African traditional past, a pre-colonial society no longer in existence. Therefore, an attempt to create continuity with the past by invoking such beliefs becomes challenging because African society is dynamic and the cultural values are also shifting to suit the modern post-colonial society. This does not mean a total upturn of the existing values but a critical re-appraisal of those values which seem inimical to present day realities. Thus, the defense of communitarian values connected with the African past in modern context would then, strengthen such differential access to material resources and the imminent danger is that, the people will accept such as the natural order of things owing to commitment to norms that have originated in their cultural past (Kernohan, 1998:25).

Though, some African philosophers swiftly react to the notion that places the individual over the community by pointing out that the prioritization of community should not be considered as evidence of lack of concern for the welfare of the individuals; this needs to be given further elucidation.

There are clear welfare institutions which are evident in the words of Mokwugo Okoye:

We did not dispose of the rights of citizens in an arbitrary fashion or treat the state as an absolute moral organism, since we have always had structural devices like age-grade and secret societies, division of function, customs and taboos that provided adequate checks and balances in our society (Okoye, 1990:164).

Gbadegesin adds that in addition to these mythical and structural devices, individual lives also flourished in traditional Africa, because of people's genuine adherence to "the indigenous values of fellow-feeling, solidarity and co-operation" (Gbadegesin, 1991:66). The fact with African conception of right is inclined towards obligation of members of the community to each other rather than making any claims against them. Asante adds to this by claiming that African communitarian ethic underline the consensual nature of traditional African politics. Thus, Africa attain harmony by following the essential norms prevailing in traditional Africa which ensures equality of the whole community as well as the prioritization of the institutions regarded as sovereign. Asante adds: "The individual had status and security within his immediate group, but it was unusual for the individual to be involved in a direct confrontation with the sovereign..." (Asante, 1969:100).

Claude Ake corroborates the rejection of individual rights in African communitarianism. For him, the claim to individual rights is a pervasive preference for an organicist and integralist visions of society in African political thought. The notion he says, presupposed a society which is atomized and individualistic, a society of endemic conflict. "It presupposes a society of people conscious of their separateness and their peculiar interests and anxious to realize them" (Ake, 1987:3).

To this end, Ake, Welch and other scholars maintain that in traditional Africa, rights were expressed within "the web of kinship". Rights only existed in the context of the extended family; "they were not inherent in individuals, but latent in ascriptive groups. Liberties did not exist in the abstract, as rights inherent in all human beings", but only within a particular context" (Welch, 1984:11-17).

African Human Rights Conception

Africa's insistence on collective human rights rather than individual rights has been attributed, to the sour and bitter experience of African traditional past with colonial experience. Thus, this underscores the clamour for a distinctively African conception of human rights as an expression of both a po-

litical and a moral stance. Colonialism has denied Africans their whole authenticity in different ways. This accounts seriously for the African Charter on Human and People's Rights as a regional instrument to articulate the core tenets of the human rights doctrine while remaining loyal to the traditions of the peoples of Africa (Article II, OAU Charter in D'Sa 1985:74). The outcome of the Charter proves contradictory, for instance the charter's provision that rights and freedom are guaranteed without any differentiation of any kind such as race, ethnic group, color, sex, language, religion, political, or any other opinion, national, social origin, fortune, birth or other status (African Charter on Human and Peoples Rights). This position is incongruous with the African conception of human nature that apparently proceeds from traditional world-view and value system. The system which asserts that the human being must find the individual in one group or the other and normatively demands the attainment or pre-defined social and moral status in order for one to be fully endorsed as human being and therefore to leave whatever right. While the Charter itself seems to separate group membership from the idea of a human being, therefore confers rights on human beings irrespective of group membership, the African concept of self must anticipate group membership as the foundation for being and therefore possess a right.

Ojo Olusola observes, that the Charter "is unique vis-à-vis other similar international conventions" because it calls for a reconceptualization of the subject of rights (Ojo, 1990:15). Also the African jurist at the time vehemently rejected all attempts to incorporate individual rights into the African political agenda, they preferred and defended in the Charter, the concept of collective or people's rights. Ojo expresses the suspicion of African states about the Western idea against the backdrop of their colonial reality. He harps:

With the expression of colonialism, African states have come to regard the colonial system as the worst form of violations of human rights. The system itself is a basic contradiction of human rights. It suppresses the rights to self-determination. By dominating and exploiting the natural and human resources colonialism denied the colonized people, the material means to ensure effective promotion and protection of human rights. (Ojo, 1990:117)

One may contend that, this approach to understanding and placing individual rights in African communitarian perspective is rather utilitarian and pragmatic orientation of traditional African societies. Rights here were not regarded as entitlements that a person had by virtue of her intrinsic worth as an individual, but only because he is part of the whole. So, the relationship between the individual and the community is unidirectional. While the

individual is socialized to fulfill his obligations towards the community, the community on its part has the exclusive prerogative to confer or withhold the rights of the individual. Rights, in this context become individual attachment based on one's membership in a particular group or community not demands justifiable on the basis of one's moral nature as a human being.

The Need for Individual Rights in African Communitarian Ideology

As we have shown in this article, the major contention between the individual and the community is characterized in terms of prioritization of one over the other. Our point is that in contemporary Africa, the prioritization of individual rights to run from individual to community holds better promise for a new moral political philosophy (relevant) to the sustenance of peace and social justice. Although, there are series of arguments by African communitarian theorists such as Wiredu, Mbiti, Elechi and others proclaiming the traditional recognition and respect for individual rights similar to that which obtains in the Western societies. The question is where we should begin to demarcate the lines that make the touted differences so fundamental (Elechi, 2004: 13-14). Also, this proclamation raises the issue as to where one begins to reconcile the respect for individual rights with the subsuming of the same under collective rights, one of the fundamental differences between Africa and the West, Given that individual rights do not always conflict with the collective, but actually sometimes they do. Thus, most times these African theories find themselves acknowledging and accepting what they initially set out to reject.

Hence, it is argued that, because individual rights are subsumed in the collective, it makes it difficult to address unique and authentic differences which may come up. These inadequacies sometimes evolve into conflicts between individual and the community when the community is regarded as existing independently and having interests and rights that are not reducible to those of the individual members, thus, a moral-political philosophy that rests on the priority of the community would have to treat issues as conflict of group rights. This view can be regarded as a self-caused dilemma; the separation of individuals as distinct entities from the community allows referring to some issues as conflict between community and the individual which then calls for compensatory justice. Compensatory justice becomes necessary for the correction of wrong which is supposedly done to the group and then reaches the individual derivatively (Oyowe 2013:130).

However, one is not suggesting that membership of a group or community is not important or should be wiped off (which of course is not pos-

sible), but the point is that the community is only relevant when individuals are relevant. Collective rights matter derivatively from individual rights. Thus a moral and political philosophy which fundamentally prioritizes individual rights over the collective would better position the community for sustainable peace and social justice because it will be easier to address individual agitations which are not necessarily based on race, colour or sex, not minding the position that African attitudes toward rights are determined by history, culture and world-views which do not require any racial precedence. Coetzee corroborates this as he characterizes Appiah's position regarding the collective as: "the individual regardless of race, sex, or colour, is reduced at the expense of group affiliation" (Coetzee, 2001:274).

This moral and political philosophy which prioritizes individual right is also adequately placed to account for reasons why individual rights rather than collective rights should be the focus for sustaining peace and social justice rather than the consideration of faceless group rights which at most times does not represent the position of individual member's interests.

So, it is morally imperative to protect the rights of individuals with the community instead of merely protecting the community's rights. Though there are rights which are group specific like the right against colonial oppression as expressed in the African Charter on Rights which cannot be applied to individuals.

However Will Kymlicka (1989) argues further that individual rights ought to be broadened to cover groups and classes of people since collective identities make little or no sense without individuals.

Conclusion

In this article, I have argued that the prioritizing of individual rights is the most plausible response to the question which claims should be regarded as primary between collective interests and the individual rights. I defend the position that the best assurance of the rights of individual in contemporary Africa is a moral-political philosophy that takes as its starting point the idea of the individual as fundamental. This idea favors the rights of individuals and demands from state in protection of such as rights against any (visible) intimidation, be it in the form of traditional or modern practices. In defending the rights of individuals, it also assures the defense of the collective good. I conclude that, because this ideology does not consider the community and consequently the collective rights as existing independently of or as having overriding tendencies over individual rights, it obviously protects the collective as well.

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