

Inalienable Dignity: Writing Counterhegemonic Universal Human Rights Histories

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Abstract. Human rights doctrine is founded on a notion of universality and inalienability. However, critics of the dominant formulation of “universal” human rights claim that it privileges Western epistemology and does not adequately reflect the histories and lived experiences of Indigenous communities. This has prompted calls for a more inclusive conceptualization and theorization of human rights that takes equal account of Indigenous histories and rights traditions. This article makes a case for reconceptualizing universal human rights to reflect the epistemologies of historically marginalized communities. Drawing on debates in African history, it calls for a counterhegemonic approach to human rights that goes beyond possessive individualism and the neoliberal, state-centered rights model. To be truly universal, international human rights must take equal account of the communal and collectivist ethos that underpins Indigenous notions of human dignity.

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The conceptual and practical limitations of international human rights have prompted calls for counterhegemonic human rights histories that reflect the perspectives of historically marginalized communities. Critics of the dominant formulation of “universal” human rights claim that it privileges Western epistemology. International human rights assume that the individual is the foundational unit of society while the family and the community are considered secondary. The primary basis for securing human existence in society is through autonomous rights untethered from corresponding communal duties. The primary method of securing rights is through state-centered adversary legalism, where rights are claimed and

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adjudicated, rather than through consensus building. Critics argue that these attributes of international human rights do not adequately reflect the epistemologies and lived realities of Indigenous communities (Barreto 2014).

Calls for counterhegemonic human rights histories thus rest on the claim that dominant framings of human rights have been shaped by epistemological hierarchies that privilege certain histories and intellectual traditions over others. The remedy is a more inclusive conceptualization and theorization of human rights that takes equal account of non-Western rights traditions. Reconceptualizing human rights in ways that reflect the epistemologies of historically marginalized communities can expand international human rights, pushing them closer toward true universality. Doing so is not merely an attempt to dismantle hegemonic power in the classic Gramscian sense or create an alternative hegemony on the terrain of civil society in the neo-Gramscian sense (Fonseca 2016).

A counterhegemonic approach to human rights draws attention to the role of subaltern actors in a way that balances the role of dominant and powerful actors. It also recognizes that interpretations of human rights are neither fixed nor settled but are dynamic and constantly changing. Hegemonic human rights histories promote narratives that place powerful actors at the center of the human rights story while consigning subaltern actors to the footnotes: “Such one-sided narratives not only reinforce and reproduce systems of dominance, they also have the effect of undermining the underlying egalitarian claims at the core of human rights doctrine” (Ibhawoh 2018). Instead, historians should aim to deconstruct a narrow but dominant formulation of “universal rights” and reconstruct a more representative universalism. This requires, for example, deconstructing what I call the “tyranny of possessive individualism” in human rights discourse by paying more attention to collective rights entitlements (Ibhawoh 2020).

There is more to human rights history than stories of ruthless violators and benevolent protectors. Human rights histories written from the perspectives of Indigenous communities disrupt a field that has long positioned Western liberal rights traditions as universal and paradigmatic. My work draws attention to the paradoxes and contradictions of claims of human rights universality and inalienability. I highlight contestations of universal human rights, not to repudiate them but to validate and strengthen them at the local level and argue for inclusion and representation while avoiding the pitfalls of relativism or exceptionalism. My critique calls us to go beyond possessive individualism and the neoliberal, state-centered rights model. To be truly universal, international human rights must take equal account of the communal and collectivist ethos that underpins Indigenous notions of

human dignity. Such an understanding does not assume that the normative tension between individual and collective rights is irresolvable. Instead, it is founded on the premise that collective rights complement individual rights and that personal and communal well-being are mutually reinforcing. How, then, do we construct counterhegemonic human rights histories? In what follows, I outline some of the approaches that I have adopted to bring African voices and perspectives to a discourse of rights that has been dominated by forces external to the continent—from Christian missionary proselytizing to European colonial conquest and domination.

African Perspectives

Indigeneity in Africa can be framed broadly or narrowly. The broad conception of Indigeneity centers on the experiences and perspectives of people native to regions of the continent who lived in these societies before European colonial and settler incursions and occupation from the sixteenth century. Within this broad framing of Indigeneity, most African groups and communities can claim Indigeneity in the sense of preceding colonial incursion. A discourse of marginalization within the international political economy underlies this notion of Indigeneity. The narrower and more restrictive conceptualization of Indigeneity centers on communities whose deep historical rootedness in land, environmental circumstances, cultures, and traditional practices place them outside dominant societies and state systems. Marginalization within the postcolonial state and struggles for autonomy underlie this more restrictive notion of Indigeneity. My conceptualization of Indigeneity in relation to international human rights encompasses both notions of Indigeneity.

The topic of human rights resonates with several aspects of African history, including Indigenous notions of personhood and human dignity; European Christian humanism; slavery and the antislavery movement; colonial conquest and domination; anti-colonialism and decolonization; and postcolonial state building. In telling these African human rights stories, I center Indigenous notions of *human dignity*. Affirmation of the varied expressions of human dignity across cultures and societies provides a fitting foundational framework for universal human rights. It starts with asking: What does human dignity look like in each society? What values affirm human dignity in each culture? While there may be a core of universal values that reflect inherent human worth in various societies, the expression of these values varies, not only in accordance with historical circumstances but also based on social and political contexts.

The idea of the universal—as in “universal human rights”—is not an abstraction. The notion of universal rights is ontologically meaningless if it

does not represent the aggregate of the local understandings of rights. As they emerged at the United Nations in the mid-twentieth century, international human rights were founded on a narrow universalism. Contemporary human rights continue to be closely associated with the notions of universality and inalienability. International treaties and conventions articulate shared human rights ideals, framing them as commonly held and universally applicable principles. Implemented in the aftermath of the Second World War and refined through consensus, universal human rights are the result of international collaborative efforts over several decades. With the adoption of the Universal Declaration of Human Rights (UDHR) by the United Nations General Assembly in 1948, UN member states pledged themselves to promote universal respect for and observance of certain fundamental rights and freedoms. These rights are framed as universal because they are understood as inherent to all human beings. Unlike rights extended to people on the basis of their embodied or ascribed status, universal human rights are rights held by people simply by virtue of their humanity.

The emphasis on common humanity, therefore, underscores the universalist claims of international human rights. That is, they belong to everyone, regardless of their gender, age, race, ethnicity, religion, or social status. Human rights are also considered inalienable because they are assumed to be inherent entitlements of every person which no person, government, or authority can take away. This notion of *inalienability*, originally applied to property rights, connotes a restriction on rights deprivation and transferability. It is a notion invoked prominently in the United States Declaration of Independence, adopted in 1776, which states, “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain *unalienable* Rights, that among these are Life, Liberty and the pursuit of Happiness.”¹ Similarly, the UDHR affirms that the “inherent dignity and of the equal and *inalienable* rights of all members of the human family is the foundation of freedom, justice, and peace in the world.”²

To be sure, these historical and contemporary invocations of inalienable rights are more aspirational than real. They express visions and desires rather than lived realities. In some sense, invocations of inalienable rights have served more to reinforce and legitimize hegemonic power than to facilitate universal liberty. The drafters of the American Declaration asserted as self-evident the “truth” that all men are created equal and endowed with inalienable rights even as they condoned enslavement and other political and social exclusions. Likewise, the universal human rights agenda was championed at the UN in the 1940s and 1950s by the same great-power

imperial states that were actively denying Indigenous peoples of Africa, Asia, and the Americas of their right to self-determination.

At their core, the rights espoused in the American Declaration and the UDHR were founded on European Enlightenment liberal traditions of the “rights of man” (Paine 1791). The early human rights debates at the UN focused on addressing the crisis of nationalism in postwar Europe and restraining the state’s power over individual citizens. These were recognized as a means of guaranteeing international peace and security. While there has since been some progress in building consensus on these international human rights principles, the lofty aspirations of universal human rights remain unfulfilled in practice worldwide. Human rights are unequally protected, and gross human rights abuses by state and nonstate actors persist worldwide.

When the UN adopted the UDHR in 1948, only four African countries were represented there, and one of them, South Africa, was ruled by a white minority apartheid regime that did not represent the Black majority population. Every other African country was under European colonial rule and was unrepresented. The UN would become more representative of the global community in the era of decolonization. As the voices of formerly colonized African and Asian countries gained recognition at the UN following the wave of independence of the 1950s and 1960s, the tenor of international human rights debates changed. Newly independent African and Asian countries became the driving force behind the salience given to collective rights such as the right to self-determination and the right to development. However, individual-centered civil and political rights have remained the dominant theme in international human rights. As human rights evolve, we should become more attentive to the varied meanings of the term *human rights*, the diverse expressions of the idea in local vernaculars, the shifts in those meanings over time, and the problematic nature of claims to universality centered predominantly on atomized individualism.

Some Africanist scholars have argued for a uniquely African concept of human rights founded as much on communitarian values as on individual entitlements. The intervention is both a response to what they consider a hegemonic, Western-oriented international human rights order and a critique of postcolonial governance in Africa. This notion of an African concept of human rights is linked to long-standing philosophical debates about African conceptions of human nature. At the heart of this debate is the claim that Indigenous communal African conceptions of human nature stand in contrast to Western liberal conceptions. While Western notions foreground humans as autonomous individuals defined by their intrinsic worth, the African conception asserts that individual identity is grounded in

social interaction and community life. The philosopher John Mbiti (1990: 141) encapsulates the latter understanding of human nature in the dictum “I am because we are, and since we are, therefore I am.” This is contrasted with Descartes’s “I think, therefore I am.”

African ethnohistories underscore the centrality of the relationship between notions of human dignity, individual rights, and communal obligations. Some of the themes addressed by these ethnohistories include Indigenous philosophies, religion, social hierarchies, labor, migration, gender, and familial relationships. Some of these interpretations of Indigenous moral thought are a humanistic outlook that sees human dignity and honor as fundamental to individual and collective well-being. These interpretations suggest that the communitarian view of the Indigenous African social systems did not necessarily imply the absence or rejection of individual rights. The dynamic between individual rights and communal obligations is central to this concept of human rights.

In my interventions in these debates, I seek not to repudiate universal human rights but to frame them in ways that accommodate Indigenous humanism. For example, my approach to women’s rights proceeds from the premise that universal human rights offer a helpful framework for mediating Indigenous and colonial patriarchies. But this concept of human rights transcends formal legalism. It is based on Indigenous humanist values centered on conceptions of personhood, notions of human dignity and honor, and the value of community. An Indigenous perspective on human rights posits that human dignity can be construed as both universal, socially specific, and culturally contingent. While many societies set minimum standards of respect for life and fundamental liberties, one’s humanity is affirmed through social and communal belonging.

I argue for the validity of African-centered conceptualizations and interpretations of human rights because individualistic notions of rights have proved inadequate for protecting citizens from violations that they suffer as members of social groups. Gross human rights violations such as genocide or ethnic cleansing committed against ethnic and religious groups cannot be adequately addressed in terms of individual rights violations. Similarly, the individualist rights framework is ineffective for protecting the land and property rights of Indigenous communities with long-standing traditions of communal land use and ownership. Many other economic, social, and cultural rights claims are inherently collective.

An Africa-centered conception expands international human rights, pushing them toward their universalist aspirations. This concept of human rights is founded not solely on possessive individualism but also on the community to which the individual relates on the basis of obligations and

duties. The African Charter's extensive "individual duties" provision on "Human and People's Rights" provides an example of this. A communal philosophy anchored in a balance between rights and duties constitutes the cornerstone of the *African Charter on Human and Peoples' Rights*, which was adopted by most African countries under the auspices of the Organization of African Unity (now the Africa Union) in 1986. While the individual is entitled to certain fundamental rights that the state is duty bound to protect, the individual also has a duty to "serve his national community by placing his physical and intellectual abilities at its service." He has a duty to "contribute to the promotion of the moral wellbeing of society" (Organization of African Unity 1997). Human rights in this context include the rights entitlement guaranteed by the state but extend further to rights and duty obligations within the family, the clan, and the community. This conceptualization reflects a more balanced dynamic between individual and collective rights than the dominant paradigm of universal human rights allows.

An African values-based interpretation of universal human rights allows for an expanded framework of rights that centers not just on the autonomous rights-bearing individual but also on the group, sameness, and commonality, as well as a sense of cooperation, interdependence, and collective responsibility. In this conceptualization, human rights do not stand in isolation. They are coupled with duties. Although certain rights attach to the individual by virtue of birth and membership of the community, there are also corresponding communal duties and obligations. The African Charter emphasizes the collective rights of peoples as well as the relationship between rights and duties. While affirming individual rights, the charter states that "the family shall be the natural unit and basis of society" (Organization of African Unity 1997, article 18). It also provides that "every individual shall have duties towards his family and society, the State and other legally recognized communities" (Organization of African Unity 1997, article 27). This provision aligns with the Universal Declaration of Human Rights, which states that "the family is the natural and fundamental group unit of society and is entitled to protection by society and the State."³

By centering the family as the natural unit and basis of society, the African Charter balances secular, state-centric, individualistic rights with an affirmation of communal rights and obligations. This conceptualization of the family extends beyond the insular nuclear family unit. It includes the extended family spanning multiple generations and, in some cases, entire clans united by kinship and descent. Even in conservative societies, this expanded understanding of the family offers opportunities for social

belonging for those outside the boundaries of traditional families such as LGBTQ or unmarried individuals. For these often marginalized groups, the obligation of human rights protection can rest not only on the state but also on the enlightened interpretation of the traditional familial obligation to protect members.

Like the African Charter, human rights histories written from Indigenous African perspectives highlight rights entitlements founded on communitarian values, collective rights of peoples, and communal duties. Examples of such collective rights include the communal right to land and natural resources and the collective right to social and economic development. These collective rights, such as those affirmed in the UN Declaration on the Right to Development, do not necessarily discountenance individual rights. Counterhegemonic histories seek to balance the predominantly individual-centered framings of international human rights. But these histories must also account for the complexities of Indigenous rights traditions and go beyond simplistic assumptions of Native communalism. This raises pertinent questions: How do we center Indigenous notions of human dignity and collective well-being within the discourse of individual-centered universal human rights? Given that the contemporary meaning of human rights has become closely associated with a neoliberal universalism, how can the communal ethos that underpins Indigenous notions of human dignity be interpreted to reinforce universal rights? In what follows, I attempt to provide some answers.

Inalienable Dignity and Universal Objectivity

One of the ways that I have sought to recover and reinscribe African notions of human dignity into human rights histories is by paying attention to Indigenous humanistic philosophies such as *Ubuntu*. *Ubuntu* is a Zulu word for a philosophy that is common to many Bantu-speaking peoples of Southern and Eastern Africa. At the core of this philosophy is human dignity, which figures prominently in human rights discourses in Africa. It encapsulates the notion of an interdependent humanity that is central to Indigenous African cosmology. The essence of *Ubuntu* is captured in the famous phrase “*Umuntu ngumuntu ngabantu*” (A person is a person through other people). The humanness of the person who has *Ubuntu* comes from knowing that each person’s fate is inextricably intertwined with their relationship with others.

According to Archbishop Desmond Tutu (2000: 31), who headed the South African Truth and Reconciliation Commission, the philosophy of *Ubuntu* says, “My humanity is caught up in your humanity, and when your

humanity is enhanced—whether I like it or not—my humanity is enhanced. Likewise, when you are dehumanized, inexorably, I am dehumanized as well.” It is a distinctly African take on the Golden Rule, or law of reciprocity, which is evident in many religions and cultures. In postapartheid South Africa, Ubuntu has become a way of asserting the relevance of Indigenous African moral traditions and linking them with contemporary international human rights principles. It is framed as an Indigenous expression of collective humanism and as an affirmation of the principle of human dignity, which stands at the core of modern human rights doctrine.

Common to interpretations of Indigenous African moral thought is a humanistic outlook that sees human dignity as fundamental to individual and collective well-being. In many traditional African societies, individual identity remains closely linked to collective identity, but the individual is not completely subsumed within the collective. This dynamic between individual and collective identities is best understood when located within the historical context of relatively homogenous family- and ethnic-based pre-colonial societies—subsequently transformed by colonial and postcolonial disruptions.

Constructing counterhegemonic human rights histories requires “unconventional” research methodologies such as oral history, community-engaged research, and participatory action research methods. For example, in my research on Ubuntu as an Indigenous human rights philosophy, I have relied on oral traditions among ethnic communities in South Africa, Kenya, and Tanzania. I have conducted oral interviews with chiefs, elders, and traditional knowledge keepers who, as custodians of communal knowledge, serve as local community historians. These traditional knowledge keepers take seriously their responsibility of preserving communal histories and passing them on from one generation to another. I have also relied on community-engaged research methodologies such as participant observation. I have attended community meetings and, on invitation, participated in tribal rituals and ceremonies. Because I aim to produce research that is relevant to the communities I study, community engagement shapes my research agenda, and the knowledge gained from participant observation informs my research. I also draw on what folklorist Elaine Lawless (2019) calls “reciprocal ethnography,” which allows for input from sources along the way and offers educational support to communities. For example, in my research with Indigenous communities whose land rights have been violated by the state and powerful multinational corporations, I share with these communities information that they can use for legal and social advocacy. For these communities, which often cannot afford professional consultants to advance their cause, the community-engaged researcher can

be a much-needed ally. Researchers who work with and benefit from marginalized groups have a moral obligation to support them in telling their stories and righting historical and present-day wrongs against them. Yet this approach to community-engaged research is critiqued for straying from the conventional path of scholarly detachment and objectivity. The criticism is misplaced because “scholarly objectivity” cannot be an excuse for apathy amid injustice and suffering.

Critics of community-engaged ethnohistories suggest that to gain academic respectability, research methods used to study predominantly oral Indigenous societies must conform to dominant standards of Western empiricism and positivist epistemology (Silverman 2020: 519–27). My response is to question the validity of this claim to universal scholarly “objectivity.” I assert Indigenous African ontologies and epistemologies as legitimate ways of knowing. I frame Indigenous epistemologies as both a counter and compliment to Eurocentric, positivist ways of knowing that have been cast as universal, objective, and immutable. Critics of community-engaged ethnohistory dismiss the works of scholars who do collaborative “native studies” as “ beholden to identity politics” and their works as “contaminated with politics” (O’Brien 2020: 543). They call for applying the same critical eye, in the same transparent fashion, to tribal knowledge as to manuscript evidence. What these critics fail to consider, however, is the possibility that what constitutes appropriate “critical eye” methodology when dealing with living and breathing oral traditions in tribal contexts might differ from the “critical eye” methodology applicable to cold archival manuscripts. My research engagement with chiefs, elders, and traditional knowledge keepers is neither inquisitorial nor adversarial, but it is also not uncritical. The critical eye I bring to community-engaged research is culturally sensitive and attuned to the unique social conditions of the communities where I work. I ask probing questions and test my sources for quality and bias. I draw on well-established oral history methodologies to cross-check the information I gather from oral interviews and participant observation. Overall, I approach my oral sources with no less a critical eye than I do archival records.

How, then, do we explain the constant questioning of the rigor and objectivity of collaborative community-engaged ethnohistory? For some critics, I suspect that the concern is not so much with collaborative research but with a certain kind of collaborative research—one that privileges voices, methods, and perspectives with which they are unfamiliar. They assume that the unfamiliar is untested and the untested can neither be objective nor reliable. Yet we know that all historians, even the staunchest adherents of Hegelian and Rankean positivism, “collaborate” to some extent with their

sources—they collaborate with archivists through the archives they produce, with state officials through the manuscripts they choose to keep, and with statisticians through the selective data they compile.

Affirming Indigenous Histories

To write authoritatively about the Indigenous past is, therefore, to insist on the validity of Indigenous ways of knowing and Indigenous knowledge-production processes. We cannot do so without responding forthrightly to critics who question counterhegemonic approaches. When historians who collaborate with Indigenous communities to tell their stories are accused of uncritical scholarship or “cherry-picking” evidence, we should remind critics that all histories require some cherry-picking. Colonial and contemporary histories have prejudiced sources with devastating effects for Indigenous people. The records fetishized in colonial and settler archives are often the products of selective practices fueled by the racial and religious identity politics of their age. How do we counteract centuries of erasure of Native voices and the gaping silences and distortions of colonial and settler archives without privileging these Native voices?

To be sure, a project that seeks to pluralize accounts of human rights in order to make such rights truly “universal” also runs the risk of abstracting particular histories in ways that mean they lose their specific meanings. There is always the possibility of such abstractions being used for exclusionary purposes that undermine rather than enhance human rights. The critical point is that the tension between the dominant human rights doctrine (framed as universal) and particular histories is not one that we should seek to fully and conclusively resolve. Instead, it is one that needs to be continually interrogated and negotiated as communities and the human rights doctrine evolve. Take, for example, “female genital mutilation,” which used to be blanketly condemned as a human rights violation and an “uncivilized” practice of tribal communities, without much regard for historical, social, and cultural contexts of the practice. But then, vaginal plastic surgery in the form of vaginoplasty and labiaplasty became a fad in the West, and the question was asked why this too wasn’t a form of “genital mutilation.” The human rights discourse on “Female Circumcision” has now rightly shifted to focus on questions of consent, free choice, women’s health and wellness, and sociocultural dynamics. This is the kind of cross-cultural normative negotiation and shift away from rights absolutism that I advocate to legitimize universal human rights. The result will not always be a shift from the status quo. In some cases, normative negotiation will affirm and legitimize conventional human rights norms.

Collaborative community-engaged ethnohistories offer spaces for cross-cultural normative negotiation, but these histories are not beyond criticism. Within these practices, there are debates about evidence, interpretations, and arguments. For example, in African history, there is a long-standing debate about the perils of uncritical postcolonial histories driven by presentism and cultural nationalism. In reinscribing Indigenous perspectives into global histories, some Africanists worry about pushing postcolonial criticism too far as to recreate the same subjectivities and distortions of the imperial histories that they critique.

Ultimately, exploring the place of Indigenous epistemologies and moral philosophies in human rights discourse offers an alternative narrative to the hegemonic global history of human rights. Indigenous notions of human dignity and justice provide a basis for understanding local engagement with, and contributions to, international human rights. This allows for a deeper appreciation of how human rights—expressed in terms of human worth and value—are understood, protected, and violated in various social contexts. Indigenous histories and communitarian notions of human dignity offer a distinct path for conceptualizing human rights moving forward, presenting alternative and complementary perspectives to Western epistemologies and neoliberal individualism. This can be the foundation for a more globally representative formulation of universal human rights.

Notes

- 1 “Declaration of Independence: A Transcription,” 1776, US National Archives and Records Administration, <https://www.archives.gov/founding-docs/declaration-transcript>.
- 2 UN General Assembly, Resolution 217 A, Universal Declaration of Human Rights, 10 December 1948, United Nations, <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.
- 3 Universal Declaration of Human Rights, Article 16 (3).

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