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Chapter 7

Before Rights and Responsibilities: An African Ethos of Citizenship

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1. Introduction

Sunday, 17th of January 2010, stands out as one of the most catastrophic days in the history of the small city of Jos, Nigeria. It marked another round of what has become an endless circle of violence, destruction and loss of lives, which has come to redefine life within this city. It was until recent known as a melting pot for religion, ethnicity, tribe and race. Ironically, Nigeria's so-called home of peace and tourism has become the home of terror, fear, revenge and death. On this particular day, as I prepared to travel back to Edinburgh to continue my studies, news reached me around noon that fighting had broken out in a certain part of the city. The news was vague; at first, it seemed nothing more than a rumour. It was unclear who was fighting or for what. To avoid taking chances, it seemed wise to begin my three-hour drive to Nigeria's capital Abuja, where I was to fly back to Edinburgh, much earlier than planned.

There was a bit of hitch as I drove out of my neighbourhood, as some anxious and stern looking young men had mounted a temporary road block, presumably to protect the neighbourhood. As the vehicle I was in, along with another person, halted at the road block, it was surrounded by the men, and the questioning began. What is in the trunk of your car? What is in that suitcase? Do you have weapons? Are you Muslims? Are you Hausas? Luckily, we made it through the road block, and indeed, the remainder of the journey without any trouble. This is perhaps because parts of my necklace became visible to one of the men. He exclaimed when

[1] In memory of Cecilia Elayo, Yahaya Kanam, Anthony Pwol, Andrew Ikomi, Ahmadu Sheidu, and William Walbe, who all, at one time or the other, touched my life in very special ways.

he saw it – it's a rosary; they are Christians, let them go! It was only after I had arrived at Edinburgh the next day that I came to terms with the full implications of that encounter. This was indeed after hearing the latest news that what was initially believed to be a skirmish turned out to be an orgy of violence with senseless killing beyond imagination. It could have been worse I thought to myself, if my identity was the wrong one. Fighting between so-called Christians and Muslims spread to other parts of the city and lasted for days. In certain locations, neighbours of considerable history turned upon each other. Hundreds died, including, very tragically, hundreds of children.

While different reasons can be given for the various conflicts in Jos, and its environs, that encounter at the road block was my personal exposure to arguably the most difficult of factors, one, which also poses problems within different parts of contemporary Nigeria. That was my fortunate encounter with the indigene and settler dichotomy, Nigeria's problematic question of citizenship. This problem stems from local perceptions of citizenship, which prevents all Nigerians from truly belonging, except in geographical locations where they can trace their tribal or ethnic origins.[2] This is what has driven so many in Jos and its environs, especially many children, to their early graves.

The sporadic, but yet deadly conflicts in Jos, are not only fuelled by this perception of citizenship expressed in law, but also, even more problematically, in the mind-set or consciousness of society (Human Rights Watch 2006). It appears law, in the form of the Nigerian constitution, performs a dual function. It concretises and at the same time preserves this particular societal perception of citizenship. On the one hand, the constitution guarantees a range of legal rights to all Nigerians, while, on the other hand; it creates two classes of citizens – the indigene and settler. The consequence is that a Nigerian can either be a first or second-class citizen depending on if he or she is an indigene or settler to one of Nigeria's constituent states (Alubo 2004; 145-146).[3] The effect is often that an indigene's so-called citizenship rights

[2] Jos is the capital of Plateau State-Nigeria. It developed as a city of migrants under British colonial rule; it comprised then, as it does now, of indigenous ethno-religious groups, as well as groups from other parts of the country and parts of the world, particularly the Hausa ethnic group that is the centre of these problems. The conflicts are between indigenous (Afizere, Anaguta and Berom) on the one-hand, and the Hausa ethnic group, a numerically superior group in the wider Nigerian context, but inferior in Jos and neighbouring towns and villages, on the other. There are religious dividing lines among these groups. The indigenous groups are predominantly Christian, while the Hausa are predominantly Muslim. This is perhaps an additional reason why the grievances have taken such an extreme dimension. In Jos, as in other parts of Nigeria, there is often a blurry distinction between religious and ethnic identity.

[3] The Constitution of the Federal Republic of Nigeria, 1999, s 223(2)(b) and 318(1).

takes precedence over the rights of settlers. It is this, for the most part, that is at the root of the Jos conflicts and continues to fuel much of the violence.

Since that encounter at the road block, I have not only been puzzled by this problem, but more broadly by the idea of citizenship, not only because it is at the heart of the Jos conflicts, but also the key to resolution. On deeper much reflection on the citizenship question, I have come to appreciate that the issues are not unique to Jos or Nigeria, as battle lines have been drawn around a similar question in Kenya (Abdullah 2004), South Africa (Ndlovu-Gatsheni 2007), Congo, Rwanda, Burundi, Uganda, Zimbabwe (Mandani 2001; 1996).[4], and very recently, Cote d'Ivoire (Marshall-Fratani 2006) to mention a few instances. In researching into this problem I was struck by that fact that although a lot has been written or proposed to address the problem, very little has been considered about the extent to which the decline of societal or moral values contributes to fuelling such violent disagreements and animosity among people. It seems obvious to me that when citizens brutally kill or maim one another, for whatever reason, or when they fail to empathise with those who have been injured or lost their loved ones; this is patently evidence of the complete breakdown or decline of the basic moral values of society, values, which remain integral to societal connectedness, collective flourishing, belonging and integration. It is the question of values that I take as my point of departure from most of the literature on this question, which prioritise instead as the solution the need for clearly defined and universal citizenship rights (Adejumobi 2001; 148-170).

If, citizenship means more than the rights and responsibilities of the membership of a political community, but also "individual and group character or virtue" (Burdette 1942; 269)5 achieved through "understanding, sympathy and practice" (Ibid), then my argument is that it provides an appropriate context to encourage the kind of values necessary for societal connectedness, collective flourishing and belonging. Citizenship, as such, demands a kind of ethical life (Bankowski 2007), one which embodies a set of moral values to act responsibly in relation to others,

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[4]Mamood Mandani (1996; 2001) has famously described the indigene and settler dichotomy as one of the continuing colonial legacies in Africa. For him, the indigene and settler dichotomy cannot sufficiently be grasped and resolved without historicising it. The binary distinction between citizens – the indigene and settler – is no more than a reproduction, in a slightly different form, of an earlier distinction between native and non-native or race and ethnicity under colonial law. Natives had ethnicity whilst non-natives did not. It created a racial hierarchy often comprising of Whites, coloureds, Asians, Arabs and Hamites (Tutsi), with the intent on civilising the natives. Colonial law was the instrument through which such divisions were pursued. Civil law applied only to races (non-natives), whilst customary law applied only the ethnicities (natives). Civil law was the realm of rights, something which was alien to customary law.

[5] The origins of this aspect of citizenship, the virtue of character (discussed in more detail in Section 3 of this chapter), can be traced to the work of Aristotle (2009).

something which is taken for granted through a commitment to rights (Carr 2006;444-446), and responsibilities.

What importantly gets lost in the midst of rights and responsibilities–talk is the significance of how people should morally relate to each other, something which (as I argue in this chapter) can be remedied by a concept of citizenship grounded on African jurisprudential precepts. With an emphasis on human interdependence and interpersonal relationships African jurisprudence provides a better way of grasping the essential moral values indispensable for societal co-existence. African jurisprudence can help place such relevant values – not legal or residential rights and responsibilities – at the centre of the evaluation of what it ethically means to be, or to live as a citizen. Much more than that, African jurisprudence can provide the impetus for the kind of moral comportment or ethos among citizens, not to place their values at a threshold above aliens, legal or illegal immigrants. African jurisprudence can help institutionalise an ethical practice among individuals, which requires citizens to treat each other (including strangers) with dignity and respect, for no other reason other than the fact of their humanity.

To provide the groundwork for a concept of citizenship inspired by African jurisprudence, the chapter begins by showing the limitations of the rights-based model, the most influential perception of citizenship. The suggestion here is that a clear or universal delineation of individual citizenship rights does not conclusively guarantee the kind of connectedness required to build more inclusion; neither does it provide a harmonious or ethical language of conversation among those who reside in a political community. After this, I consider the significance of citizenship responsibilities, to explore whether it provides sufficient scope to offer the kind of values necessary for societal co-existence. In this instance, I show that while the emphasis on responsibilities may lead to some of these values, it does not, in the end, go far enough. In conclusion, I turn to African jurisprudence to show how it addresses my concerns about moral values, something which can potentially contribute to how citizenship is widely theorised and practiced.

2. Citizenship Rights

Citizenship, among other things, defines terms and conditions tied to the membership of a political community. Although citizenship refers to both rights and responsibilities of membership, it suffers from an over-emphasis on the former at the expense of the latter (Janowitz 1980; 1-3). As such, citizenship is (but not only) predominantly regarded as rights-based, a view that cuts across liberal, cosmopolitan and multicultural models of the concept (Scachar 2001-2002). Rights then become both a means and a subset of citizenship (Leary 1999; 247). Citizenship is

reduced to the extension of rights, and furthermore, encourages the focus on the hurdles that impede equal access to these rights. When commentators clamour for an inclusive concept of citizenship, they are desirable for a rights-based model. Inclusion depends on the extent of legal protection, or the clear delineation of universal citizen rights. This is another way of understanding what it means to be equal before the law; in other words, everyone should be entitled to citizenship rights independent of ethnic, racial, religious or other identity affiliation. Denials of citizenship are often translated into the denials of citizenship rights. Definitions and struggles for inclusion in different parts of the world, including different African political communities, have been influenced by this rights-based perception of citizenship.

In terms of its content, citizens' rights often refer to civil, political, economic and social rights (Marshall 1950). The content of citizenship rights is given further meaning by the emergence of the Universal Declaration of Human Rights (UDHR) and other international covenants. These documents have in addition reinforced the relationship between citizenship and rights. They set the standard of the range of rights that should be enjoyed within various political communities. Countries must strive to attain the highest levels of equality, and they are judged according to the extent to which they can guarantee equal access to these rights. Countries are inclusive insofar as all their citizens have equal access to these rights. Constitutional and citizenship laws have primarily evolved to provide the means to safeguard these rights, especially on behalf of minorities.

In theory, human rights should apply to everyone irrespective of citizenship, something which is synonymous with cosmopolitan models of the concept. In practice, this is not always the case, as rights depend on concrete domestic political settings to apply to concrete people. Membership of a political community through citizenship is essential in determining access to these rights (Benhabib 2005; 14). What this means is that access to human rights depend on one's status as a citizen, even though this may not always be the case. For instance, legal residents of political communities are also often entitled to a range of rights. Freedom of speech, religion and conscience or the right to free trial, rights against discrimination or the right to vote, with certain exceptions, do not necessarily depend upon citizenship. The case of illegal immigrants is quite different as they are unlikely to have access to any rights. The point is that although a range of rights can be obtained through residency, residency rights are not, in any way, equivalent of citizenship rights. The distinction between citizenship and non-citizenship is an important one. Citizenship offers the potential to include and exclude. It is not surprising, then, that the aspiration for legal residents, especially those who reside in opulent nations, is always to attain the full status of citizenship.

Apart from the protection of the civil and political rights, economic and social rights (Marshall 1950) are also regarded as entitlements of citizenship, and to some extent, legal residency. Questions regarding access to economic and social rights are often contentious, due to the availability of economic resources or the ideological orientation of the state concerned. Where resources are limited, these rights often are a source of contention regarding how they should be distributed. Citizenship is

again an important distributive mechanism. It importantly determines access to these basic rudiments of life, such as healthcare, water, education or other public goods and services. The inability to access these rights is often a primary source of grievance in impoverished parts of the world where resources are scarce.

There are obvious advantages of the rights-based model of citizenship, especially for political communities divided along ethnic, religious, racial or other lines. Rights can help achieve many things, ranging from the distribution of resources to the resolution of disputes, by providing a neutral framework for the negotiation, settlement and agreement (Ghai 2000). However, it is on this point that the strength of rights-based citizenship instantly transforms into a weakness. Although rights may be seen as a neutral framework for reconciling conflicts, or even the basis for securing enduring settlement among disagreeing parties, it is debatable whether they (rights) can sustainably guarantee the difficult task of peacefully living together among people of great diversity. The point that I am raising is a question mark about the integrative capacity of rights; that is, whether rights can mediate between the differences or contribute to a sense of belonging among those who share common boundaries.

What I am asking is that: do rights do more than protect the individual against others? Do rights also encourage reconciliation or relationships? Is the bearer of a right obliged to act ethically or morally responsibly towards others (not only those who are owed duties)? For instance, and to provide an analogy from the conflicts in Jos: should it be assumed that once all residents have access to citizenship rights, all the animosity or hatred between such rival groups would simply disappear? Of course, no one would suggest that rights can exhaustively achieve this, but the point I am trying to make should be obvious, even though it might seem a bit embellished or some might consider this argument a straw man. What I am getting at, nevertheless, is that it is quite possible for individual or collective rights-based claims and counter-claims to become sources of discord, especially in fragile societies, where identities are so fragmented. Paradoxically, rights may themselves be the source of division. In such situations, the rights-based model of citizenship might exacerbate, not reconcile differences. It should not be assumed that once individuals attain equal citizenship rights – civil, political, social and economic rights – then all contestations, conflicts or disagreements would somehow be minimized, if not, disappear altogether. This issue is not unique to divided communities; it is a characteristic inherent in the nature of rights-based claims.

No one helps make this point better than Simone Weil, since one of her main problems with rights was the underlying divisive nature of the claim. For Weil, apart from the inherent hostile nature of rights claims, they can only be supported by force or a threat to force (Weil 2005). Because of this, she thought rights carried the potential of intensifying rivalry and conflict among individuals, or they simply provided the basis for superficial or mundane claims. A political community that places emphasis on rights, not only becomes composed of disaggregate, but also belligerent individuals. Rights-based claims, according to this view, do not have the capacity to reconcile but cause rifts between individuals. After all, rights are about

liberation or autonomy, not reconciliation or community (Selznick 1987). More than this, rights militate against harmonious, emphatic and affectionate dialogues between people (Waldron 1998). To formulate a grievance in terms of rights is to deny the possibility of other more harmonious ways of associating. Rights may be one of the benefits of belonging to a political community, but it is contestable, based on the foregoing argument, whether they actually contribute to processes of belonging. It is questionable, then, whether rights can create an atmosphere for mutual respect, reciprocity, care, empathy or other values, which remain essential to any process of belonging. For these reasons, it is important to look – without dismissing rights – towards other ways of constituting the kind of values necessary for societal coexistence.

Of course, there are less individualistic or divisive ways of conceiving rights, which might lead to more reconciliatory or harmonious outcomes. However, this problem with rights does not disappear once they are defined more collectively, as some tend to assume (Englund and Nyamnjoh 2004; 15-19). Besides, my understanding of the point Weil was making is that something else is required, apart from rights, to encourage basic values, especially the empathy, involved in the processes of societal co-existence. She was questioning the extent to which rights claims have the ability to encourage the proper comportment necessary to recognise and respond to human suffering and vulnerability. Weil illustrated this through analogy of a young girl who has been forced to work in a brothel. Rights could not properly offer a conceptual medium either to grasp or articulate the kind of suffering experienced by her. To grasp her suffering from the perspective of a breach of contract, property or labour rights would be to totally misunderstand her cry of pain and misery. The basic point is that rights do properly encourage the proper values or comportment necessary to empathise with the defilement of her life. This, in my view, is a much stronger indictment on rights than their antagonistic character.

3. Responsibilities

If rights, as I have suggested above, offer a limited scope for the connectedness and integration of citizens, what about responsibilities? Intuitively, responsibilities seem to get to the heart of my problem with rights, since, in a generic sense, they imply some sort of interpersonal relationships between people, apart from pointing to the importance of virtue and character. Responsibilities differ in type. Responsibilities to political community can be distinguished from special responsibilities to family members, friends or neighbours. Responsibilities to political community are also different from the kinds of responsibilities that emerge by agreement, or those on account of reparations for a certain kind of legally defined injury suffered (Beever 2008).

Membership of a political community should ideally generate special bonds and relationships among citizens. The political community is often the source of identification, belonging and attachment among citizens. The emphasis on responsibilities is more common among republican and communitarian models of citizenship. Responsibilities generally imply that we are obliged to our political community and to act ethically or morally towards our fellow citizens. Responsibilities to political community, however, are vertical and indirect; they are not horizontal and direct. Responsibilities are institutionalised through different forms of actions performed to show our allegiance to the political community. The social contract is the source of all responsibilities, including (and importantly too) those between citizens.

The obligation to obey the law is a good example of how individual responsibilities are institutionalised through actions performed to the political community. The premise behind all social contract theories is eloquently explained by Tebbit (2004; 94):

> "The citizen must obey the laws in everything, because (1) general obedience is the condition for the existence of society, and without it there would be anarchy. (2) the citizen owes the state everything including his or her life. (3) the citizen has agreed, both explicitly and implicitly, by virtue of receiving benefits from the state and choosing not to emigrate, to obey all the laws; (4) the citizen has the opportunity to persuade the state, through legitimate lobbying, to change the laws, but not the right to disobey them."

Tax is another good example. Citizens pay their tax not because they always directly benefit from it, even though they might do so sometimes. Among other things, tax is used for different purposes, ranging from wealth redistribution, welfare, healthcare or unemployment schemes, to the provisioning of public goods and services. A citizen's contribution to the lives of others is mediated through the collective institution of tax. Military service is another way of understanding the indirect effect of citizenship responsibilities. The stronger or more able-bodied citizens are conscripted to defend or die for their nation in times of war, or they help the vulnerable due to natural or unnatural humanitarian disasters. Service to the country is indirectly addressed to fellow citizens.

The duty to vote at periodic elections, while not compulsory, is also an important element of understanding the indirect nature or effect of responsibilities. Even though it is now quite narrow in its scope, political participation in a more general sense is one of the most important responsibilities of a citizen. Indeed, it is an example of the meeting point between rights and responsibilities, or between liberal and republican or communitarian models of citizenship. Inclusive citizenship is most commonly defined according to the ability to participate politically.

In theory, the purpose of political participation is more than just to provide a yardstick for measuring inclusion or solidarity among citizens. Political participation serves as the hallmark of good citizenship; it is the key to building virtue and

character. The underlying virtuous or moral nature of political participation cannot be fully appreciated outside Aristotle's timeless work on politics. For him, political participation, and thereby citizenship, are both contingent on a background, unmistakably ethical, concept of politics. Starting with citizenship, he saw this as a status derived from "...giving judgement and holding office" (Aristotle 1992a; 169). Participation in public (deliberative or judicial) office is the core objective and defining feature of citizenship. Anyone (slaves and women in the Aristotelian era) denied the opportunity of political participation is in turn denied citizenship. The nation's constitution often determined the nature of citizenship. Citizenship was most inclusive under a democratic constitution in contrast to authoritarian arrangements. Aristotle's concept of democracy is known to be an absolute one, in that all citizens must take part in decision-making. Citizenship is thus another term for active participation. The distinction between participation and representation is, therefore, important for him.

Aristotle's point is that politics is the single most defining process of developing virtue and character. Politics makes us good citizens, and good citizenship, in turn, can only be nurtured by the act of political participation in public life. The concept of the good that underlined this idea is the human good, something which is central to the pursuit of happiness (Aristotle 2009b; 5). Happiness implied some sort of virtue or excellence; it is distinguishable from the pursuit of wealth, pleasure and honour (Ibid; 6). A human being could only live the good life through the ability to exercise moral virtues (Ibid; 10). And habit, in other words, *ethos* is central to the cultivation of these moral virtues (Ibid; 5). Moral values crucially depend on reciprocal exchanges through politics.

Good citizenship, thus, is formed through the habit of political participation, something which is further dependent on a good constitution. Good citizenship was dependent on the nature of the city and constitution, since excellence or virtue can only be attained through civic function (Aristotle 1992a; 179). Aristotle distinguished between the virtue of a good citizen and that of a good man. There is a difference between good man and good citizen (Keyt 2007; 220-240). To rule, either through deliberation or adjudication, is what helps create the highest standard of goodness, which can be differentiated from the standard obtained of goodness obtained from being ruled. In other words, there is a superior form of virtue attained through practical wisdom, which Aristotle described as the virtue of rulers.

Through the emphasis on voting at periodic elections, contemporary notions of politics or political participation have since deviated from Aristotle's insights, even though some of his ideas can be found in the less influential theories of deliberative democracy. Deliberative theories of democracy, with certain exceptions (Krause 2008; 1-26), have not given sufficient attention to moral values in processes of deliberation. They place emphasis on reason and reasonable agreement at the expense of moral values like empathy in processes of deliberation. A more general comment can be made about politics regardless of whether it is deliberative or not. It seems problematic to reduce or confine the cultivation of societal and moral values, including personal and interpersonal relationships, to the role of politics. This may

have an effect of de-emphasising or relegating the importance of nurturing moral or ethical values through daily non-political activities and relationships. This is also why I do not think that the answer lies in the more expansive notion of politics offered by feminist theory, which conceives almost every sphere of life politically (Young 1989). Despite this, the real problem with politics is really the dominant model involved. Political participation has been reduced to electoral participation. And it is not clear how elections; a winner-takes-all phenomenon, can provide the impetus to nurture moral habits, apart from the basic and necessary empathy among citizens.

A more specific problem can be raised is about the nature of this kind of politics in Africa. Politics today, particularly in Africa, is corrupt to such an extent that, if it ever had any Aristotelian underpinnings, it is hard to see how it can be recovered. Indeed, it is hard to draw a connection between Aristotle's idea of ethical politics and what currently exists on the African continent. In Africa, politics has hardly been about ethics and has also rarely had anything intrinsic about it. It is controlled by tribal (professional) party politicians and their followers, who use it as a means to serve their parochial interests. With this sort of vision of politics, it is no coincidence that problems in places like Jos, for example, took a turn for the worse after they became political. One can make a similar observation about politics in different parts of the world, where the practice has taken a huge detour from its ethical foundations (Agamben 1998; 1996). As such, immoral politics is not just common among African societies. Therefore, there seems to be reasonable justification to step outside the realm of politics to cultivate a morally embedded concept of citizenship. This, for me, is the advantage (as I show below) that African jurisprudence provides.

Before considering this, another more general and important reason why African jurisprudence may be advantageous in this respect is predicated on understanding the limitations of the indirect nature of responsibilities. Because responsibilities (especially voting and tax) are institutionalised through the state, they do not generate strong enough bonds or attachments among diverse citizens. This problem is confounded by the artificial nature of statehood in Africa. In such contexts, the allegiance to members of ethnic, tribal or religious groups supersedes allegiance to the state. The consequence is that citizens are less responsible to other citizens because of their differences of ethnicity, religion or race.

In a more general sense, and not restricted to Africa, the duties or responsibilities to the state or to political community can lead to the abdication of responsibility to fellow-citizens. The institutionalisation of responsibilities through the state potentially has the effect of encouraging the lack of concern and apathy among citizens regardless of their similarity or diversity. It is difficult to understand or justify the moral relationships between individuals in a political community. For instance, it becomes virtuous to pay tax, rather than to directly help the poor, hungry or sick (Bankowski 2000; 101). Collective responsibilities tend to undermine our ability to pay attention to the material conditions of people we encounter on a daily basis. What I am suggesting is that responsibilities to the state militate against

interpersonal responsibilities between citizens or others. For instance, it becomes easier to pay money to some common pool of funds than directly to help a person in need. It becomes simpler to vote for a leader at periodic elections, who would take hard decisions for us, rather than take part in reaching those decisions. In all of these situations, responsibilities fail to have the desired indirect effect. We lose sight of the fact that individual acts of responsibility are equally as important as the collective or institutionalised systems of responsibility. The balancing is wrong; inclusive political communities should have both, not one or the other.

4. African Jurisprudence

Start the story with the failure of the African state, and not with the colonial creation of the African state, and you have an entirely different story.

Of course, Africa is a continent full of catastrophes. There are immense ones, such as the horrific rapes in Congo.... But there are other stories that are not about catastrophe. And it is very important, it is just as important, to talk about them.

I've always felt that it is impossible to engage properly with a place or a person without engaging with all of the stories of that place and that person. The consequence of the single story is this: It robs people of dignity. It makes our recognition of our equal humanity difficult (Adichie 2009).

It should not be controversial to attempt to ground citizenship from the standpoint of African jurisprudence, since there is nothing unusual in arguing that the legal, social and political composition of any society (especially its concept of citizenship) should be reflective of its traditional moral values. The fact this is lacking in Africa is baffling, but not, at all, surprising. While several reasons can be given to explain this, I mention at least two. First, it has always been easy to dismiss the existence of African knowledge, given that Africa is usually identified with catastrophic conditions, something which has provided ample justifications to dismiss the existence of anything positive from Africa, including its traditional forms of thought and knowledge. This is not an attempt to absolve Africans from creating those problems; rather it is show that this itself has been often overlooked as a causal (but not the only) factor for many contemporary problems in Africa.

The denial of the existence of African knowledge exists in many disciplines, and jurisprudence is no exception. A single story, to use Chimamanda Adichie's words above, prevails in dominant jurisprudential narratives to deny the existence of

African jurisprudential knowledge. According to this narrative, African jurisprudential knowledge either does not exist, or where it does, it is either inadequate or the knowledge of violence, savagery and barbarity. The conflicts in Jos, which I introduced in the beginning of this chapter, can be used to analogise this point. There is a hidden story obscured by the dominant one. This dominant narrative, with certain exceptions, finds it convenient to leave out stories of the huge expressions of empathy and generosity between residents of the city during the debacles (BBC News 2011). Neighbours and strangers protected, fed, clothed and sheltered other neighbours and strangers caught up in the fighting. Christians were compassionate to Muslims, and Muslims to Christians. Local neighbourhoods in certain parts of the city reinforced their bonds and chose not to join or allow their neighbourhoods to be contaminated by the madness. Like African jurisprudence, other stories about Jos are non-existent. The story that dominates is simply that of violence.

The historical denial of the existence of African knowledge, especially since the Enlightenment tradition, has implanted a strong story on the minds and consciousness of many – non-Africans and Africans alike – that nothing good, including jurisprudential knowledge, can come out of Africa. There is indeed some connection between the denial of the existence of African knowledge and the prevalence of negative stories about Africa. The most urgent, relevant and important task, then, for African jurisprudence is to correct this misleading perception of the non-existence, insufficiency, or the existence of the knowledge of violence. African jurisprudence must resist this single and negative story, one that not only denies its existence, but also its relevance to issues in the philosophical world. A further task that stems from the previous one is the need to tell the real story of African jurisprudence, a story of a body of work, which can significantly enrich our knowledge of what values of community and interdependence, something which further yields to values of tolerance, reciprocity, friendship, hospitality, forgiveness, love, empathy, among other things, including how they are interpreted from the African worldview. This, for me, not only gets to the substance of what African jurisprudence should entail, but also why the central proposition of this chapter is that it can adequately ground a value-based ethos of citizenship.

Secondly, and following on from above, is that the embrace of capitalist modernity in the African continent, whether in the form of development or through other means, has had the effect of encouraging Africans to discard many forms of their traditional convictions about societal living. What has fallen by the wayside is the significance of traditional moral values and knowledge, which is a necessary ingredient for societal connectedness in any political community. Grounding citizenship from an African jurisprudential standpoint is, therefore, a key to encouraging such values, apart from the necessary ethos among people who live together. Third, and very briefly, the invocation of traditional (African) moral values often (and rightly too) invites both suspicion and scepticism. The desire for traditional moral values can certainly be used to re-invoke or disguise different forms of relativism or forms of tribalism, ethnicity and patriarchy, among other things. These should not be confused as moral values from an African jurisprudential standpoint. Instead, I am

referring to commonly held moral convictions about community and human interdependence that can be established cross-culturally across sub-Saharan Africa (Greene 1998; Bewaji 2004; Metz 2007; Gyekeye 2010). These are values that imply that the quality of our life, especially our moral literacy, development, character and judgement, is dependent on our ability to interact in community with others.

My point is also not to suggest that these values exist everywhere across sub-Saharan Africa. There is so much diversity within sub-Saharan Africa to make such a generalisation. Rather it is to suggest that values remain indispensable to processes of collective living, and furthermore, citizenship provides the most appropriate context to institutionalise the commitment to them. Indeed, out of all values, I would suggest tolerance and empathy are the most important of all, not only among those who belong to the same community, but also those that belong to other communities. No political community in any part of the world can be fully inclusive without a commitment to these kinds of values.

My understanding of African jurisprudence as an opportunity to tell all stories about Africa, and African moral values very much coincides and can be exposited by reference to John Murungi's (2004) seminal definition of the term. Murungi says, "[E]ach path of jurisprudence represents an attempt by human beings to tell a story about being human" (Ibid; 525), and African jurisprudence is apposite in this respect. African jurisprudence is "the pursuit and preservation of what is human and what is implicated in being human" (Ibid; 525-526). African jurisprudence is "a science of being human as understood by Africans" (Ibid; 523). Not only is this what African jurisprudence entails, it is what the study of jurisprudence should entail. Jurisprudence should not be (as commonly the case) reduced to the scientific analysis of the "nature of law, the validity of law, the nature of legal obligation, the sources of law, the hermeneutics of law, the administration of law, [or] the types of legal regimes" (Ibid; 523); rather it should be an enquiry into and the explication of the nature of being human. African jurisprudence does not take this for granted. It does not presume that we have a complete understanding of what it means to be human.

And being human, in African jurisprudential terms, refers to the social constitution of the person (Ibid; 522). It is an enquiry into the nature of being human in relation to other human beings. African jurisprudence, as such, is inherently dialogical (Ibid; 525). Being human entails dialogues between different human beings. The essence of dialogues is that they create the openness necessary for both being and dwelling. African jurisprudence takes social cohesion seriously. All laws, legal and political institutions must be constituted in ways that encourage social cohesion. Social cohesion is intricately linked to justice. And justice is defined according to the desire to give the human being full expression. Justice is defined negatively. Injustice is indicative of what justice is not. After all, we cannot know what justice is until we know what injustice entails (Sklar 1992). Injustice is, first, the negation of the personal responsibility, the responsibility to self, which, in essence, is the responsibility to be a social being (Murungi 2004; 523). The hallmarks of a concept of citizenship with an African character are already becoming obvious from the

previous point. Before I say more on this below, I highlight another important feature of African jurisprudence next. While the emphasis is on cohesion and sociability, this does not undermine the importance of individuality or individual rights. The emphasis on the social or community (historically or contemporarily) is not adverse to individual rights. Similarly, community rights do not prevail over individual rights; neither does the former prevail over the latter. There is no hierarchy between community and rights, since they both importantly contribute to the quality of our lives (Onazi 2013).

With the emphasis on being human, interdependence, social cohesion and justice, one can clearly envision a concept of citizenship with distinct African characteristics. What follows is an attempt to elaborate on at least four distinctive features of its ethos. First, the focus on all dimensions of human relationships by African jurisprudence underscores the importance of societal moral values, something that (as I argued in the previous sections) is not properly achieved through rights and responsibilities. Since being human implies being in relation with others, this must imply a certain disposition or comportment explicably part of the process of living together in society. In another sense, African jurisprudence expands upon our understanding human recognition; that is, it provides another way of appreciating the processes of mutual identification with others based on similarity, specificity, difference and empathy (Douzinas 2000; Honneth 1995; Metz 2012).

Second, the focus on all dimensions of human relationships implies that, all human beings, regardless of territorial boundaries, culture, ethnicity or religion, are morally responsible to each other. Citizenship, from an African jurisprudential standpoint is directed to being human. What gives the focus on being human a moral advantage over other ways of thinking of citizenship, then, is the cosmopolitan ethos it implies. This point is further underscored by noting that the nature of being human does not imply being human in all of its glory and perfection as, for instance, with the dominant social contract tradition. Being human also means how we understand how human vulnerability and suffering (Metz 2012). Apart from being responsible to all human beings, the ethical life implied by an African citizenship would encourage us to appreciate that all human beings, including the most powerful, are vulnerable to suffering. And the cosmopolitan implication of this ethos is also that it is not so much our commonality or perfection that makes us relate to others. Rather, it is the ability of each human being to empathise with the human condition of each other. While theories of cosmopolitan citizenship (Appiah 2006; Sassen 2006; Parekh 2003) emphasise something similar to these, they, with certain exceptions (Benhabib 2004), do not properly address is the internal divisions within political communities that demand the same kind of ethical responsibility that people owe to people in distant communities. There is so much emphasis on the external at the expense of the internal.

Third, and building on from the above, the most the most obvious area in which African jurisprudence contributes to citizenship is on the idea of responsibilities, inclusive how this is pivotal to nurturing that kind of values that are important for collective flourishing in society. African jurisprudence, for lack of a better term, not

only moralises, but also socialises citizenship, by bringing it into the realm of human relationships, aligning all human beings within a given community together. On this premise, responsibilities are horizontal and direct, and furthermore, they do not depend (as with the cosmopolitan ethos above) on statehood. Being human in relation to another human being implies a responsibility between one human being for the other. It is a type of responsibility that is not conditional upon anything except the fact of being human. All that matters is to be a human being; it does not depend on rights (Gyekye 2010), whether these are citizenship or residency rights. The African jurisprudential concept of citizenship is not rights-based, even though (as with Murungi above) it does not discount rights. It is geared towards responsibilities, even though African jurisprudence does not create a hierarchy between the rights and responsibilities of citizens. In addition to this, rights and responsibilities are not dependent on statehood; rather they originate from the fact of being human. Our moral responsibilities to each other precede the constitution or membership of state itself. Citizens are not placed at a threshold above aliens, legal or illegal immigrants. The failure to be responsible to the other human being is nothing more than a failure to be responsible to one's self. And this is, in turn, a failure to be a social being (Murungi 2004; 523).

The fourth point follows closely from the previous. It should already be obvious that citizenship from an African jurisprudential standpoint is value-laden, but what has not been emphasised is that values are dependent and can only be cultivated through daily relationships, interactions and encounters between human beings. The ethical life implied by being an African citizen is determined by asking the question, what does it mean to be good to others? Being good is dependent and developed through our proximate exchanges with other human beings. African citizenship, then, is a form of praxis, to borrow the phrase from Enrique Dussell (1998). Praxis refers to the development of moral comportment through certain types of actions, such as helping, caring, sharing or other ethical exchanges between human beings. Praxis, like African jurisprudence, is a species of theory of human interdependence. Praxis is about how the presence of one human being is experienced by the other. The African jurisprudential approach would be concerned about how real people encounter and deal with each other daily. This, and the general arguments of this chapter sets the African approach apart from dominant models of citizenship, which crucially fail to emphasise the importance of moral values.

5. Conclusion

In this chapter, I have made a case for a concept of citizenship with distinct African jurisprudential characteristics, the strength of which is the value it gives to human relationships. The advantage of an African jurisprudential approach is the emphasis it would place on the development of a type of moral comportment among all human beings to treat each other with empathy, tolerance, dignity and respect. If there is one thing that I have not addressed, it is the practical implications of this argument. As important as this may be, this has not been an objective of this chapter. Instead, the objective has been to question what citizenship means today, and also, to question whether this yields to a proper understanding of the ethical life and moral values necessary for societal connectedness, collective flourishing and belonging. A further objective was also to explore the possibility of establishing citizenship from a different conceptual basis (African jurisprudence), and the extent to which this would provide a better foundation for recommitment to these societal moral values.

Despite this, I conclude by briefly sketching out some ways the insights in this chapter can be translated into practice. In doing so, I am not claiming to be comprehensive; I only seek to sketch out to at least three possible ways that practice should follow. First, and on general note, the constitution is the most obvious practical proposal towards achieving a concept of citizenship with African characteristics. The constitution is not just a document embodying rules and regulations, but also (to recall from Aristotle in the previous section) an embodiment of the moral values of any given society. In more specific terms, one way of reflecting those values is by drawing up and constitutionalising a covenant of moral responsibilities. This would define and set the threshold to encourage and measure adherence to these values. The closest approximate to this proposal are 'citizenship tests', or 'good character clauses'; requirements for immigrants seeking citizenship to conduct themselves in a certain ethical or responsible way. Citizenship tests or good character clauses exist in most constitutions around the world, including the Nigerian one, but surprisingly, a similar provision with a related requirement that horizontally binds existing citizens together is missing, one that expects them to treat each other with empathy, tolerance and mutual respect. It should not be too difficult to introduce, through constitutional means, a covenant of moral responsibilities under the Nigerian and other constitutions underscored by moral values. In terms of its content, the specific details of the covenant should be drawn up collectively through deliberation, even though it is unlikely to depart too much from the values mentions above. The advantage of this is the symbolic effect it would create to encourage moral obligations or responsibility rather than its potential legal effect. Apart from the obvious difficulty in pinning down concrete legal concepts from the nebulous nature of the moral values concerned, it would be too naive to expect that inserting a local understanding of values into constitutional or citizenship law on its own will remove the entrenched forms of hatred that already exists in divided communities, such as in Jos and its environs. The conviction that law can provide all the answers to questions that are essentially societal is a claim that is not made here.

In trouble spots like Jos Nigeria (apart from expunging the indigene and settler dichotomy from the constitution), one may go a step further and propose special citizenship tests for existing citizens. With a focus on the younger generation growing up in Jos, they must be indoctrinated and subjected to tests after a certain age of maturity, and after that, if viable, at certain periods. A good example can be drawn from a common practice among certain religious sects who subject their followers, to certain tests after a certain age of maturity, to assess whether they properly grasp the central tenets of their beliefs.

Second, law certainly has a central role to play in cultivating this kind of behaviour, and it can do so by going beyond constitutional law to orient different forms of action at a societal level. Without being exhaustive, other more practical approaches that can be inspired by law would include a broad based educational strategy, not necessarily restricted to civic, but moral education. Moral citizenship, after all (as I prefer to call it) is also a pedagogical agenda. Citizens or aspiring citizens must not only learn or be taught how to be good civic citizens, but also moral citizens. It is important, in this regard, to target the younger generation, not only because the future of the country depends on them, but also because they are unlikely to be set in their ways. It does not matter if they attend separate (religious or integrated) schools, traditional African moral values, of the kind discussed in this chapter, must form a central part of the agenda. As part of the educational strategy, a comparative perspective is needed to learn how other countries in different parts of the world have dealt with similar questions. Close to home, the Southern African example, partly because of the consequences of its apartheid history, can provide a model for other African countries. South Africa is perhaps one of the few places in Africa where citizenship is defined by moral values (Swatz 2006: 561-563). Of course, recent violence and intolerance to non-citizens in South Africa may raise question marks about relying on it as a case study. From my point of view, the problems (just as the strengths) of the South African experience need to be studied more closely to decipher if there are lessons that can be learnt by countries like Nigeria.

Third, and in addition to the above, there is a need also to create non-political deliberative forums within and between local communities, within which individuals can come together for the purposes of developing better understanding of the responsibilities they owe to each other. Unlike mainstream ideas about deliberation, the questions for deliberation should be issues unrelated to politics. They should be forums where people come together to learn, empathise and get to know each other better. It should be a site for reflection, where individuals reflect on both matters of common interest and those of difference. In Jos, for instance, this can serve as a means to anticipate and nip possible conflicts in the bud. As suggested earlier, the specific details of these proposals still have to be worked out in more detail. It has not been an objective of this chapter to provide such specific detail; rather the objective has been to spark new thinking, indicate or provide the groundwork for these and other possibilities.

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