Advancing an African Theory of Rights and Its Potential for Quality Citizenship

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ABSTRACT

Given the numerous instances of crisis of citizenship and state belonging which disproportionately obtain in African states in comparison with other continents of the world it becomes urgent to provide positions that address the problem. This works sets out to do this by engaging the problem of rights in Africa and looking at how it affects quality citizenship. This is because the primary goal of the state is to protect rights and properties. The work will do this by engaging the nature of rights administered in the African states. It will provide a theoretical account of how a wrong idea of rights constitutes part of the problem and why the quality of rights administered in African states should be held to be the source of the problem. It will then proceed to address the problem by formulating a theory of rights anchored on an African worldview which harbours the potential to address the problem. The theory will defend the view that rights can only be found cogent and worthy to compel loyalty to its demands if it is rooted in the values and ideals of people and that an idea of rights that is endogenous to African people will be more cogent, valuable and reliable to citizenship ethics in Africa and compel loyalty to the African state.The work applies the methods of expository analysis and intuitive deduction to arrive at its positons and postulations.

Keywords

Africa; quality citizenship; theory of rights

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INTRODUCTION

There is a paucity of literature that addresses rights from an Africanist perspective. Current literature on this subject include: Cobbah (1987), Wai (1979), Ake (1987), El-Obaid & Appiagyei-Atua (1996), Englund (2006) and Metz (2011, 2014). Yet most of these works are devoted to the question of human rights. They do not engage in the broad discourse of rights in general. Among the literature mentioned, what appears to be an attempt to interpret the notion of rights in an African thought can be read through Englund (2002a, 2002b, 2011). Englund discusses how the notion of rights and demcocracy assumes some meaning among the elites in Malawi, and how this is considerably at variance with the implicaions of the idea of the endogenous language of the people. Similarly the question of rights addressed in the relatively recent special edition of *Theoria*, Issue 157, Vol. 65, No. 4 (December 2018) creates yet a gap that deserve to be filled by this work. This is a journal special edition that engages with the issues of rights in Africa in relation to African philosophy. The edition majorly enagages the age-long debate on whether African communitarianism favours the notion of rights or not. The literatures in this edition do not engage rights as an independent concept nor do they connect rights with the quality of citizenship.

What my work has set out to do are to (i) to locate how or whether the the idea of rights is instantiated/embodied in the African worldview and the principles this worldview defends, and if the effort in (i) is fruitful, (ii) how or whether it can lead to an idea of rights that is more effective and functional for African political state; and (iii) how these could generally lead to quality citizenship. The study thus sets out to address an aspect of the problem rights that has been ignored in state formation and consolidation in Africa and has consequentlty affected the quality of citizenship in African states. The problem addressed is the quality of rights that are administered to citizens of African states. The study is built on the assumption that the quality of rights is also anchored on the notion of rights availbale to a people. The work then attempts to formulate an African idea of rights by providing an African theorizing that explains the concept of rights in Africa within the African moral world with a view to making a case for same in the governance of African states. The Africa implied in Sub-Africa or what has also come under the name Bantu Africa.[1]

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[1] The word Sub-Saharan Africa has been upheld to be a proper way to designate the parts of the Africa inhabited by black people who also live from the Sahara desert downwards to Southern Africa.But there is also the claim that even before the Sahara desert emerged, black people have lived beyond the Sahara.For this reaon the term Bantu Africa is now found more valid to designate these people since it reflects the linguistic group to which the languages of the people of this area could be said to belong.

The work is divided into four sections. I start by discussing (i) the idea of quality citizenship and how it is founded on the quality of rights. I then discuss (ii) the problem of rights in the African state and how it has engaged the attention of African scholars. I proceed to (iii) make a case a fresh theorectial input into the idea of rights through an African perspective. I procced to (iv) provide a normative input into the notion of rights in Africa by advancing a theory of rights derived from the ethical provisions of African worldview. Finally I demonstrate (iv) how the African notion of rights advanced will promote quality citizenship.

THE IDEA OF QUALITY CITIZENSHIP AND THE ROLE OF RIGHTS IN ACHIEVING AND PROMOTING IT

At the heart of the idea of citizenship is the idea of rights and duties or civil liberties; that is those 'rights and privileges which the state creates and protects for its subjects' (Appadurai, 1993; Gettell, 2019). A state in the first instance finds its origin in the common aspiration of a people to seek the means and manner to secure their lives and protect their rights. In the effort to secure existing rights, a state is also expected to create more rights and privileges for citizens which will enhance their faith in the state and promote their loyalty to the cause of the state. This position is relevant because the state is regulating the life of human beings who are dynamic and whose wants, needs and desires are bound to undergo expansion and growth from time to time. For this reason the state should not just protect existing rights and privileges but expand the socio-economic and political space for more rights to meet the demands of any new needs and desires arising from the existing structure.

A state, however it is conceived, if it is going to command an enduring loyalty, must be able to influence and regulate the inner human longings for self expression and self –realization and create a socio-political space that will guarantee the expression of expanded human desires especially those that will protect its citizens and promote the growth of the human community. The ability of the state to do this defines the extent to which the state will command enduring loyalty among its citizens.

Following from the above, a favorable idea of citizenship should reflect a concept of rights, the exercise of which will promote development of the human person in all its ramifications because this is the only way it can secure and promote its validity. In the exercise of such rights other persons' rights should also be enhanced and protected; all of which should lead to a favorable idea of rights and advantages since rights, advantages, privileges, opportunities, etc, are meant to enhance each other. An idea of rights that does not lead to these is not capable of promoting the quality of citizenship for several reasons. First it means that in exercise of such rights more

advantages may not be created and that even if they are created, it will be difficult to distribute such rights. Second, even when more advantages are created, the state will merely serve as a bondage against the yearning for an expression of the will of a people. The implication of my claim is that rights should lead to quality citizenship.

By quality citizenship I imply the virtue whereby the state confers a high degree of what can be called civic quotient—that is, higher level of social and political interaction and enjoyment of benefits that accrue from such interaction—to a people. It is a virtue which arises from a state mechanism that appreciates her role and has advanced in terms of what can be called legitimacy quotient (Olusegun, 2009, p. 94) in its ability to formulate laws and compel loyalty from the people. Within the ambit of quality citizenship, the role of the state as that which assumes the function of protecting and defining the rights and privileges of the individuals is considered reliable and justifiable enough and is seen to be so.

The notion of the legitimacy of the state from both western and non-western thinkers such as Plato, John Locke, Thomas Hobbes, Nnamdi Azikiwe, Kwame Nkrumah, etc., arises from the fact that human beings can function better through a collective regime of power that administer their needs.But this notion of legitimacy is also founded on some assumption that needs to be interrogated further especially in the light of the need to establish a demarcation between quality /valued citizenship and reluctant citizenship or unreliable citizenship.

Quality citizenship can be defined as one in which the state functions for attractive goals and reliable political dividends. On the other hand, reluctant citizenship is one which obtains in an undesired political state founded on an implied compulsion. It is citizenship that obtains in a state that is sustained by coercion, where citizens would not have happily signed unto. An important question arises from the idea of quality citizenship and quality state belongin. Assuming that citizens of a state grows to discover that they have been placed on or inherited a wrong state— that is, one in which they probably would not have voted to belong, or perhaps, one that is incapacitated from fulfilling the minimum demands of statism and in which the state is clearly a failure in terms of providing those basic needs that defines the idea of the state—how can the theory of natural tendency or desire for the state explain this? What understanding can explain the state and the reluctant citizenship that emerges from this scenario?

Respondents to this poser may suggest that the state has absolute right to exist and that perhaps the the only institution that should exist is the state.They might suggest that a bad or failed state does not cancel the idea of state as a desirable project since the failure of a state does not in principle affect the idea of the state. But

such failure also suggests the need to question the form, meaning and pattern of a desired state and the need to question and purify the concept of the state because even if the state is a natural human desire, any kind of state would not fit into this desire. This is because a state may exist to protect just the rights of the few or even the life of the few for which it needs the "presumed" rights or even the "endangered life" of the majority to legitimize its idea and by so doing diminish the ethics of citizenship.

A way in which the morality of the state can be measured is the quality of citizenship in a state. Quality citizenship itself can be measured by the extent to which a state is able to inculcate and instil valuable ethics in the citizens of the state, and where the citizens actually live out these moral principles. In this case, the idea of quality citizenship is not exhaustive without importing the idea and place of morality in the lives of the citizens. Besides, it does not end with the state performing its duty of conferring and protecting the rights and privileges of the citizens. The citizens too have their own role to play, particularly in creating an enabling ground for the state to be able to mobilize them to support its cause and to make them loyal to the duties and responsibilities of state belonging. Part of this could be seen in the kind of rights administered and the worth and value of such rights. It will also reflect in the extent to which citizens are able to hold the state in high esteem and defend the ethics of the state or the rights of the state by ensuring that the state attracts all form of support from the citizens.

The import of my position here is that quality citizenship can be seen in the quality of rights administered to citizens; the extent to which citizens of a state enjoy these rights and the manner they respond to the duties conferred on them by the state. When such state obtains—where the citizens enjoy their maximum rights—the citizens would long to belong to it even if its creation was "unnatural." Quality citizenship would by implication dissociate itself from such anti-state conducts as corruption, terrorism, lawlessness, prebendalism, and unpatriotism of any kind, etc.

With respect to the African state and to the focus of this work, the question is to what extent can citizenship within the African state be said to fall in within what could be called quality citizenship? It might not be a good answer to make a quick claim in this regard. This is because it is the values of a people that define how the state that defines them should be measured and in the African instance it may be important to locate how African norms and values have been inserted into the African state within the context of modernity and in a legitimate and enduring manner to provide a valid answer to this question. Difficult as it may be to give a quick answer to idea of quality citizenship in the African state, we can conceive an answer to this by holding that

state benefits do not accrue equally and validly to majority of the citizens of an African state.

This explains why African states have comparatively speaking more cases of forced or compelled migrants than other parts of the world. Although weak states that do not promote quality citizenship are scattered in many parts of the world, they are proportionally higher in black Africa, manufactured as they are through colonialism, and functioning in several instances against the very ethics under which a state should be constituted. They include Mali, Burkina faso,Nigeria, Cameroon, Central African Republic Sudan and Somalia,etc.These states which are severally characterized by havocs wrecked by insurgent groups and different forms of banditry illustrate instances of poor citizenship quotient. Available evidence on the quality of life of citizens in these states are scattered in relevant journals in social and human sciences.

Owing to what can be called state crisis or what suggests state failure in these states and other parts of Bantu Africa it is difficult to characterize these states with quality citizenship. This is because such categorization implies that citizenship as it obtains at the moment is good enough and that there may not be much need for improvement. But such claims can be faulted because of the existing crises and/or absence of rights in these and numerous other states which the African state is unable to address at the moment. These challenges well documented in leading works on African political economy and African politics in general are scattered in relevant academic and non-academic books and journals scattered in Africa and such as Mazrui (2019), Ihonvbere (1989) and Nzongola-Ntalaja (2008). The Nigerian philosopher Theophilius Okere apparently has this mind when with respect to Africa, he laments that:

> The entire map is filled with debris of rogue states, failed governments, violent successions, coup villains and victims, violent repressed secessions, interminable wars, endemic poverty, hopeless debt burden, ugly slums, desperate recourse to religion and magic, massive unemployment of youths, above all, the absence of hope on the horizon (Okere, 2004, p. 4).

It is nearly over two decades he made this submission but the evidence of the reversal of this situation has not been big enough to counter it.Given such gory picture of some African state, it is therefore wrong to claim that the African state is functioning at its desirable best. My claim is much of the problem of the African state can be addressed through an ethics of rights and that the urgency for addressing the ethics of rights in the African state is critically clear.This among other benefits, would enable a paradigm shift in the idea of rights that would lead to quality citizenship. In this next part of the work, I address the problem of rights and how it has attracted the attention of Africanist shcolarship.I do not claim to have the full details on

the problems of rights in Africa but suggest that my submissions would provide a valid evidence of how this problem have obtained in the African state. I aim to outline and discuss some problems emananting from rights in the African state and how they affect quality citizenship

THE PROBLEM OF RIGHTS IN THE AFRICAN STATES

By rights I am concerned with civil and political rights.[2] I also note that the Africa implied here is modern Africa and that my concern is the problem of rights in the modern African state, that is, states located in Bantu Africa which have their origin in colonial adventures in Africa. However, by this distinction, I include Ethiopia whose existence predates this colonial adventure.

In modern Africa a number of problems emanate from rights .These problems could be broadly categorized as the problems of (a)absolutisation of rights (b) politicization of rights; (c) rights distribution and (d) rights administration. By absolutisation of rights is implied a situation where rights are seen as ends in themselves with little attention to the duty that should arise from enjoyment of these rights. This is a major charge that can be eloquently observed in the conduct of affiars of the state in Africa especially among the the ruling elites in African stastes who considerably enjoy the rights of the state at this best but arguably, it can be held, perform the duties of the state at its worst. By politicization of rights, is meant what can be called ethniciation or provincialization of rights. By this, it is meant that sometimes rights serve as entitlements to some people and privileges to others (based on their ethnic belonging).

In some instances, some rights serve some class of the society more than the others. Consider a situation whereby in state security personnel are hugely and deliberately recruited from a section of the country or an ethnic group more than others, with no justification, except that those recruited come from the same ethnic affliation with those that manage the affairs of the state. Or where the employment in other aspects of civil life is skewed in favour of an ethnic group thereby denying others the right to work and earn decent living. This scenario is what can be characterized as "ethnicization" of rights. By politicization of rights, I mean that in seeking to respond to the need for rights in Africa, the provision of rights suffer a beaurecratic bootleneck

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[2] The notion of rights implied is contained in the International Covenant on Civil and Political Rights) and economic, social, and political rights (as contained in the International Covenant on Economic, Social and Cultural Rights). These are also reflected in the African charter on human and people's rights endorsed by the Government and Heads of state of the Organization of African Unity in Kenya in 1981.

amounting what can be called "governing government" (Ugwuanyi, 2014). Here I mean that in several cases, rights in the African states (and even other states that share the trajectory of African states) amount to "over-adminsitration" (over manangement) and under-government (under service) (Ugwuanyi, 2011) and that the provision of rights are deliberately delayed to make it more cogent to the beneficiary.

By rights distribution is meant the platform under which rights are distributed. At the moment, the idea of region is often employed as a unit of governance for the administration and distribution of rights in several African states. This obtains in countries such as Ghana, Cameroon, Zimbabwe, etc. Where the idea of region is not employed, the idea of a mini-state is applied in its place as it is the case of a federation like Nigeria. In these states, regions (mini-states) serve as a platform for distribution of some economic and political rights. But regions hardly reflect a fair principle of rights because in some places, regions are not allocated on the basis of population but land mass or cultural consanguinity. Thus, it is common to locate instances where some regions may be twice others in terms of population but with fewer righs to resources than the former. In addition to this, there is often a greater attachment to the political advantage of resource sharing than to resource creation in the concept of region, and this to a large extent could be said to account for the protracted crisis of rights in African states. This has often led to the crisis of rights to promote what can be called the violence of rights (Mbembe, 2001, p. 13). By this I mean a shift in paradigm from contesting for rights fiercely to applying the same right judiciously to match the duty of rights.

The other problem that affects the quality of rights in Africa is the institutions that administer rights in Africa—the security insituions and legal institutions, police, the courts, etc. These bodies sometimes lack commitment to the ideals of the state, especially the dignity of rights that define citizenship, hence the rights they administer often assume the place of privileges. The assumption in these institutions is that there is no objective idea of what quality of rights and quality delivery of same should mean. Hence they often an inefficient service of rights, which often do not often attract the kind of sanctions it deserves and as a result of this, the case in Africa is often poor services at public institutions. The larger institutions that administer other forms of rights—education rights (education industry), hospitals (health rights), etc.,—do not fair better. Rights enjoyed in these instions in several instances hardly motivate quality citizenship.

Such poor social services often have weak economic,moral and political consequences as it decreases the capital of the state for which the state cannot count on

the loyalty of its citizens. Economically, it impoverishes the economy of the state for which those who demand efficiency are subjected to extra-payment. Hence public institutions often harbour touts who serve as illegal agents of rights and efficient service delivery. At international airports, it is common to see people who live by selling money in illegal black market cashing on the need for urgency, efficiency and effective service delivery of financial rights of citizens, living perpetually against the ethics of legitimate duty. Whereas some citizens earn their income legitimately, these class of citizens live by trading on money through an unapproved group network of efficiency cashing on the bureaucratic problem of the state to operate a parallel administrative and governance mechanism.

Following from the problem of rights sketched above there are valid reasons to hold that the problem of rights is eloquent in the African state. The need therefore arises to develop or advance a theory of rights that could address this problem. Such a theory of rights should attempt to come within or be relevant to the African worldview where it is expected to be applied and by so doing become instrumental in intervening in the quality of rights of African State. To this I turn in the next sections of the work.

TOWARDS AN AFRICAN THEORY OF RIGHTS

To propose a theory of rights for the African state I raise the following question: what conception can lead to an idea of rights that will produce quality citizenship for the Africa? What sorts of right should be given to the Africans to enable them attain quality citizenship? How can they enjoy these rights given the sometimes abysmal nature of the institutions enthrusted with the responsibility of procuring and safeguarding these rights? Or what sort of governments and governemental instutions should be enthroned in the continent to ensure that quality citizenship becomes a reality for the Africans? The kind of answer we gain why addressing these questions will largely shape the theory of rights that I am proposing. To answer these questions I will attempt (i) to map out the expectation of the idea of rights desired for the attainment of quality citizenship and (ii) the underlying values of the African world that can lead to this and how they can be made to provide the basis for the formulation of such theory of rights. The need for (ii) arises because in view of what can be called exogenous origins of modern state formation in Africa it can be argued that this has generated the current crisis of rights. This is because an exogenous notion of rights would need an exogenous value to function.

It should be expected that a relevant theory of rights should lead to the actualization of the relevant concept of rights in the contemporary African state. These rights

should not exclude anybody on whatever ground. It should harbor no potential for discrimination against men, women, youths, girl, children, etc. on account of qualification, gender, political view or affiliaton, ethnicity, etc. Rather every class should be offered the same opportunity to interact with the state in a more positive manner. Such notion of rights should place a moral burden and not merely a legal burden on the citizens.

Furthermore, it should also be expected that such theory of rights should provide conditions where rights must themselves be seen to be legitimate, that is as that which citizens deserve within the concept of citizenship and one which they are entitled to, because they belong to a particular state. All rights deserve this quality and must aspire to possess this quality because it confers a certain level of dignity both on the giver and the receiver and it is based on this, that the state is seen as a contract founded on mutual trust and freedom. Thus such rights must be secured and enjoyed with freedom, through freedom and by freedom. The implication of this is that rights must not be interpreted to mean a privilege or be seen to be so. A privilege has a lower status than rights because it can be given or denied and it does not command a strong force for entitlement but rights are entitlements which arise from state belonging.

After an elaboration of the quality of rights desired the question is: to what extent are the values and norms that can give birth to such rights available within the African world? This question is important for two reasons: (i) There is a superior value attached to rights achieved through a self-conscious formulation of values than is the case with rights arising from inherited values. By this I mean that human beings would often attach much interest, care and vigilance to rights that emanate from their values than to the ones that are invented through alien values and institutions; and (ii) When human beings collectively construct a regime of rights based on their values they would likely work together and invest their time and resources to protect and defend these rights because it finds its origin in their self-constructed values. It defines their social worth, motivates their desire for social achievement, and sustains or generates loyalty to the social process.

There are reasons to hold that these desired conditions for rights are considerably absent in post-colonial African states and the rights afforded therein.At least two prominent socio-political theorists of post-colonial African states have illustrated these in their works. The first is Ekeh (1975, 2000) and the second is Mamdani (2018). According to Ekeh (1975), two publics compete to define and defend rights in the modern African state. They are the civic public and the primordial public. The primordial public is represented by traditional structures and laws which provide and de-

fend rights as a communal achievement and present them largely and entirely under a traditional framework and value. The force and strength of this public lie in the power of tradition and ethnicity as the basis for legitimacy of rights. In other words, rights under this framework defend the "ethnic" state/society and have no trans-cultural or trans-ethnic potential and cannot serve the interest of the entire citizens operating outside its framework.

The civic public, on the other hand, is the public as defined by modern structures of the state: the police, the law courts, the judiciary, the media, etc. Rights under this framework as conceived are defined by national state constitutions and applies to all citizens of a given state.Under what can be held to be a similar thought scheme with Eke, Mamdani looks at rights from the post-clonial African state as disctint from the colonial African state. Within this conflicting state structres, there is what he called a bifurcated state structure where the exercise of power favoured the creation of an urban power base and structure that encouraged civilsed state ethics while at the same time it lead to an uncivil order that incorpated the natives into a tradional authority and order.

These two orders or what can be characterized as two publics could be held to characterize the African state, even if at a lesser scale at the moment. They often compete to influence the demand for and provision of values in several African states of Bantu Africa who share similar cultures and beliefs. However the extent to which they succeed in generating valuable ethics of rights and citizenship is clearly weak. Indeed this is what has led to the quest for a new reconceptualization of rights in Africa as implied by this study. This is because, rights provided under a primordial/subject framework presuppose a definite ethnic arrangement defined by a certain social-economic space and political order for people of the same cultural persuasion. But industrialization and modernization through rural-urban migration has created a scenario in which urban and semi urban cities in Africa are populated by people of diverse cultural origins and international affiliations. Above all, ethnicity is not a choice. To this effect, the realization of rights in Africa, based on ethnic communal affiliations as it is the case with the primordial public, decreases the quality of rights and prevents the expansion and growth of state mechanism which is central to social and political life in Africa.

The civic public, on the other hand, while it satisfies the demand for individual autonomy and freedom and the cosmopolitan nature of the African state, is at the moment a deficient paradigm and it cannot provide the platform for rights. It disemembers considerably the fabric of the community in Africa. This arises from the fact that it places emphasis on the individual in contrast to the community. But the

African society harbours strong communal outlook on life, and the community needs the gains and its potentials for social enegineering. Thus, the situation whereby the contract for rights is between the state and the individual with no direct or indirect link to the community is considerably defective in Africa because it does not generate the communal (social) force demanded of political principles and values in Africa. Severally, it gives the individual the moral force to seek these rights by undermining other people's rights. These spell the need for a theory of rights that can addres the demands of quality citizenship .I shall in next part of the work suggest how this can be achieved. To do this,I provide a moral background to such rights and how it can lead to such notion of rights.

INTUITING AN AFRICAN THEORY OF RIGHTS THROUGH THE AFRICAN WORLDVIEW

In the light of the conditions mapped out above, how can an idea of rights that would lead to quality citizenship in Africa built on the values of African communal world be achieved without undermining the norms and values of African society? To address this question, I articulate the key moral values around which the African worldview is built and proceed from there to formulate an idea of rights that finds its cogency in and through these values. I suggest that this is a stronger route to a reliable notion of rights. This is because the idea of the state in the endogenous African thought is grounded first and foremost in certain moral norms and values which are considered good for the community and for which the state is considered a desirable end and is instituted to defend and direct the realization of the gains that arise from those norms. Thus, it is cogent and reliable to articulate the moral principles of the African world in the attempt to provide an African theory of rights that will be designed to lead to quality citizenship in Africa.

By moral principles of the African world I imply the moral convictions that Africans would generally defend as implied in the views they express on matters relating to the good and the bad. The major position that defines the African moral is that morality in Africa is grounded in a form of communitarianism.[3] Metz (2007) in seeking to capture this, through what can be termed an anxiomatic paradigm/method of espressing theories, suggests that for the African:

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[3] African communitarianism is captured in a number of works, including Gyekye (1996), Coetzee & Roux (2003), Nze (1989), Metz (2007), Ikuenobe (2006), Bujo (2001). The kernel of this idea is that the African worldview is often shaped by this communitarian ideology. Several important scholars have attempted to articulate the demands and implications of this idea. They include scholars such as Menkiti (1979, 2017), Mkhize (2008), Bujo (2001, 2009, 2010). Two Ghanaian philosophers Wiredu (1980, 1996, 2002) and Gyekye (1987, 1997), have also made notable contributions to this subject through a form of particular studies on the subject based on the Akan cultural group of Ghana.

An action is right insofar as it promotes a shared identity among people grounded on good-will; an act is wrong to the extent that it fails to do so and leads to encourage the opposites of alienation and ill-will.

The implication of his view is that *shared identity* and *good-will* are the basic principles which African morality tends to defend (Metz, 2007). If his view is correct, one can hold that core African values such as co-operation, consensus, reconciliation, commonality and related values sought by the African serve to defend the principle of good will and shared identity. Since morality spans nearly all of social life and forms the background of which all other social, political, economic achievements are measured, one can hold that these moral principle and values provide the background to understanding and interpreting all moral framework within the mental universe of the African world. Hence such values held by Africans including: 'sense of human value', (Onwubiko, 1991; Onah, 2005) 'sense of hospitality', 'sense of the sacred', and 'the sacredness of life', 'sense of community', 'sense of good human relations', 'sense of identity' (Onwubiko, 1991) are meant to defend the principle of shared identity and good will of Africa.

The question that follows is: what is the place of rights in this theory and how does this add to construct a viable theory of rights? To addres this question, it is important to locate the basic demands of rights arising from the moral principles of the African world and how we can, by locating these in the moral principles outlined above, advance an idea of rights that will be relevant to the African in his attempt to construct a modern state. To do this, it is important to locate the assumptions on which the idea of rights are based in Africa. These include the ground for rights and the basis for legitimacy of rights. Here it should be noted that in African thought, a person becomes principally human through his insertion into the human community. As Mbiti (1990) famously put it, in Africa 'I is in the we and we is in the I' and as the Ubuntu ethics has it 'you become human through other humans' (Ujomudike, 2016). The implication of this is that others have the duty to make others human through a viable ethics that promotes a bonded oneness.The other fact that follows from this is that the right to be human or 'to be made human' also implies responsibilities and obligations to make the other human. Such duty implies the provision of things that would add to make the other a cooperate member of the human community. The implication of this is that it is duty that defines rights in Africa because rights are only defined within the boundaries of available duty.

Thus, apart from the commonly held view that the concept of rights arise from a certain view of social needs, that it is the social instinct of human being—it should be noted that in African setting rights serve to aid man in the performance of his duty,

and for this reason, rights are not ends in themselves. Indeed rights are more or less instrumental ends the goal of which is to enhance the duty to protect and promote life and enhance communal welfare. Every human being has the right to life which arises from and flows from his humanity but this right to life is only valuable only to the extent that this right is exercised in favour of other rights through the performance of the duties that are demanded by the rights. This is the focus of the idea of rights in African thought.

In the African setting therefore, it can be held that duty and rights in several cases arise from one source. As Cobbah (1987) puts it: African society is knit together through a form of kinship and "the kinship terminology defines and institutionalizes the family member's social role and these roles are essentially rights which each kinship member customarily possesses, and duties which each kinship member has toward his kin". Hence the duty of one as in the African instance is often the right of the other. But the imperative of duty is not exactly the imperative of right. This is because the need for duty arises from carrying out those actions which in their nature demands and deserves to be done. Duties in Africa and believably in all human societies are hugely functions within that are carried out under a de-ontological ethics. For instance, the duty to protect life is simply a derivation from the fact that there is life which must be protected because it has a value which arises from its nature or mode of being. What is done with the life protected or what the life stands for may not matter much. In the African setting, it can be suggested that duty serve this same function and addtioanlly serves as the metaphysical foundation and thread that binds rights.

Given then the primacy of duty as that which defines or should define the basis for right, it is therefore, the expectation of an African theory of rights that duty should serve as the foundational basis for the creation of rights which are merely organs that should aid the state in the realization of its end. Thus, the strongest factor in the creation of rights should be those that have the strongest potential to produce the conditions for greater realization of the imperative of duty and not principally those that should produce a distorted value of rights as ends.It is this distorted value of rights as ends in themselves that arguably stand as the core of the problem of rights in Africa. In the next part of the work I articulate how an idea of rights that emphaises duty serves a wider gain for the African and how this spells out a fresh idea of rights that should held to be African. I support my view with   claims that this can lead to quality citizenship than the extant notion of rights inAfrica.

ARTICULATING AN AFRICAN THEORY OF RIGHTS AND ITS POTENTIAL FOR QUALITY CITIZENSHIP

To formulate an African theory of rights it should be known that rights are properties of selves either as individuals or coummnities and that rights can only be found when there is a recipient or an agent. For this reason the idea of rights demands a strong principle of the individual. This does not mean that there are no communal rights but that even such rights demand an agent. The idea of rights desired in the African instance from the foregoing, therefore is one that flows from the human person in Africa for which both the cogency and legitimacy are rooted in the person or the idea of the individual that the African advertises. But the idea of the individual that the African believes is not one which has a direct link with state structures (especially in the western/modern definition of the concept) but one who must be linked with the community for the realization of his/her needs and human fulfillment (defined as the ultimate fulfillment of the human person). This is because, it is through the community and not the state that the individual becomes *a human citizen- that is belonging to the human community* . The individual in African thought is not constituted first by the state but by the community and this makes the two entities relevant to the consititution and realisation of rights.

Indeed a secure citizen of the state in an African instance is one who at anytime or anywhere is protected by a form of communal bond that links him or her with others which is legitimate enough because it arises from the fact that he belongs to a state which is rooted in a worldview that is substantially communal. The vast ideas that define state and security in its modern context—psychological, social, spiritual, moral, economic—can hardly be achieved without the community in Africa. In this regard, the idea of the state in Africa should not just imply a contract of individuals but of individuals and the community and a contract of communities with communities whether of the primordial kind or the civic kind (Ekeh, 1975, 2000).

In the light of this, rights in the African instance would amount to that through which the individual is legally positioned to belong to and defend the community as implied the needs, dreams, desires, and aspirations desired for these reasons. The need to gain these desires to function for the community are considered as that which the individual is entitled to by law, to seek for, and on behalf of, and for which rights and privileges are defined by and defended. This right is supposed to be foregrounded on duty, hence duty plays a fundamental role in ampping out rights. In the lights of this, rights should then amount to that through which the state generates a communal force or ethics necessary for the individual to advocate for, secure and

defend the rights of others by fulfilling their duty to others as members of the community they belong. Rights are basically loyal to duties in this thought scheme and not vice versa.

The implication of this notion of rights is a closer but very cogent interaction between four concepts and values around which the concept of rights could be said to finds its legitimacy in the African thought scheme; namely, the individual, the community, duty and the state. What this theory of rights holds is that rights are primarily the child of duty which in an African setting are generated by and secured through the community and for which the community should form an important item in the definition and determination of rights. It amounts to the fact that the community is at the centre of state and the individual and serves to defend the values implied by both.Rights are not ends in themselves but servants to duties and the communities.

The implication of this theory of rights is that rights will serve as a means through which the individual can enhance the growth of the community which stands as the source of the ideals and values that sustain the concept of the state and through whom the state finds legitimacy. In similar manner communities in Africa assumes the platform for the growth of a regime of rights that safeguards the citizens of the state and through which individual welfare is articulated. Thus we could anticipate a symbiotic relation of the kind for which rights are not prinipaly self-originated; that is, as what emanates soley from and through the individual but arises through the principle of person-community relationship and is legislated and formalized through the agency of the state.

This also gurantees their sanctity and security because they are then so observed and protected for this reason. For instance, the rights such as right to life, to worship, to work , to live in a decent house, the right to education, to associate with others; all these should be secured by a form of communal values and principles for which they are bound to defend them and for which they should be protected. The implication of this is that the idea of citizenship in the African state and the rights that flow thereform at anytime or anywhere should emante from, and advance a communal interest for which the communal –real or imagined should be allowed a place in the quest for rights.

To further illustrate the cogency of the theory of rights articulated let me highlight its potential for enhancing quality citizenship. To do this it is important to rehearse the major aspects of the problem of rights in Africa as articulated earlier and the extent to which the theory of rights proposed here has the potential to address the problem. The problems affecting rights in Africa as earlier articulated include the status of

rights or what casn be called the absolutisation of rights as that which is conceived without reference to its duty—that is, the duty of rights—the institutional framework through which rights are distributed and administered and the crisis of belonging for which rights are often related or linked to ethnicity. The implication here is that rights are fundamentally linked to freedom of the individual but not the duty that is demanded of this freedom.

For this reason rights can be sought and got without a cooperate and communal value that makes it serve a productive gain as a social ethic. These problems are to a large extent addressed by our new theory of rights in that through it, rights are reground in the communities from where the individual gains legitimacy in Africa. Rights in our new theory are not just an individual-state affair but an individual-community-state affair administered through the communal morality of Africans where the duty of rights takes precedence over the rights from duty. In such an arrangement it can be reliably expected that belongingness, the conception of and the distribution of rights would assume a more just order and that rights will serve a better end.

The failure to build on the values and principles emanating from community can be seen as what stands at the root of the crisis of rights in Africa. In several instances citizenship conflicts arise from wrong citizenship ethics whereby members of African state fail to be law-abiding citizens on the ground that the law has failed to promote the cause of justice but their idea of rights implied strictly has no communal bearing because it is rather opposed to coummnal ethics of duty. Countless crises such as regional crisis and conflicts in Africa can to a large extent be traced to this view. Such cases demonstrate how the idea of communalism is no longer involved as an item of value and for which loyalty to the state is not anchored on the idea of the communal. This distorted idea of the state and rights is what my work has attempted to address. It is hoped that this effort to address the crisis of rights through this fresh insight will deepen the search for worthy but reliable alterntaives that would lead to a more just world in Africa.

CONCLUSION

The effort in this work has been to address a problem that has been ignored in state formation and consolidation in Africa and which has adversely affected the quality of citizenship, the consequence of which has been disloyalty to the state and unproductive relationship among citizens resulting in crisis and wars in Africa. This is the problem of rights and the quality of rights administered to citizens of African states. The work has tried to articulate the role of rights in achieving quality citizenship and the need to formulate a theory of rights gounded in African worldview. To do this, I have

discussed the idea of quality citizenship and the role of rights in achieving quality citizenship.

I have also attempted to locate the problem of rights in Africa and how it affects quality citizenship and gone forward to discuss citizenship crisis in Africa as emanating from this problem. I then proceeded to advance a theory of rights anchored on an African worldview and demonstrated how it will promote quality citizenship. I have done these with the view to make a case for same in the governance of African states. It is my hope that this work will provide worthy insight into the proper way of conceiving rights, which when applied, will reconfigure the political landscape of Africa littered with debris of failed or weak states arising considerably from the crisis of rights.

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