One distinctive feature of the contemporary scholarship on human rights is the interdisciplinary and diverse ideological interests that the subject has generated and continues to foster. This widespread attention to the subject is perhaps inevitable, given the gap that still exists between the quality of life envisioned in various human rights treaties and the actual conditions in which millions of people live in the world today. The dignified existence which the acceptance of a human rights regime is supposed to facilitate remains a distant reality to many people. That scholars and activists have resisted the temptation to use the achievement gap in human rights record as an excuse to deflate its continuing relevance is thus commendable. But this robust interest in a global human rights order also has its drawbacks, one of which is the confusion it has created about the meaning of the concept of human rights itself. While this will not be an appropriate occasion for me to offer a review of the literature in the field, I must indicate my agreement with Henry Shue in his definition of a moral right as that which “provides (1) the rational basis for a justified demand (2) that the actual enjoyment of a substance be (3) socially guaranteed against standard threats” (Shue 1980, 13)

Although this formulation identifies several elements that are germane to the understanding of rights, I will focus on only one of them by looking at the notion of
“standard threats” against which human rights ought to be socially guaranteed, and in particular, ask whether culture constitutes one of those threats or should rather be understood as a positive resource for securing human rights. This is obviously an unconventional question to raise in human rights circles. This is because, for much of the history of international human rights movement, it is the state and government, in their various configurations, that have been typically feared as the greatest threats to human rights. This fear is not without justification, if we look around the world and see the magnitude of suffering unleashed by many governments against their peoples. I myself have written about this dimension of the issue, and there is every reason to remain vigilant about the conduct of those who have assumed responsibility for our collective life. However, the suggestion that culture might also be a threat to human rights agenda raises a different kind of problems, not the least of which is how to explain the existence of many advocacy groups mobilizing the instruments of international humanitarian law and human rights law to protect various expressions of culture. In other words, rather than being a threat, culture tends to be presented as a victim that needs the protection of human rights.

To claim then that culture might become a threat to human rights requires a further explanation and analysis. I will present a sketch of my reflection on this question in the context of the ongoing debate in Africa.

International Human Rights and African Culture

In 1981, the Heads of Governments of African countries adopted the African Charter on Human and Peoples' Rights, otherwise known as the Banjul Charter. This
document is the appropriate place to begin in evaluating Africa’s contributions to global human rights conversations. The Preamble to this document expresses not just the African governments’ official position on the normative status of human rights, but also provides an insight into the legislative history of the treaty. We are told that the drafters took into “consideration the virtues of their historical tradition and the values of African civilization” in “their reflection on the concept of human and peoples’ rights” (“Preamble to the Banjul Charter”). Although there is both evidence and admission of similarity between the contents of the Charter and other international instruments of human rights, especially, the UDHR, the drafters did not want to leave anyone in doubt that the document was an unmistakable evidence of “an African cultural fingerprint” (Mutua 2002). What the ‘cultural finger’ actually prints is another question altogether. Among the various interpretations of what human rights from a distinctively African cultural perspective might mean, the view of an Ethiopian anthropologist, Asmarom Legesse, is fairly representative. According to him, “one critical difference between African and Western traditions concerns the importance of the human individual. In the liberal democracies of the Western world the ultimate repository of rights is the human person. The individual is held in a virtually sacralized position. There is a perpetual, and in our view, obsessive concern with the dignity of the individual, his worth, personal autonomy, and property” (Legesse 1980, 124). He contends that, in contrast, conceptions of human rights in Africa are founded in communal principles and in practices which favor groups over individuals. The African tradition does not allow that individuals have any claims that may override those of society. Other scholars have made a similar argument, with some even claiming that the entire human rights agenda is a cover for Western
imperialism whose imposition on Africa has created crises of moral and political legitimacy, in addition to those of national incoherence and economic underdevelopment.

One is reminded by this argument of the restricted notion of human dignity espoused in the Middle Ages in the neo-Platonic and neo-Aristotelian thinking of Augustine and Aquinas respectively. Earlier in the development of this idea, notably in Greek and Judeo-Christian thought, each individual person was understood to possess a unique worth, either because of having a special relationship with God or as a microcosmic reflection of the entire universe which is believed to be of ultimate value. In the *Chorus of the Antigone*, for example, Sophocles proclaims: “many wonders there are but nothing is more wondrous than man” (Spiegelberg 1970, 43). However, in the Middle Ages the worth of the individual is subsumed by the overriding importance of the law and of the Church as a legal institution. “The individual was so infinitesimally small a part,” states Ullmann, “that his interests could easily be sacrificed at the altar of public good, at the altar of society itself, because nothing was more dangerous to society than the corrosion and undermining of the very element that held it together, that is the faith” (Ullman 1996, 36-37).

Thus, there is nothing inherently novel in the claim that African culture is a source of values capable of infusing life with both meaning and structure. But not everyone agrees on what this entity we call ‘culture’ actually stands for or means. The term is a successor to another concept—religion—and was coined by followers of Herder as part of a set of later 18th- and early 19th century programs trying to find a secular replacement for the network of daily practices that religions had once underwritten. By the 20th century it had gained wide currency such that we are able to identify two
prevailing understandings of the concept, especially within the social sciences. Under the first model, culture has a lexical priority over human agency because it is believed to be “an implicit feature of social life” or “the underlying assumptions and expectations on which social interaction depends” (Wuthnow and Witten 1988, 50).

A wider survey of the scholarship reveals, however, that this view of culture is also shared in certain disciplines of the Humanities, notably philosophy and religious studies. One philosopher, for example, offers rationales for why his colleagues need to take culture seriously in their search for a credible foundation for ethics. First, moral norms are “inextricable from cultural ones,” he argues, because “the details of what constitutes a good human life are and must be spelled out by way of diverse cultures,” and, second, “individuals in fact tend to guide their decisions much more by the rich, specific way of life embodied in the cultures in which they were raised than by the vague abstractions promoted by universalist moral philosophers” (Fleischacker 1999: 106-07).

This is a view of culture I will characterize as essentialist because it seems to require us to understand culture as a normative rather than a descriptive term. The content of a culture is not only pre-theoretical but also appears to be self-justifying. It pre-exists any human attempts at moral imagination and socio-political inventions; in fact, it becomes the sole criterion by which all such human endeavors acquire their authenticity and legitimacy. A stronger version of cultural essentialism in fact erases the distinction between cultural practices and moral judgments; the two domains of human activities are interchangeable, descriptively and normatively. This is the paradigmatic view of culture that has persisted among those insisting on the warrants of indigenous African traditions to validate any socio-political and economic proposals.
In a moment I will gesture an historical explanation for why cultural essentialism has persisted in Africa, but for now we must look at the second dominant view of culture. This alternative interpretation presents culture “as an explicit social construction” or “a kind of symbolic good or commodity that is explicitly produced. It arises from social interaction, either as an intended or unintended consequence of behavior, takes on some distinct observable form, and then acts back on the broader social environment” (Wuthnow and Witten 1988, 50-51). Whereas the former view emphasizes culture as part of the established structure or framework of social action, this approach emphasizes the importance of agency as a source of cultural products and investigates the specific activities involved in bringing these products into being.

One major cultural product of the modern age is the human rights idea itself, a development aptly characterized by Michael Ignatieff as a sign of moral progress. The idea represents a decisive paradigm shift in the way the human species is treated—no longer as a dispensable commodity in the political and cultural negotiation of difference but as “the bearer of a moral franchise.” The Universal Declaration of Human Rights and subsequent international and regional human rights documents were intended to enact the belief that “our species is one, and each of the individuals who compose it is entitled to equal moral consideration” ((Ignatieff 2001, 4). To be sure, the accuracy of this political and moral history is open to challenge. For in our burdened political memories, Hitler, Franco, Salazar, the Algerian war, the Vietnam war, the atrocities in Angola, Mozambique, Bosnia, Rwanda, the Democratic Republic of Congo, and Darfur are persistent, unforgettable facts, testifying among thousands of others, that in Europe, as
everywhere else, human rights exist only as values, alas, and that nowhere, no more in Europe than in other civilizations, have they acquired the status of a mass cultural fact.

The gap between rhetoric and reality notwithstanding, the language of human rights has become almost as deeply embedded in contemporary struggles of political opposition as it is in the rhetoric of multilateral and bilateral diplomacy and the legitimating appeals of states. I should note that some observers have mixed feelings about this proselytization of rights. Their concern is that global advocacy for rights has produced, in their judgment a “human rights inflation” (Nickel 1986, 1)—which has the effect of devaluing human rights.

Although this is a legitimate concern, I see it as a good problem to have, as most people would prefer to live in a world in which the affirmation of human rights proliferates than in a society where rights significantly contract. To the extent that the international community has chosen this direction, how does one explain then the continuing attraction of an essentialist view of culture in human rights discourse among certain African scholars? And is it true that there is a fundamental opposition between the alleged western cult of the individual rooted in an atomistic conception of society and the value orientations that are immanent in Africa? Are the critics correct in suggesting that in an authentic African worldview, the individual has rights only in so far as he fulfils his obligations towards his people, and wherever there might be a conflict, the rights of the individual must naturally be sacrificed?

One way to explain the situation is to link cultural essentialism with a version of communitarianism advocated by philosopher Alasdair MacIntyre and theologian Stanley Hauerwas in their reply to what they perceived to be the ill-fated individualism of the
West, which they located in the 17th century Enlightenment movement. For once the failure of the Enlightenment project is granted, and the contingency of language, selfhood and community is accepted, the conclusion seems inevitable that beliefs in human rights are “one with belief in witches and in unicorns” (MacIntyre 1981, 69). In MacIntyre’s well-known view, the idea of human rights was formulated in the modern period as a way of dealing with tensions internal to the Western moral tradition, and as such this idea is inextricably tied up with the specific values of that tradition. Like Hegel, he rejects the Kantian notion of a detached and unencumbered self who discovers the universal moral law in the noumenal realm. For him and his fellow communitarians, the fact is that no such universal moral language exists. They do not think “there are any plain moral facts out there in the world, nor any truths independent of language, nor any neutral ground on which to stand and argue that either torture or kindness are preferable to the other” (Rorty 1989).

The problem with communitarianism is that it overestimates the originality of Western civilization and its contribution to human rights. It conflates a theoretical tradition associated with western thinkers, that is, “the chain of the successive expressions and formulations of an idea,” with the idea itself and its conceptual content as cultural universals. It thereby denies the legitimacy of the existence of the idea in other contexts, whether or not those contexts chose to render the idea in the philosophical and theological diction of the west. The fact is that Europe did not invent human rights, any more than it invented the idea of human dignity. It was simply able to conduct on this theme systematic research which took the form of an open progressive discussion. It thus produced, not the thing, but discourse about the thing, not the idea of natural law or
human dignity but the work of expression concerning the idea, the project of its
formulation, explanation, analysis of its presuppositions and its consequences, in short,
the draft of a philosophy of human rights. Thus, to territorialize human rights ideas by
“linking them so closely to geography, betrays their meaning and scope and rules out all
claim to universality without examining or testing it” (Hountondji 1986, 323-24).

But the root of essentialist reasoning in Africa goes much deeper than the trap
created by the communitarian critique. Cultural essentialism and its twin principle, “the
metaphysics of difference” (which, for lack of a better word, may also be described as
nativism), are posited as the appropriate response to the specific contours of Africa’s
history and experience, at the center of which were slavery, colonization, and apartheid.
These three evils, the argument goes, “have plunged the African subject not only into
humiliation, debasement, and nameless suffering but also into a zone of nonbeing and
social death characterized by the denial of dignity, heavy psychic damage, and torment of
exile.” They serve as a unifying center of Africans’ desire “to determine the conditions
under which [they] could attain full selfhood, become self-conscious, and be answerable
to no one else” (Mbembe 2002, 240-42). Political projects, philosophical reasoning, and
ethical proposals must all be evaluated in light of their sensitivity to and engagement with
these historical vicissitudes.

Both nativism and cultural essentialism were inspired by the 19th century Pan-
African movement led by notable figures on both sides of the Atlantic, including
Alexander Crummell and W. E. B. Du Bois in the United States, and Kwame Nkrumah,
Casely Hayford, and Nnamdi Azikwe in West Africa. The movement chose to define
African identity through the prisms of race and geography. In so doing, the well-
intentioned effort to confront the racist mindset of the era resulted in contradictory positions that were concurrently espoused within the movement and have been perpetuated since. There is, on the one hand, a universalistic position, affirming Africans as human beings like any other. And there is, on the other, a particularistic position, claiming that Africans have a glorious past that testifies to their humanity. For both positions, however, race is deployed as a validating principle: “The defense of the humanity of Africans is almost always accompanied by the claim that their race, traditions, and customs have a specific character.” And, just as race remains foundational in these narratives to difference and political solidarity, so does the geographical space called Africa as “the privileged site at which the (black) race’s institutions and power are supposed to be embodied” (Ibid, 254-256).

Time would not permit me to flesh out the inherent contradictions in the quasi-equivalence established among the triple notions of humanity, race, and geography, and the implications of using them as grounds for human rights agenda. Suffice it to mention that within the cultural essentialist paradigm, “blacks do not become citizens because they are human beings endowed with political rights, but because of two particularistic factors: their color and a privileged autochthony” (Ibid, 256). This conflation of racial and territorial authenticity not only restricts the meaning and scope of civic relatedness, but also makes it impossible to conceive of the existence of Africans of European, Arab or Asian origin or that Africans might have multiple ancestries.

Here lies the absurdity in cultural essentialism! Faith in culture can easily become a reason to lose faith in humanity or to discriminate against those whose selfhood is shaped by the non-dominant culture or other signifiers entirely. The history of many
countries in Africa, both recent and not so recent, should remind us of the dangers of a runaway essentialism. African culture is various, not singular, and many participants have been and still are involved in the invention of what may pass for cultures in and of Africa. The racial composition of those participants is also diverse and complex, but the merits of their cultural products lie neither in their racial identity or geographical affiliation. There are cultures to be proud of in Africa, but there are also others that call for serious interrogation. In the words of one observer, “much of the continent is pervaded by what might be termed cultures of impunity” (Quayson 2002, 587). This hardly exaggerates the realities of life on the continent. A minor traffic infringement may cause a person instant and violent retribution from bystanders. To fall in love with the wrong partner may invite physical mishaps of unimaginable sorts. A minor altercation in a shop may lead to assault and battery, and so on and so forth. The worrisome thing is that this culture of impunity often marks all levels of civic society and polity—from the excesses of totalitarian regimes to the banality of police procedures and all the way down to the breakdown of civil address between neighbors. The conditions for these cultures of impunity vary, but their effects are the same in one respect: vigilance about one’s physical safety becomes a necessary condition of existence on the continent. In this sense, war is only an exacerbation of what is essentially an endemic form of social disorder, whose spasmodic expressions can be seen today in the violent land seizures in Zimbabwe, the chaotic violence on the streets of Lagos, and the pillage of natural resources in Sierra Leone, Angola, and other places

**Conclusion**
Given the vagaries of culture, we must look for a much firmer foundation for human rights. Without such a foundation, human rights remain, at best, an ideological fad that may picked up or dropped when people want, and, at worst, a rhetorical nuisance from the weak and lowly of the world.

In his recent book, *Justice: Rights and Wrongs*, Nicholas Wolsterstorff offers one model of justification for the idea of human rights, seeing it and the vision of justice it is intended to establish, as inhering in the worth of human beings, a worth that is bestowed on each and every human being through God’s love. One need not accept Wolsterstorff’s theism in order to affirm that “all human beings have basic moral worth irrespective of any contingent historical, traditional, or cultural circumstance. One does nothing to earn basic dignity, and one can do nothing to lose it. Just being human invests one with this basic moral worth irrespective of rank or station” (Pullman 2001, 342). The basis of this claim lies not in some ontological commitment to the way the world is, but in the very nature of moral discourse itself. If we have no way to distinguish, for instance, a moral difference between torture and kindness, then every moral claim is rendered either arbitrary or meaningless. The idea of basic dignity helps us avoid this unhappy scenario by constraining the meaning of moral language itself. Samuel Fleischacker sums up this point more elegantly than I can attempt here: “…it is not merely out of a desire to spread our own way of life that we demand universal acknowledgment of a certain dignity in all human beings: we cannot avoid believing that those who do not recognize human dignity are wrong about something, that they have failed to understand something about the very nature of morality” (Fleischacker 1994, 17). The fact that particular moral systems may
not explicitly acknowledge the basic dignity of all humanity does not refute the general claim that basic dignity acts as a universal meaning constraint on moral discourse.

It also serves as a moral constraint on how we treat human beings—all and any human being—for, contrary to the cultural essentialist thesis, the only foundations here are human beings: human beings who for millennia have suffered at the hands of human beings, in all countries, and throughout all cultures; human beings so often duped to the point of becoming the accomplices of their torturers and of the social systems that oppress them, but also human beings who can sometimes rebel or become indignant, expressing, by this act alone, their awareness of an irrepressible dignity. What varies, not only from one culture to another, but also within one culture from one period to another and from one class or social group to another, are the forms of this indignation, the modes of expression of this universal demand for respect and, consequently, the details of the rights considered to be essential and inalienable. But in no society is awareness of dignity truly absent, perhaps because in no society has this dignity ever been fully respected.

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