AN EVALUATION OF THE CONCEPTS OF HUMAN RIGHT AND EQUALITY AMONG THE TIV PEOPLE OF BENUE STATE, NIGERIA

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This dissertation is original and has not been submitted in part or full for any degree of this or any other university.

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DEDICATION

To my Spiritual Father and amiable Mentor: The Very Rev. Fr. (Dr.) Chris Ierwua Utov and my aunty, Hon. Mrs. Dorathy Kpentomun Mato for their selfless contributions in making me what I am today and to all those who seek to promote Human Right and the Principle of Human Equality in the World.
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ABSTRACT

This work seeks thematically to demonstrate the universal availability of the idea of Human right and the Principle of Human equality in all cultures of the world. By so doing, it seeks to expose, analyze and evaluate the concepts of Human right and equality in the thought system of the Tiv people of Central Nigeria. The work intends to show the meaning, significance, justification, basis, functions and implications of the notions for the Tiv people, the Nigerian society and the world at large. The work first and foremost, establishes the method of data collection, the nature and scope as well as the historical evolution of the concepts of Human Right and Equality. It examines the categories of rights and the basis of equality and the various perspectives which have metamorphosed into globally recognized theories of Human right and equality. The work further looks at the conceptualization of these concepts in Tiv thought system and the implication of the modern pluralistic society on these concepts as well as the justification, significance and implication towards the advancement of the course of Human Right and Principle of Human Equality in the contemporary society.
# TABLE OF CONTENTS

Title Page ...........................................................................................................i
Approval Page ...................................................................................................ii
Certification .................................................................................................iii
Dedication ......................................................................................................iv
Acknowledgement ..........................................................................................v
Abstract .........................................................................................................vi
Table of Contents ............................................................................................vii

## CHAPTER ONE: INTRODUCTION

1.1 Background of the Study ..............................................................................1
1.2 Statement of the Problem ...........................................................................2
1.3 The Thesis ................................................................................................2
1.4 The Purpose of the Study ..........................................................................3
1.5 Significance of the Study ..........................................................................3
1.6 The Scope of Study ...................................................................................3
1.7 Methodology ............................................................................................4

## CHAPTER TWO

Literature Review ............................................................................................6

## CHAPTER THREE: THE CONCEPTUALISATION AND THE HISTORICO-
PHILOSOPHICAL FOUNDATIONS OF HUMAN RIGHT AND EQUALITY

3.1 The Concept of Human Right and Equality ..............................................24
3.2 Kinds of Human Right and Equality ........................................................28
3.3 Theories of Human Right and Equality ....................................................32
3.4 Universal Declaration of Human Right .....................................................36
3.5 Grounds and Dimensions of Equality .......................................................38
3.6 Relationship between Human Right, Equality and Justice .......................40

## CHAPTER FOUR: THE TIV CONCEPTS OF HUMAN RIGHT AND EQUALITY

4.1 The Tiv People ........................................................................................45
4.2 The Concept of *Or-Umache* (human being) in Tiv Traditional Thought ....48
4.3 The Tiv Concept of Human Right ............................................................51
4.4 Categories of Human Right in Tiv Society ..............................................53
4.5 The Idea of Equality in Tiv Society ..........................................................58
4.6 Human Right, Equality and Justice in Tiv Society ..................................60
4.7 The Philosophical Foundations of Human Right and Equality among the Tiv .....61
CHAPTER FIVE: AN EVALUATION OF HUMAN RIGHT AND EQUALITY AMONG THE TIV PEOPLE

5.1 Human Right as Gbaaondo (Natural) in Tiv .....................................................69
5.2 Human Right and Equality as an Expression of Tiv Communalism and Egalitarianism ..............................................................................................................72
5.3 Ya Na Angbian as Tiv Principle of Equality in the Socio-Political Sense ..........74
5.4 The Inseparability of Rights and Obligation in Tiv Society .............................75
5.5 The Modern Society and the Concepts of Human Right and Equality among the Tiv People Today..............................................................76

Summary ...........................................................................................................80
Conclusion .................................................................................................82
Bibliography ...............................................................................................86
CHAPTER ONE
INTRODUCTION

1.1 BACKGROUND OF THE STUDY

The concepts of human right and equality are among the most thoroughly examined in political philosophy owing chiefly to what they connote and also represent in advancing the dignity and quality of human life. However, a cursory look at the history of socio-political discourse on these concepts (Human Right and Equality), reveals the dominance of western perspectives, which have metamorphosed into globally recognized theories of human right and equality. And it appears there is some sort of consensus among the international community and international organizations on the meaning, application and even justification (to some extent) of the concepts of human rights and equality, which is informed principally by the Western perspectives. Consequently, other indigenous notions of human rights and equality found in the thought system of other communities especially in Africa are neglected.

Hence, there is every need to bring to limelight the fact that almost all cultures of the world are neither ignorant nor devoid of the concepts of human right and equality. In the words of Lakshman Marasinghe:

*It is a popular myth to assume that traditional societies of Africa are devoid of any conception of human rights and that when one refers to human rights the modern societies of the west are the exclusive custodians of this universal concept*.1

As such, the concepts of human right and equality are not among those legacies of colonialism neither the fruit of western intellectual heritage. The conceptualization surely, may vary among cultures but none is to be regarded as inferior to another or treated as non-existent in the global efforts of advancing the course of human right and the principle of human equality. To have a global mobilization and sensitization in this regard, there is need to have cultural bases for human right and equality so that no people should be seen to be out of this struggle and ignorance of these concepts.

Ultimately, therefore, as Josiah A. M. Cobbah suggests “What is important to an international community of cultures is for all people to feel that all voices are genuinely being heard in the human rights discussion”2. It is from this background that this work seeks to demonstrate the universal applicability of the concepts of human rights and the principle of human equality by expressing, critically analyzing
and philosophically evaluating one of such neglected perspectives: that of the Tiv people of Benue State in Central Nigeria.

1.2 STATEMENT OF THE PROBLEM

In the conceptualization of human rights and equality, it is demonstrated, though amidst skepticism and criticism that human rights and equality are inherent in the nature of human beings and by extension, they are integral qualities of the human society. Hence, the universality and inalienability of human rights and equality are asserted, but amidst strong objections. However, it appears that the western perspectives on human rights and equality have dominated the global discourse in this regard, hence neglecting other notions available in the thought system of other societies especially in Africa. The problematic questions are:

- Do humans really have rights?
- Are human beings really equal?
- What do we mean when we use the words equality and rights?
- What are the justifications for the application, attribution, claim of equality and rights?
- Are there universally acceptable justification for human rights and equality? Or are they societal or cultural specific ones only?
- What is the concept of human rights and equality in Tiv society?
- What is the basis of equality in Tiv traditional society?
- What is the influence of the modern and pluralistic society on the Tiv concept of human rights and equality today?

The critical attempt to address these above raised questions constitutes the thematic preoccupation of this research work.

1.3 THESIS

This research work seeks above other things to demonstrate that there is an indigenous conception of Human Rights and Equality in the traditional thoughts of Africans as evidential in the thought system of the Tiv people of Benue state. As such, we can’t afford to depend solely on the western conception which has become the globally recognized theories and perspectives of Human Rights and Equality.
1.4 THE PURPOSE OF THE STUDY
This research work intends to achieve the following:

(i) Look at the historical evolution of the concepts of human rights and equality.
(ii) Examine the various concepts which have metamorphosed into diverse fundamental theories of human rights and equality.
(iii) To ascertain the existence and non-existence as well as the basis and dimensions of human rights and equality in Tiv thought system.
(iv) To critically evaluate the concept of human rights and equality among the Tiv people of Benue State.
(v) To ascertain the impact of modern pluralistic society on Tiv understanding of human rights and equality.
(vi) To determine the basis (bases) of human rights and equality among the Tiv people.
(vi) To demonstrate that Tiv concept of human rights and equality is rooted in their communality and egalitarianism.

1.5 THE SIGNIFICANCE OF THE STUDY
Today, more than ever, the question of human rights is becoming increasingly as ever before a cultural value that is immersed into the spirit of society. This current advocacy for the incorporation of human rights principles into cultural ethos is possibly to promote their recognition to the level of mass cultural values that would bring about a culture of respect for human rights deeply rooted into the norms of society. Therefore, this research which is an attempt to bring out the idea of human rights and equality in Tiv cultural system makes itself significant and relevant to our time. This work will show that the idea of human rights and equality is not alien to African culture in general and Tiv socio-cultural system in particular. This dimension will bring the idea of human rights into the mental constitution of the people as norms that are inalienable and part of their cultural values. At this point, there will be mass cultural orientation enough to mobilize and sensitize them to join the crusade for human rights and human equality.

1.6 THE SCOPE OF THE STUDY
This work limits itself to the evaluation of human rights and equality in Tiv traditional thought system. However, a review of the historical development of the concept of human rights shall be made. But the work shall dwell chiefly in
demonstrating the reality of human rights and its various categorizations in Tiv society as well as ascertaining the basis of equality in Tiv traditional thought systems.

1.7 METHODOLOGY

This research is chiefly a library research. It engages documentary works, both published and unpublished ones. It also employs interviews for data collection as well as participant observation since the researcher is of Tiv extraction. All collected data shall be subjected to critical, philosophical analysis and evaluation.
End Notes


CHAPTER TWO

LITERATURE REVIEW

We intend here to make a historico-philosophical review of some related literature on our subject matter namely; ‘Human Rights and Equality’. The related works touched in this review are carefully collected and chronologically arranged as well. This is because studies on human rights and equality are traceable to the very beginning of socio-political discourse dating back to the pre-Socratic period. However, the concept of “Human Rights” as it is rendered now is fairly a new coinage surrogating what was formerly known as “the rights of man”. This goes to show that earliest works in this regard did not use the term as it is rendered now. But this is not applicable to the concept of equality. The concept of human rights is closely linked with the idea of natural law and natural rights theories. Human right has the same basis or ontological foundation as natural law. This view is complemented by Kofi Quashigha in his work titled *Philosophical Bases of Human Rights and Its Relation to Africa*, Quashigha noted that:

> Human right is conceptualized as the new manifestation of the natural law concept of the Ancient and Middle ages. Natural Law had always envisaged the eternal law concerned as principles of a right law or is patently correct solution of concrete legal questions. It is the law which the monarch or parliament itself is bound not to infringe\(^1\).

So, in the human right doctrine, the idea of natural law or natural right is encapsulated and humanized. Therefore, the Greco-Roman Philosophers laid foundation for the flourishing of the concept of human right and equality in their conceptualization of natural law and natural rights theories. The elements in human rights theory today were introduced by Plato and Aristotle. In his *Republic*, Plato for example notes the “equal respect for all citizens (*Isotimia*), equality before the law (*Isonomia*), equality in political power (*Isokratia*), equality in Suffrage (*Isopsephia*), and equality in civil rights (*Isopoliteia*). They advanced an egalitarian framework for the next development of human rights”\(^2\). Again, by Plato and Aristotle’s emphasis on the universality of justice and morality, the stage was set for individual act of justice, which underlies the doctrine of human right since human right and justice are inseparable.

The post-Aristotelian philosophers particularly the stoics also advanced the course of human rights and equality. They promoted the concept of human freedom and laid emphasis on the equality of all men. Their development of moral
universalism as against the sophist’s theory of moral relativism becomes a strong support for rights as demonstrated by Cicero, a notable stoic. In his work *On the Commonwealth*, Cicero noted:

… Since there is nothing better than reason and since it exists both in man and God, the first common possession of man and God is reason. But those who have reason in common also have right reason in common. And since right reason is law, we must believe that men have law also in common with gods. For while the other elements of which man consist were derived from what is mortal and are therefore fragile and perishable, the soul was generated in us by God. But out of all the materials of the philosophers discourse, surely there comes nothing more valuable than the full realization that we are born for justice and that right is based, not upon men’s opinions but upon nature.

This long quotation demonstrates the stoic’s thoughts on human rights and the basis of human equality. In the medieval period where there was great fusion of philosophy and theology, the concept of human rights and equality of mankind becomes theocentric. St. Augustine in his *City of God* notes that “He (God) did not intend that his creatures, which were made in His own image, should have dominion over anything but the irrational creation not man over man, but man over beasts.” This was the period when the doctrine of Natural Law became strong and was linked to God or eternal law. For them, human rights are rights that God gave to man and are found in natural laws and they are also universal, objective and applicable to human beings as equal creatures of God.

In the modern period, the theory of human rights and equality found expression in the works of Thomas Hobbes and John Locke, J. J. Rousseau, Jeremy Bentham, J. S. Mill, A. Tocqueville, Paine, and Immanuel Kant amongst others. In the first place, the theory of natural rights and human rights are based on liberal theory of the origin of the state from the *Social Contract*. According to this theory, certain rights were enjoyed by man in the state of nature, that is, before the formation of civil society itself. These comprise the natural rights of man, which must be respected and practiced by the state. In his *Leviathan*, Thomas Hobbes (1588 – 1679), set out his doctrine of modern natural right as the foundation of societies and legitimate governments. He draws a gloomy picture of the state of nature and depreciates natural rights as the freedom of the stronger to oppress the weaker. He therefore postulates an unconditional surrender of natural rights when civil society is formed. According to him, society is a population beneath an authority, to whom all individuals in that
society surrender just enough of their natural right for the authority to be able to ensure internal peace and a common defense. Hobbes’ thesis agrees that man, in the state of nature, possesses freedom and equality. Hobbes acknowledged the existence of rights, but holds that the sovereign is the sole determinant of human rights.

Meanwhile John Locke (1632 – 1704) one of the most influential thinkers in the modern period was the most ardent champion of human rights. His most celebrated work *Two Treatises of government* Locke describes the current condition of the civil government in the First Treatise, while in the Second Treatise; Locke demonstrated his justification for government and his ideals for its operation. Locke also in the Second Treatise, advocated that all men are equal and that each should be permitted to act as long as he doesn’t harms another. Using these foundations, he continued to make a classic justification for private property by declaring that the natural world is the common property of all men, but that any individual could appropriate some bit of it for himself by “mixing” his labour with the natural resources. In his *Lockean Proviso*, Locke stated that the right to take goods from the natural commons is limited by the consideration that there was still enough and as good left, and more than the yet unprovided could use.

John Locke went a step further by trying to specify what these human rights are. For him, there are three fundamental human rights as provided by the natural law. Such rights, Locke insists, are safeguarded by social contract. These rights are right to life, liberty and property. He considers them as natural to man. For him, these rights are the bases of the social contract and any attempt to violate these rights should be resisted by all means. In regards to equality, Lockean concept of equality embraces the distinction of the following types of equality as sanctioned by modern usage as shown in Wielftly P. A. work “Equality” published in New Catholic Encyclopedia in 1967. They include natural equality based on the equal possession of the same nature as shown in essential characteristics shared by all the members of a species; political equality, a status of parity among citizens, which implies the same fundamental rights and privileges of political participation and the exclusion of partiality in the application of the law; “Social equality is the negation of all social class distinction within the totality of a society.” Wielftly P. A. further notes that the satisfaction of equality in socio-political order implies the exclusion of all forms of arbitrary and irrational partiality and discrimination in human interrelations. That true egalitarianism is attained in a society when there is freedom from psychological, legal, social and economic pressure to remain permanently in a fixed class.
Another influential modern thinker on human rights and equality was Jean Jacques Rousseau (1712 – 1778), in his works “The Social Contract” and “Discourse on Origin of Inequality”, Rousseau draws a fascinating picture of the state of nature and glorifies natural rights. Nevertheless, he postulates that these rights become irrelevant in civil society. They are therefore surrendered as the price of civil rights. In effect, both Hobbes and Rousseau do not think that natural rights would be maintained by the state. Contrary to Locke’s position that man surrendered only some of his natural rights, particularly the right to be judge of his own acts on the condition that his fundamental natural rights, that is, the rights to life, liberty and property shall be protected by the state.

The 18th Century German philosopher, Immanuel Kant in his work *Groundwork of the Metaphysics of Morals*, introduced reason as a general and distinguishing attribute of man, upon which morality is to be based. In his theory of the autonomy of the will expressed in his ethical theory of categorical imperative, Kant holds that human rights are those rights we decide to give to ourselves as equal and autonomous rational beings. For Kant therefore, human rights have no divine origin as held by the medieval thinkers but originate from the will of man as a rational being. He therefore laid the foundation and constitutes a cardinal pillar in the development of the will theory of human rights. Kant’s theory brings forth objectivity into moral discourse and has succeeded to tend our minds off religious and quasi-religious basis for human rights, consequently making it possible for all to see human rights as something that transcends religious sects, cultures and personal interests.

The contemporary period witnessed a flourishing of works on human rights and equality. The period also recorded one of the most constructive objections and skepticisms against the existence of human rights and the basis of human equality. The great objection comes from Jeremy Bentham. In his work titled *Anarchical Fallacies*, Bentham rejected the concept of natural rights of man as rhetorical nonsense, nonsense on stilts. He rejects the doctrine of natural rights as unreal and ill-founded. In his another work titled *Principles of Morals and Legislation* published in 1789, Bentham observed:

Rights properly so called are the creatures of law properly so called real laws give birth to real rights. Natural rights are the creatures of natural law, they are a metaphor which derives its origin from another metaphor... what is natural in man is means; faculties. But to call these means, these faculties, and natural rights is again to put language in opposition to itself. For rights are established to insure the exercise of means and
faculties. The right is the guarantee; the faculty is the thing guaranteed. How can we understand each other with a language which confounds under the same term things so different.

Bentham condemns natural rights as an invention of fanatics, which are dogmatic and unintelligible, devoid of reasoning. About their upholders, Bentham remarks “Instead of examining laws by their effects, instead of judging them as good or as bad, they consider them in relation to these pretended natural rights; that is to say, they substitute for reasoning of experience the chimeras of their own imaginations.”

Again Bentham’s theory of human rights falls under the utilitarian tradition in this regard. As a theory, the utilitarian laid emphasis on the beneficia consequences of an action as the source of value. They argued that rights arise independently of social utility from agreement they made, from their dignity and autonomy as human beings. The individual’s interest ceases to exist as soon as it is incorporated in the utilitarian calculus and so fall under legal jurisdiction. As such his view is also expressive of the logical positivist position. It is thus evident that Bentham advanced the course of legal rights with a focus on political reality and to repudiate the imaginative character of natural rights theory.

Meanwhile, Thomas Paine (1737–1809) in his Rights of Man published in 1791 enunciated the theory of natural rights on teleological basis. Paine rejected the doctrine of the social contract as it was “eternally binding and hence, a clog on the wheel of progress. He insisted that every generation should be free to think and act for itself. But rights to “liberty, property, security and resistance of oppression”, which are the proud possessions of man in civil society derive their sanction from the natural rights pre-existing in the individual. This theory of natural rights played an important role in modern history. It served as a source of inspiration for America and French Revolutions. The American Declaration of Independence in 1776 expressed this idea as follows:

We hold these truths to be self-evident that all men are created equal, that they are endowed by their creator with certain inalienable rights that among these are life, liberty and pursuit of happiness. That to secure these rights Governments are instituted among men, destroyed their just powers from the consent of the governed.

Similarly, the French Declaration of the Rights of Man and of the citizen in 1787 expressed the idea thus:
Men are born and remain free and equal in rights. Social distinctions can be based only upon public utility .... The aim of every political association is the preservation of natural and imprescriptible rights of man. These rights are liberty, property, security and resistance to oppression.

Jean Paul Sartre in his contribution as found in his work *Existentialism and Humanism*, brings out an idea of human rights which is linked to responsibility and choice. Contrary to the traditional belief that our choices are a byproducts of the society we lived in. Sartre disagrees and holds that each man must encounter and confront himself and his situation in the world, and that only him can act on it. Therefore, what we chose to do in these moments in life quite literally define us. That is, man is nothing else but that which he makes of himself. Sartre concludes that man is condemned to be free. Not only are we the only ones able to choose, but also our choice is inescapable. For the refusal to choose is in itself a choice.

On his part, Karl Marx in his *Communist Manifesto and Economic and Philosophic Manuscript* published in 1884 advocated nothing less than the abolishment of personal property rights and the institution of forced labour. He argued that these would in fact help man restore his dignity, worth and self. The only thing that would suffer, he felt was the very bourgeois individuality, bourgeois independence and bourgeois’ freedom, which perpetuated the capitalistic system so harmful to the masses. On the other hand, Marx’s arguments for the abolition of these traditional Lockean freedoms has encouraged the support of social or cultural rights, because they represent the whole of society are felt by some philosophers to be more important than the rights of a single individual at least in many senses. Indeed, the repressive communist government of Stalinist Russia and Maoist China were ostensibly founded upon some of the same principles as the Universal Declaration of Human Rights, whose preamble argues for the “freedom from fear and want” of the “common people” as opposed to emphasizing the rights of the elite owners of the means of production.

Corroborating the above position in favour of the Soviet Human Rights Theory, Vladimir Kudryavtsev published a work in 1974 titled *The Truth about Human Rights*. He argued that the character of human rights is tied to the desired ideal of a society. He notes that:

In criticizing the bourgeois’ view of democracy and human freedoms and rights, it should be borne in mind that the anti-communist position on these questions is often based on an idealistic
understanding of rights. It is claimed that human rights are allegedly inbuilt in “human nature”. …as can be seen from the foregoing, human rights are a social and class concept. There are no human rights in the abstract, in isolation from society. A right is an opportunity guaranteed by the state to enjoy the social benefits and values existing in the govern society. For this reason, the one and the same right has an entirely different content in different historical and social circumstances.

This position favours also the historical theory of rights, which holds that rights grew out of custom which stabilized through usage in several generations.

Another view on human rights is expressed in the work by William T. Blackstone titled *Equality and Human Rights* which expresses the non cognitivist view. Blackstone held that “human rights talk is generally metaethically neutral and must be evaluated on normative grounds”. He rejected the view that to “say a person has a human right is not to assert a proposition and believed that there can be rational grounds for the adoption of norms”. Nevertheless, since norms and specifically human rights, rest in the last analysis on a decision based on some desired idea, some concept of a desirable human existence or society. Meanwhile, in his view, Gregory Vlastos agreed with those who subscribed to the, “the talk of prima facie duties and of rights as moral claims upon our attention and action that may however, be forfeited. In his work *Justice and Equality*, Vlastos argues that human rights are prima facie in “that the claims of any of them may be over-ruled in special circumstances”. He accepted that human rights have “a fundamental place in our scheme of justice but rejected that they are absolute (as held by some natural rights theorists) because there are cases which call for our violating them. Since Vlatos thought that one right may overrule another right, indeed, any right may at same time overrule any other right. He is therefore a bona fide prima facie rights theorist. And his characterization of human rights as prima facie allowed him to propose a system of such rights in which “freedom rights” (e.g. to speak or publish) are placed in balance with “welfare rights” e.g. to obtain education or receive health care with cases of apparent conflict worked out individual by weighing the strength of the moral obligations and rights.

J. Feinberg is another exponent of rights. In his work *The Nature and Value of Rights* published in 1970, Feinberg held that rights as claims emerge in the context of having interests, a view related to his reliance upon analysis of legal discourse. Yet the distinction of Feinberg’s position is that it makes possible the derivation of animal rights. Having based human rights on analysis of legal discourse, it is not very
surprising that Feinberg finds it possible to do the same for animals. In his another work, *The Rights of Animals and Unborn Generations* published in 1974, Feinberg defends rights as claims. He notes that:

To have a right is to have a claim to something and against someone the recognition of which is called for by legal (or other institutional) rules, or in the case of moral rights by the principles of an enlightened conscience.\(^25\)

From this background, Feinberg thinks we can even conclude that the animal itself claims its rights through various actions of a human proxy speaking in its name and in its behalf.

Mack Eric in his work *Egoism and Rights* published in 1973, developed theory of rights in which he showed that natural rights derived from egoism will yield the results.\(^26\) Macks concern with the compatibility of egoism and natural rights is but one of the phases of the ongoing discussion about the relationship between individualism and the moral foundation of the liberal or libertarian political order. While attempting to avoid giving his theory of rights a quasi-utilitarian defense, Mack has also made room in this theory for the teleological features of human action, thus combining elements of normative theories generally held to be antagonistic.

As a follow up from Mack’s theory of rights, Robert Nozick developed a Transcendental Rights Theory. In his *Anarchy, State and Utopia* he did not set out to prove that human beings have certain Lockean rights. He proceeded instead by positing these rights and examining whether the kind of social and political system that flows from such rights (if implemented) accords with our moral intuitions better than alternative systems.\(^27\) Nozick held that it is problematic when governments claim a monopoly on the protection and preservation of rights. That is, they risk violation of the rights by subjecting all to their exclusive administration of justice and their idea of due process. Hence, he proposed a minimal state which would involve less of a risk of rights violation than leaving the protection and preservation of rights in the hands of people at large.

Alan Gewirth in 1978 brought out a distinctive approach to human rights in his theory of deductivism. In his work *The Golden Rule Rationalised*, Gewirth advanced the view that rights are necessarily rather than contingently connected with human being, a claim not necessarily unique from previous rights theories. The distinctive character of his theory is evidential where Gewirth engaged in what is usually called conceptual analysis:
the basis of rights must be sought in the conviction necessarily held by every human agent that he has rights to the necessary conditions of actions by virtue of his having purposes and pursuing goods.

Consequently, Gewirth identified two basic rights, namely; Freedom and Welfare rights. Gewirth further argued for abridging the “is/ought” gab by deriving from “beliefs each human agent necessarily has about his own rights of action”. According to Gewirth,

Every agent, by the fact of engaging in action is logically committed to the acceptance of certain evaluative and the deontic judgments and ultimately of a moral principle which requires that he respect in his recipients the same generic features of action, freedom and well-being that as rational he necessarily claims as rights for himself. By virtue of this logical necessity, PGC is rationally justified as a categorically obligatory moral principle.

In this way, he established the Principle of Generic Consistency which satisfies the condition for being the supreme principle of morality. He concluded that each person has rights both to freedom and to well-being.

After Alan Gewirth, Ronald Dworkin came out with his Due Process Rights Theory. At first, Ronald Dworkin’s position appears to fit well within a Lockean natural rights tradition. In his work titled *Taking Rights seriously* published in 1977, Dworkin advanced that a right theory that pertains to the principles governing the relationship between individuals and their government. In general, Dworkin was concerned with identifying the limits of governmental authority by reference to a view of human rights.

It is worth noting at this juncture that the literature reviewed so far, are from the western world. This does not deny the existence of certain literature authored by Africans on the question of human rights and equality. The notion of human rights is not in any way alien to the people of Africa.

Placide Tempels in his work “Bantu Philosophy” demonstrated however, that the African notion of human right is deeply rooted in African ontology. His words:

It is in defense of their rights that non-civilized people show their personalities to best advantage, because their rights like their religion, are built upon the ultimate essence of humanity upon their conception of the world and upon their philosophy.
Placide Tempels sees the African conception of rights as something that is intrinsically intentioned with their world views and belief systems. Corroborating this fact, J. A. I. Bewaji in his work *Human Rights: A Philosophical Analysis of Yoruba Conceptions*, notes that “human rights were very well enshrined in the culture and tradition and customs of indigenous Yoruba society before colonialism and amalgamation with Nigeria and the independence of Nigeria”. Meanwhile, Chancellor Williams in his work titled *The Destruction of Black Civilization* published in 1987 noted that various African traditional, constitutional and customary laws shows that Africans have both the concept of human rights and specific provisions of human rights even before Europe became civilized. He outlined not less than twenty specific human rights that are arguably more refined than what western philosophers thought existed in African traditional societies.

Furthermore, Benedict Michael in his work *The Tiv Concept of Human Rights* set to prove not just the existence of human rights in Africa, but also the nature, scope and dynamics of such rights in Tiv society. He noted that unlike the western conception of rights which is based on abstract individualism without the recognition of duties, Tiv conception of human rights encompass both rights and obligation, which provides the community with cohesion and strength. This notion of right, built largely around the conception of duty, requires the individual to place the community and the common good before individual satisfaction.

In reference to the concept of human equality and the basis of it, scholars over the years have written either for or against the concept of equality. For the concept of equality is indubitably one of the most controversial of the great socio-political ideas. This is because human beings differ in many respects and characteristics. For example, they differ in place of birth, colour, height, intellectual capacity, interest, taste, need, creed, and in many other ways. In his work; *The Elements of Social Justice*, Hobhouse argued for equality on the basis of “all men having rational capacity”. He noted that there is something peculiar to human beings and common to human beings without distinction of class, race, sex, which lies far deeper than all differences between them. Call it what we may, soul, reason, it is generic…. This implies that only in this sense of rational capacity which is inherent in every individual that we can talk of human equality.

In his book *Discourse on the Origin of Inequality* published in 1755, J.J. Rousseau sees the whole idea of equality as an idea of social change and as a man-made concept designed to change a social structure which is found to be alterable “as
well as unjust. Rousseau identified two types of inequalities found in social life namely, natural inequality and conventional inequality. Natural inequality consists in the differences of age, health, bodily strength and qualities of mind and soul. While conventional inequality consists in the different privileges that some men enjoy to the exclusion of others, such as inequalities of wealth, prestige and power. Hence, Rousseau doubts the possibility of absolute equality, but only believes that the concept is involved for social change and reconstruction.

Toeing the same line of reasoning, John Rees in his *Equality* published in 1971 elucidated;

> It is when men or some of them, see certain...inequalities as unjust and alterable that equality as an ideal becomes a potent force in political life...Before, an inequality can become the object of criticism and regarded as unjust it would seen, to be a necessary condition that it should be alterable.

Hence, Rees agrees with Rousseau that equality as a concept is utopia; it only comes to reality as an idea to erase alterable inequalities thought to be unjust. That is to say that equality demands a progressive reduction of inequalities where they are thought to be unreasonable. It does not imply literal equalization. This view was also expressed by R.H. Tawney in his *Equality* published in 1938. For him, equality does implies equal sharing or distribution of material goods or availability of opportunities for all members, but that those who differ in their physical and mental capacities, aptitudes and skills, talents and energies, should be given equal opportunities for the development of their personal qualities in the shape of material goods, comforts, education, training, etc. According to him:

> Different kinds of energy need different conditions to evoke them and the sentiment of justice is satisfied, not by offering to every man identical treatment but by treating different individuals in the same way insofar as, being human, they have requirements which are the same, and in different ways insofar as being concerned with different services.

Worth mentioning again is the position of H. J. Laski; who in his work *A Grammar of Politics* published in 1938 also argued that equality is interpreted as “identity of treatment or equal shares for all disregarding merit and need, it not only destroys liberty, but makes a mockery of equality itself. He worded:
Equality does not mean identity of treatment. There can be no ultimate identity of treatment so long as men are different in want and capacity and need. The purpose of society would be finished at the outset if the nature of a mathematician met an identical response with that to the nature of a bricklayer\textsuperscript{39}.

However, the Judeo-Christian tradition has always expressed faith in the equality of mankind. For example, referring to Genesis, 1:28 in which God gave the earth and its fruits to man’s use, Pope Leo XIII in 1891 states in his \textit{Encyclical Rerum Novarum} that “…in this respect all men are equal. There is here no difference between rich and poor, between masters and servants between rulers and ruled”\textsuperscript{40}

So, for the church, the equality of mankind is not just an idea of social-change but what has been ordained by God right from the beginning. This belief seems to have informed greatly the Lockean Theory of equality which is profoundly theological. In his \textit{Second Treatise of Government} Locke notes:

\begin{quote}
Reason…teaches all mankind, who will but consult it, that being all equal and independent, no one, ought to harm another in his life, health, liberty, or possessions. For men, being all the workmanship of one Omnipotent, and infinitely wise maker; all the servants of one sovereign Master, sent into the world by his order and about his business, they are his property, whose workmanship they are, made to last during his, not one another’s pleasure\textsuperscript{41}
\end{quote}

This Lockean theory no doubt influences the content of American constitution when the Declaration of Independence came to be drawn in 1776 as noted earlier.

We must also note that the notion of equality is not alien to Africans. In fact, many perceived African societies to be egalitarian. In their work titled “\textit{African Conceptions of Justice, Responsibility and Punishment}” Agbakoba and Nwauche observed that, the concepts of justice, responsibility and punishment are deeply rooted in Igbo traditional society long before colonialism. They further notes that these three concepts make it possible for people’s rights to be recognized, promoted and protected\textsuperscript{42}. They also observed that justice in African traditional philosophy makes for fairness, which produces equality, which ensures that every one is given his or her due. Corroborating this point, M. Onaulogho in his work \textit{The Equality of Mankind according to John Locke}, noted that the sense of kinship among the Africans strengthens the idea of being the children of one God. And that the African idea of having God as a common root coupled with a very strong sense of divine justice lead
to the ideas of equality, justice and fairness in human relationship among the Africans.\(^{43}\)

At this juncture, it is scholarly imperative to note that despite the numerous literature reviewed above on the concepts of Human Rights and Equality, there is still another side of the coin which is made up of people who believe that there is nothing like human rights and equality. Worth noting is the point that, objections to the reality of human rights particularly comes from the adherents of empiricism, logical positivism, utilitarianism and all classes of historicism and Marxism. Notable among the critics of human rights was Jeremy Bentham as earlier noted.

In the camp of critics, David Hume leads the empiricist objection to the existence of human rights. David Hume held that natural rights and natural law were unreal metaphysical entities. He questioned the permanent validity of human rights since they are not established by any legislation. In his work “Inquiry Concerning Human Knowledge” Hume rejected anything metaphysical as non-existence. He further notes that such public assertions on Human rights would rather influence people to take revolutionary action and also lead men to think they could have things that they could not.\(^{45}\)

For the Marxist, the whole idea of human rights is the product of the bourgeois society, at the point in history when it was on the verge of collapsing. In his work The Jewish Question, Karl Marx saw the rise of human right on historical context and he is wholly dismissive of all claims made by the bourgeois freedom and on the revival of natural right as its aim, that is; the liberation of man from the oppressive and restrictive feudal economic and social structure. For Marx, all rights and liberties in bourgeois is simply the fact that the individual aspiration and interest conflicts are limited by the aspiration of others, in capitalist societies. Marx concluded that human rights…are simply the façade of the capitalist system in the new unified society they have become utterly irrelevant.\(^{46}\)

P. O. Bodunrin an African philosopher also rejects the concept of human rights that sees it as something immutable, imprescritible and universal. For him,

> If there is anything intrinsic to man in this sense (that is, in the sense that it will be impossible for the government to deprive him of that right which he has) it could not be such a thing as rights.\(^{47}\)

He further argues that the concept of human rights grows with the development of human moral consciousness. But human consciousness itself develops in response to
human existential predicament. He concluded that “There are no natural human rights which human beings are automatically conscious of by reason of their humanity”\textsuperscript{48}.

In regard to the concept of “Equality” too, some scholars have perennially advanced arguments to substantiate their objection to the reality of equality among humans. As already observed above, some believed that the concept of equality is a formulated principle to concede discrimination in favour of some deprived sections. Hence, David Hume (1711-1776) believed that doctrine of equality is a “philosophy of poverty not only because it tends to serve the cause of the poor but also because it tends to impoverish society in its standard of excellence. Thus, in his work “An Introduction to Political Theory” O.P. Gauba paraphrasing on David Hume’s position maintains that:

\begin{quote}
Equality would endanger the virtues of “art, care and industry” and instead of preventing want in a few; it would lead to the impoverishment of the entire community\textsuperscript{49}.
\end{quote}

We must note quickly that this position stems from interpretation of equality to mean literal equalization of rewards irrespective of talents, efforts and even needs of various individual. However, rational view of equal abhors this position.

Again, other critics have objected to the doctrine of equality by envisaging certain situations where the provision of equality obstructs the enjoyment of liberty. The renowned French Philosopher Alexis de Tocqueville (1805-1859) in his celebrated work \textit{Democracy in America} observed that the “principle of equality” where by all distinctions of social status are gradually eroded was the ruling principle of modern history\textsuperscript{50}. The principle of equality in this sense encouraged the individual’s subservience to public options and the extension and centralization of state power. That, in a democratic practice the source of intellectual authority is found in public opinion and this leads to the “tyranny of majority”. Supremacy of public opinion demands conformity to generally held attitudes and standards and it abhors dissenting positions. Hence, he concluded that, where as the principle of liberty demands the encouragement of a variety of interests and opinion, the principle of equality tends to promote conformity of opinions and attitudes, hence the antithesis between liberty and equality. But a closer examination of Tocqueville’s position will reveal that, he was not completely against equality as such, but he cautioned that the demand for equality in the sphere of freedom of opinion should not be pressed to such an extent that it results in the suppression of freedom.
F. A. Hayek, an Austrian thinker seems to have shared this view in his work *Constitution of Liberty* published in 1960. He argued that individual differences in skills and abilities under the conditions of equality before the law result in inequalities of income and wealth. That, if we try to forcefully remove these inequalities by forcing an authoritarian rule, it is bound to destroy individual’s freedom. Hayek values freedom as an instrument of social progress. He argues that while extending the scope of freedom, we should not ask how many persons, will be benefited by it, but how much progress will be made possible. He noted that we should not divide the “cake of freedom” to ensure equal share for all,” but according to each individual’s potential to secure social progress.

It is pertinent to note by way of conclusion that in the foregoing literature review, different schools of thought have emerged, those who champion the course of human rights and equality and those who vehemently objected to the existence and basis of human rights and equality. Amidst these extreme positions are those who think there are human rights but refused to associate it with inalienability, imprescriptibility and that, they are ontologically embedded in the very nature of human beings. In regard to the concept of equality also, they think that nature did not create people equally, but equality is a concept of social-change particularly where the social structure is found to be alterable as well as unjust.

In chapter three, we shall make a conceptual spade work into the study of human rights and equality, its nature, scope, historical evolution, theories, types and various dimensions.

**End Notes**


45. Karl Marx. “*The Jewish Question*” In *An Introduction to Political Theory* by O. P. Gauba p. 297.


CHAPTER THREE
THE CONCEPTUALIZATION AND THE HISTORICO-PHILOSOPHICAL FOUNDATIONS OF HUMAN RIGHTS AND EQUALITY

3.1 THE CONCEPTS OF HUMAN RIGHTS AND EQUALITY

The concepts of human rights and equality are the thematic preoccupation of this research work. Though, they are being discussed in reference to the Tiv people of Benue State, it is scholarly imperative to carry out a conceptual clarifications of these concepts for contextual reasons so as to advance a working conceptual framework to avoid ambiguity and equivocality. However, the concepts shall be separately discussed.

**The Concept of Human Rights:** The concept of human rights is very elusive and slippery. It has been conceptualized variously by different scholars. It means one thing for the natural law theorists and another for the positivists. Its conceptualization is always coloured with the ideological orientation of an individual behind the conceptualization. Hence, the history of human rights is replete with attempts to conceptualize its real meaning, leaving mankind with critical debates as what is meant by human rights. To start with, there is an imperative need to clarify the meaning of the word “right”. The word right has two senses in which it could be used; one, in adjectival sense in which case, right means good or proper; and two, in substantive sense in which case, right is used in a way understandable as possesable benefit “a right”. Ironically, it is not everything which is right (good or proper) that is a right. Hence, there is a confusion of juxtaposing these senses of the usage of right. This stems from the notion of “second generation human rights” for example right to economic development and prosperity – and “third generation human rights” that cover the rights to clean environment and world peace. Human rights advocates are therefore divided at the status of these rights, while some accept the inclusion of these benefits as rights; others perceive prosperity and peace as only having adjectival status but not substantive rights.

Again, even the notion of the substantive, “a right” has several meanings. It was W. N. Hohfeld who famously discussed four senses in which this substantive right” could be given to the phrase “A has a right to X. In all, the notion imputable from this phrase is that of a claim right. This implies that it is a claim that A posses against a correlative duty of another, B. In effect A’s right to X is dependent on B letting A have X. This has positive duty and negative duty connotations, negative duty when B does not interfere in A having X and positive as the one discussed earlier.
This notion of claim right places responsibility or duty to either a particular person, official or to the entire community, this entails that there is an inherent connection between A’s claim to a benefit and B’s duty.

There is another sense in which the phrase “A has a right to X” is benefit of any corresponding duty on B’s part. This is the sense in which one can say that A has the liberty with respect to X. Integral to this notion of liberty is privilege, for A may be duty bound to or not to X whereas others may or may not. It is obvious that liberty does not carry duty on it.

Another sense in which “A has a right to X” may be in the sense of having power for effecting changes in X. For instance, a police officer has the right to search every vehicle plying his checkpoint. The final interpretation of Hohfeld to “A has a right to X” is indicative of immunity. For instance, a judge has a right to pass judgment in his court without B being able to stop him.

Worth noting at this point is the fact that Hohfeld’s categorizations as discussed above engenders the reference of having a right to the expression of ideals thus, creating the confusion of using adjectival and substantive rights to describe ideals. The second confusion arises when the right to a benefit is used because it fills a need. This is also criticized by the fact that not all needs are rights. For example, I may need a duplex to contain my habitation needs, but it is obvious that unless in a perverted sense, I don’t have a right to the duplex. Also, there are situations where benefits that are wanted are confused with benefits that one has the right to enjoy. But desirables are hardly rights.

Substantiating this point further, Alan White notes the use of rights in a sense to confuse making a claim and having a right. His contention is that right does not come to one simply because one claims to possess such rights. However, it is pertinent to note that one can benefit from another’s duty without claims of right to such benefit. For instance, charity is one of the cardinal virtues and duties of Moslem. Though Moslems have this duty of charity, yet it does mean that the beneficiaries of the charities have a right to the Moslem’s duty. This analysis on the different notions of ‘right’ is very essential for our discussion bordering on human rights.

But it is good to note that in this context, the concept of human rights is founded on the ontological nature of man. That is to say that there is something about man’s nature that entitles him to a respect that is different from that owed to animals or other creatures. They refer to claims that one naturally makes. For instance, no one wants to die a violent death or be injured. No one wants to be hindered in his natural
movements and in the utterance of his natural sentiments. Furthermore, man is exceedingly vulnerable. As Hobbes reminded us, “the strongest man on earth can easily be killed in his sleep or injured or captured”. So, this vulnerability converts man from an egoistic into a social animal. Thus, in this sense, human rights are natural to man and they are universal. Hence, Darren J. O’Byrne sees human rights as a “universal set of ethical principles which seek to ensure the equal value of every individual life and applicable to all people at all times. He delineates the properties of human rights thus:

Human rights are universal, that is they belong to each of us regardless of ethnicity, race, gender, sexuality, age, religion, political conviction, or type of government. Human rights are incontrovertible, that is, they are absolute and innate. They are not grants from state, and they cannot be removed or denied by any political authority and they do not require, and not negated by the absence of any corresponding duties. Human rights are subjective, they are the properties of individual subjects who possess them because of their capacity for rationality and agency and autonomy.

This definition captures the sense in which human right is used in this work. They are indelible, inalienable and do not constitute a gift item from authoritarian government. In other words, they are man’s property and can never become acts of political charity to be dished out to the masses … at will. It is for this reason that they are considered “indubitable, absolute and inalienable”. Therefore, in this context the concept of human rights is used to denote the morally justifiable claim in which all human beings can make to the enjoyment and exercise of those basic human freedom, goods and services which are inevitable for the full expression of the ontological dimension of the human person. And their validity does not depend on legal/or constitutional authority or enactment.

The Concept of Equality: The concept of equality like human rights is a loaded and “highly contested” concept. On account of its normally positive connotation, it has a rhetorical power rendering it suitable as a political slogan. People, who praise or disparage it, disagree about what they are praising or disparaging. In the same vein, Ryan in his work “Equality” observes that:

“Thinking about equality makes people fidgety. Insert the topic into a conversation and listen, voices rise, friends interrupt each other, utter conviction mingles with absolute confusion. The word ships out of our grasp as we try to define it.”
Informed by this background, our task here is to provide a clear definition of equality in the face of widespread misconceptions about its meaning as a political idea.

The term “equality” (Gr. Isotes, Lat. Aequalitas, Fr. Égalité, Ger. Gleichheit), ‘equal’ and ‘equally’ signify a qualitative relationship. It signifies correspondence between a group of different objects, persons, processes or circumstances that have the same qualities in at least one respect, but not all respects, i.e., regarding one specific feature, with differences in other features. Equality needs to thus be distinguished from “identity”, for identity signifies that one and the same object corresponds to itself in all its features, an object that can be deferred to through various individual terms, proper names, or descriptions. For the same reason, equality needs to be distinguished from ‘similarity”, which merely signifies approximate correspondence. Thus, to say that men are equal is not to say that they are identical.

In distinction to numerical identity, a judgment of equality presumes a difference between the things being compared. According to this definition, the notion of “complete” or “absolute” equality is self-contradictory. Two non-identical objects are never completely equal; they are different at least in their spatio-temporal location. As such, if things do not differ they should not be called “equal” but rather, more precisely, “identical”. However, here usage might vary; some authors do consider absolute qualitative equality admissible as a borderlines concept.

Equality can also be used in descriptive and prescriptive senses. In the case of descriptive use of equality, the common standard is itself descriptive, (e.g. two people weigh the same). A prescriptive use of equality is present when a prescriptive standard is applied i.e. a norm or rule, e.g. people ought to be equal before the law. Be that as it may, in the social and political philosophy, which is the perspective this work is coming from, it is generally concerned mainly with the following questions in regards to equality. What kind of equality? If any should be offered and to whom and when? Such is the case in this work.

It is worth noting that equality essentially consists of a tripartite relationship between two (or several) objects or persons and one (or several) qualities. Two objects A and B are equal in a certain respect, if in that respect, they fall under the same general terminus. Equality therefore, denotes the relationship between the objects that are compared. Every comparison presumes a tertium comparations, a concrete attribute defining the respect in which the equality applies. Equality, thus, is referring to a common sharing of this comparison – determining attribute. Hence, the difference between a general concept and different specific conceptions of equality.
may explain why according to various authors producing “equality” has no unified meaning or even is devoid of meaning\textsuperscript{14}. Depending on which procedural principle one adopts, in any real historical context, it is clear that no single notion of equality can sweep the field. But there is also a common underlying strain of important moral concerns implicit in it. Above all, it serves to remind us of our common humanity, despite various differences. Therefore in this context, equality is used not in the sense of identically nor similarity but in the sense that describes our common humanity so that no one should be discriminated upon on the grounds of colour, race, size and economic status. As Peter Singer noted, “the principle of the equality of human beings is not a description of an alleged actual equality among human… it is a prescription of how we should treat human beings\textsuperscript{15}.

3.2 KINDS OF HUMAN RIGHTS

3.2.1 Kinds of Human Rights

In discussing about human rights, there are two major classification of human rights namely; philosophical and substantive categorization.

3.2.1 (a) Philosophical Classification

The philosophical classification of right refers to the prescriptive dimension of rights which are more theoretical. In this category, we have moral rights, legal rights, claim rights and liberty rights.

(i) **Moral Rights:** These refer to rights that their existence does not depend on legal or codified documents. It is independent of legal rights. Moral rights need not be enshrined into any legal code, yet people readily recognize these rights when they are violated. For instance, the demand for independence by the nationalists during colonialism has no legal backing but it was considered a right. It is purely based on moral grounds.

(ii). **Legal Rights:** These are rights that are enshrined in the legal codes of any state. They enjoy the recognition and protection of the law. A legal right only exists if and when passed into law by a body or bodies with jurisdiction. Any disputes to the existence of legal right could be resolved by simply appealing to the legal codes\textsuperscript{16}.

(iii). **Claim Rights:** By a “claim right” says Fegan, we are referring to “a right one holds against another person or persons who owe a corresponding duty to the right holder”\textsuperscript{17}. For instance, Nigerians holds a claim right to the government on the provision of basic social services. These rights are owed to every Nigerian. This means that Nigerians can claim these rights from an agency, from a particular duty
holder known as right held in *persona*. Again, claim rights also take the form of rights that are held against everyone – rights held in *rem*. These rights are held against anyone. For instance, I hold a right to protect any property from being stolen by anybody. This later sense is termed negative while the former is positive.

(iv). **Liberty Rights**: According to Jones, liberty rights are rights, which exist in the absence of any duties not to perform some desired activity and thus consist of those actions one is not prohibited from performing. Liberty right provides one with the capacity to be free to pursue the object of one’s will. For instance, I possess a right to eat any meal of my choice. This right is primarily negative in character.

3.2.1b **Substantive Classification**

Substantive right refers to rights which are contained in documents. And from all the various documents on human rights one can identify and differentiate between five categories of substantive rights which include fundamental rights to life, civil and political rights, economic and social rights, minority and group rights and environmental rights.

(i). **Fundamental Right to Life**: This right is one of the basic provisions found within the rights document. Every person is believed to have right to physical and mental existence. As a result no person is to be subjected to torture, slavery, cruel and inhuman treatment. This right is the most fundamental because all other rights depend on it. This right by extension, also include right to acquire material things that could help preserve and sustain life.

(ii). **Civil and Political Rights**: From all documents of human rights starting from French Declaration of the Rights of man and of the citizen in 1787 to the African convention on human rights, one recognizes some rights that are civil and political. Such rights include right to freedom of thoughts and expression, freedom to seek, receive, impart information and ideas of all kinds either orally, in print, in the form of art or through any other medium, freedom to peaceful assembly, freedom of association, right to form and to join trade unions, rights to participate in the political process of one’s state, right to equal access to public services of one’s country, right to private property etc. These among others, constitute civil and political rights.

(iii). **Economic and Social Rights**: These rights are also known as welfare rights. These include colour, race etc, access to employment opportunities, social security, fair play, health care and education, right to housing, safe and healthy working conditions, etc. Some of these rights are evidential in both international and national laws.
(iv). **Minority and Group Rights**: Substantive rights also cover minority groups. It seeks to protect them from the tyranny of the majority. It includes rights against genocide. It condemns any attempt to subjugate groups to inhumanity of any kind. It also covers religious groups. For instance, article 27 of the International Covenant on Cultural and People’s Rights (ICCPR) says that persons belonging to ethnic, religious or linguistic minorities “shall not be denied the right in community with other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language”\(^{19}\).

(v). **Environmental Rights**: These are rights of animals and nature. One may ask how these rights relate to our discussion on human rights. But when we consider the fact that a healthy and safe environment is human oriented, it promotes the general wellbeing of human beings, then such questions will surely be dropped and one starts appreciating environmental rights in relation to human rights. According to Nickel “environmental rights set out a minimal environmental standard safely for humans rather than calling for higher and broader standard of environment”\(^{20}\). Therefore, one can argue for environmental rights as an extension of human rights in so far as environmental problems pose serious threats to fundamental human interests, values, or norms. Such problems when solved enhance human rights.

### 3.3.2 Kinds of Equality

The principle of equality may be applied in different spheres of social life. We may thus distinguish between legal, political and socio-economic dimensions of equality in order to appreciate the significance of this principle from different angles.

(i). **Legal Equality**: This form of equality describes the equality before the law. It is generally held that the principle of equality was first put forward as the demand for legal equality, that is, grant of equal legal status to all individuals in society irrespective of their birth, physical and mental capacities, or other differences. J. J. Rousseau, in his social contract (1762) held that extension of legal equality to all citizens was the primary characteristic of civil society. As he observed;

> It is that instead of destroying natural equality, the fundamental pact... substitutes a moral and lawful equality for the physical inequality, which nature imposed upon men, so that although unequal in strength or intellect, they all become equal by convention and legal right.\(^{21}\)
The idea of legal equality thus, emanates from moral consideration and serves as the basis of equal rights of men. Corroborating this point, Ernest Barker in his *Principles of Social and Political Theory* published in 1951 has argued thus:

The state which vests us with legal personalities... or 'masks', vests us all with equal masks, partly because it simply cannot distinguish our differences even if it would... but ultimately for the far deeper reason that we matter equally before the law, whatever our differences may be.

(ii) **Political Equality:** Political equality denotes the equality of political rights of citizens. It implies the right to be represented in decision-making bodies on an equal footing. It also postulates that nobody will be barred from holding political office on grounds of birth, religion or sex etc. This in turn means that they will be no privileged classes in society entitled to rule, and that the rulers will not accord any special consideration to the will or interests of any particular individual or group in society. This doctrine is derived from the general belief that man as such is a rational being, capable of political judgment irrespective of his physical and mental capacities, education and wealth etc. Sharing in the same thought pattern, D. D. Raphael observed that “the French Revolutionaries in demanding equality were demanding a renewal of arbitrary privilege such as that which confined political rights to the rich the will-born.

(iii). **Socio-Economic Equality:** The term socio-economic equality embraces both social equality and economic equality. It signified a further development of the concept of equality. While the idea of legal-political equality arose as the cry of early liberalism, the concept of socio-economic equality was articulated as a goal of socialism. In this regard, it is noted that;

The term ‘social equality’ has been adopted by socialist largely to distinguish their objective from the earlier egalitarian ideals of the French Revolution. The men of 1789 sought equality before the law which for them meant eliminating aristocratic legal privileges and feudal obligations. The Jacobin’s and the nineteenth century Republicans on whom their mantle descended, sought “political equality” or universal suffrage. To socialists, these ends by themselves seem inadequate; they are at best ways of achieving “real” equality or social equality. Without that “political equality is unillusion.”
In sum, the socio-economic equality, therefore, postulates the right to equal satisfaction of basic needs, which implies state provision of all social amenities and essential human needs intended to serve the cause of socio-economic equality.

### 3.3 THEORIES OF HUMAN RIGHTS AND EQUALITY

Over the years, various attempts have been advanced to conceptualize what is human rights and equality. These diverse perceptions have metamorphosed into different theories and perceptions on the concept, nature and origin of human rights and equality. Here, we shall outline and discuss these theories.

#### 3.3.1 Theories of Human Rights

These theories seek to identify the basis on which the familiar rights of human beings are founded. In this context, we shall discuss the following theories namely; theory of natural rights, theory of legal rights, historical theory of rights and social welfare theory of human rights.

(i). **The Theory of Natural Rights**: This theory treats the rights of man as a “self-evident truth”. In other words, these rights are not granted by the state, but they come from the very nature of man, his own intrinsic being. It was very popular in seventeenth and eighteenth centuries’ political thought. Broadly speaking, this theory has been developed on two important bases; the contractual basis and the teleological basis.

In the contractual basis, the theory of natural rights is based on liberal theory of the origin of the state from the 'social contract'. According to this theory, certain rights were enjoyed by man in the ‘state of nature’, that is, before the formation of civil society itself. The prominent exponents of the social contract theory include Thomas Hobbes (1588-1679), John Locke (1632-1704) and Jean Jacque Rousseau (1712-1778). Worth noting is the fact that, they differed in their postulation of the social contract theory. But their thoughts collectively form the content of the contractual basis of the natural rights theory.

Meanwhile, Teleological basis of human rights seek to relate the rights of man with the purpose of human life. These rights do not depend on any institutional arrangements but ensue from the very nature of man and serve the purpose of his life. These are therefore natural rights. Teleology means the doctrine of final causes. It signifies the view that any developments are due to the purpose or design that is served by them. The exponents of the teleological basis include Tom Paine (1737-1809) particularly in his work “Rights of Man” published in 1791 and T. H. Green
(1836-1882). They all sought to build their theory of natural rights on teleological basis.

(ii). The Theory of Legal Rights: The theory of legal rights holds that all human rights depend on the state for their existence. Also, that, there can be no right in the proper sense of the term unless it is so recognized by the state. According to this theory, no rights are absolute, nor are rights inherent in the nature of man as such. Rights are relative to the Law of the Land hence, they vary with time and space. They have no substance until they are guaranteed by the state. This implies that (a) There are no rights prior to the state, because they come into existence with the state itself. (b) That the state which declares the law and thereby guarantees and enforced rights, hence no rights can exist beyond the legal framework provided by the state. (c) That as the law may change from time to time, the substance of rights also changes therewith. As such, there can be no ‘fixed’ rights in any society, not to speak of eternal or universal rights.

Jeremy Bentham (1748-1832) is the greatest champion of the theory of legal rights. He rejects the doctrine of natural rights as unreal and ill-founded. In his “Principle of Legislation” published in 1789, Bentham observed;

Rights, properly so called, are the creatures of law…
real laws give birth to real rights. Natural rights are the creatures of natural law, they are metaphor which derives its origin from another metaphor…

Bentham condemns natural rights as an intention of fanatics, which are dogmatic and unintelligible, devoid of reasoning. His words;

Instead of examining laws by their effects, instead of judging them as good or as bad, they consider them in relation to these pretended natural rights; that is to say, they substitute for reasoning of experience the chimeras of their own imaginations.

Thus, it is obvious that the theory of legal rights was advanced with a focus on political reality and to repudiate the imaginative character of natural rights theory.

(iii). Historical Theory of Rights: This theory holds that rights are the product of long historical process. They differ from state to state and from time to time because of the different levels of historical development of society. It holds that rights grow out of custom which stabilized through usage in several generations. This theory originated in eighteenth century conservative political thought. Its upholders defended evolutionary change and depreciated revolution. At best, they supported a revolution inspired by the established order of society. Edmund Burke (1729-1797) is
the greatest exponent of historical theory of rights. He criticized the French Revolution of 1787 because it was provoked by a conception of abstract rights of man, liberty, equality and fraternity. However, he praised the English Revolution of 1688 which sought to reassert the customary rights that English men had enjoyed from very early days and which has found expression in the documents like the Magna Carta (1215) and the petition of rights (1628) etc. This theory therefore, eulogizes the constitutional theory of England as the story of the evolution of rights through a long historical process.

(iv). **Social–Welfare Theory of Rights:** This theory of rights postulates that rights are in essence, conditions of social welfare\(^{31}\). Therefore, the state holds the prerogative to set aside any other consideration to recognize only such rights which are designed to promote social welfare. The utilitarian school of the nineteenth century led by Bentham and John Stuart Mill postulated the “great happiness of the greatest number” as the sole criteria of legislation and recognition of rights. Among the contemporary advocates of social-welfare theory is Roscoe Pound and Chafee. They hold that law, custom, natural rights etc. should all yield to what is socially useful or socially expedient. Corroborating this point, Harold J. Laski (1893-1950) observed that “every state is known by the rights that it maintains. Our means of judging its character lies above all in the contribution that it makes to the sustenance of man’s happiness”\(^{32}\). The plausibility of this theory lies in the fact that no theory of right can be held valid until it serves the cause of social justice.

### 3.3.2 Theories or Perspectives of Equality

In discussing about the theories of equality, we are referring to diverse perceptions of equality by scholars. In this regard, we shall examine four different perceptions of equality, namely; equality as an idea of social change, equality as a modern idea, equality as a statement of right, not of fact and equality as not in a literal sense.

(i). **Equality as an Idea of Social Change:** This theory holds that the idea of equality is conceived as a demand for social change, that is changes in that part of the social structure which is found to be “alterable’ as well as unjust. In this regard, John Rees in his work “Equality” published in 1971 elucidated:

> It is when men or some of them see certain... inequalities as unjust and alterable that equality as an idea becomes a potent force in political life. Before an inequality can become the object of criticism and regarded as unjust it would seem to be a necessary condition that it should be alterable\(^{33}\).
Worth noting about this position is that, the whole idea of equality has come about as a tool dismantling social structures that are artificially created for the flourishing of inequalities.

(ii). **Equality as a Modern Idea**: This theory seems to have some resemblance with the idea of social change; it varies in the sense that it reduces the whole idea of equality as a modern idea. It argues that prior to modern society; the idea of equality has existed. In other words, traditional thinkers and scholars of the ancient took the phenomenon of social inequality as something divinely ordained. As Bottimore in his work *Classes in Modern Society* demonstrated:

During the greater part of human history this inequality among men was generally accepted as an unalterable fact. Ancient and medieval thinkers, when they touch upon the subject of the social hierarchy, always tend to provide a rationalization and justification of the established order, most often in terms of a religious doctrine concerning the origin of social ranks. Only in modern times and particularly since the American and French revolutions, has social class, as a stark embodiment of the principle of inequality, become an object of scientific study, and at the same time of widespread condemnation in terms of new social doctrines.

The main thrust of this theory is that the idea of equality is a product of the scientific age which as equipped with better insights to appreciate the intrinsic worth of every human persons. The thinking is to pave way for removing such social inequalities as were not ‘reasoned’ and which were also “removable” by human efforts.

(iii). **Equality as a Statement of Right, not of Fact**: This theory holds that the idea of equality is noted from the theory of rights. It sees the idea of equality from a prescriptive term, not a descriptive one. It believes that the claim to human equality is premised on the ontological qualities of man. That man is a rational being, he is endowed with the faculty of “reason” and in the religious sense, that all men are created, equal by God. Or it argues that the physical, emotional and intellectual needs of all men are similar hence all are entitled to equal rights. Thus, it tends to establish some fundamental equality among men, that is, equality as a fact, so as to press their claim of equality as a right.

(iv). **Equality as not in a Literal Sense**: This theory holds that the idea of equality is not to be interpreted in a literal sense. It does not contemplate that all material goods, entire national income or all educational opportunities available in
society should be equally distributed among all members of society. It rather means that men, who are different in their physical and mental capacities, aptitudes and skills, talents and energies, should be given equal opportunities for the development of their personal qualities and capacities, in the shape of material goods, comforts, education, training, etc. In his work “Equality” R. H. Tawney reflected this position thus:

Different kinds of energy need different conditions to evolve them and the sentiment of justice is satisfied, not by offering to every man identical treatment, but by treating different individuals in the same way in so far as being human, they have requirements which are the same, and in different ways insofar as, being concerned with different services, they have requirements which differ.

Thus, this position seems to reflect Aristotelian concept of justice as treating equal unequally and unequal unequally.

3.4 UNIVERSAL DECLARATION OF HUMAN RIGHTS

The Universal Declaration of Human Rights, “passed” and “proclaimed” by the United Nations’ General Assembly on 10th December, 1948 is perceived generally to be the epitomization of human rights debate. The declaration has placed human rights in the global reckoning. Apart from its preamble, the declaration contains 30 articles. Based on its preamble, the declaration is informed by the recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family which is the foundation of freedom, justice and peace in the world. The breakdown of the declaration runs thus:

Articles 1 and 2 focus on rational nature of all human beings and reaffirm forth in their dignity, freedom, equality and fraternity. They rule out any discrimination between them on grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other type of status.

Articles 3 and 4 provide for every one’s right to life, liberty and security of person, prohibition of slavery, slave trade and servitude. Article 5 rules out torture, cruel, inhuman or degrading treatment or punishment to any person.

Articles 6 to 11 provide for equality before the law, equal protection against any discrimination, legal remedy, and freedom from arbitrary arrest, detention or exile, and adherence to fair legal procedure in case a person is accused. Article 12,
rules out arbitrary interference with an individual’s privacy, family, home or correspondence, and attacks upon his honour and reputation.

Articles 13 and 14 provide for the right to freedom of movement and residence and the right to seek asylum from persecution in other countries. Article 15, provides for the right to nationality, Article 16, provide for the right to marry and found a family with the free and full consent of the intending spouses. Meanwhile, Article 17 provide for the right to own property.

Articles 18, 19 and 20 provide for the right to freedom of thought, conscience and religion, the right to freedom of opinion and expression and the right to freedom of peaceful assembly and association.

Article 21 provides for the right to take part in the government of one’s country through one’s chosen representatives and the right of equal access to public service. It also recommends that the will of the people, expressed in periodic and genuine elections by universal and equal suffrage, by secret voting, shall be the basis of authority of government. In this way, this article regards democratic form of government as an essential feature of human rights.

Articles 22 to 26 provide for social and economic rights of the individual. These include the rights to social security, right to work, to free choice of employment, to just and favourable remuneration, right to form trade unions, right to rest and leisure, adequate standard of living, special care and assistance during motherhood and childhood, and right to education.

Article 27 provides for cultural rights including the right to participate freely in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits, and author’s right to the protection of the moral and material interests resulting from his scientific, literacy or artistic production.

Article 28 focuses on everyone’s entitlement to a social and international order in which all these rights and freedoms can be fully realized. This article is chiefly concerned with the sphere of application of the rights in question.

Finally, Articles 29 and 30 focuses on everyone’s duties to the community to ensure full development of his personality. That is, any individual would be entitled to the aforesaid rights and freedoms on the condition of recognizing similar rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society. And no state, group or person have no right to engage in any activity involving the destruction of any of these rights and freedoms. This declaration has to a reasonable extent and the speculative enterprise
on human rights issue and has further made a considerable progress in enthroning human rights globally.

3.5 GROUNDS AND DIMENSIONS OF EQUALITY

The precise notion of equality is controversial, particularly the relation of justice and equality (principles of equality), the material requirements and measure of the idea of equality (equality of what?), the extension of equality (equality among whom?), and its status within a comprehensive (liberal) theory of justice (the value of equality)\(^{41}\). The preoccupation of this section is to advance the grounds in which the arguments of human equality is usually based and further demonstrate the dimensions within which the struggle for equality is morally relevant.

The major ground usually given to support the equality of human kind is that “all men have rational capacity”\(^{42}\). Rationality is a typical element of every human person no matter the colour, size, race and any ideological affiliation. Hence, since the possession of this unique element is a prerogative of all human beings, it therefore implies that, on the basis of rational capacity all men can be adjudged equals. This is what Hobhouse tries to capture in his work “The Elements of Social Justice” when he says “There is something peculiar to human beings and common to human beings without distinction of class, race, sect, which lies far deeper than all differences between them. Call it what we may, soul, reason. It is generic…”\(^{43}\). However, this position is not to be mistaken to mean “all men are rational”. The argument is explicit that all men have rational capacities, which are the inherently embedded potentialities of rational activities. That is to say they may have the capacity but may for certain reasons refused to develop them. As such, a human person can perform an irrational action. In his book, “Why Nations Go to War” Stoessinger described Hitler as, “the least of all rational men”\(^{44}\). This goes to buttress our point that a man of rational capacity can act irrationally but he/she is not devoid of the rational potentials which is the basis of argument of human equality.

Again, other grounds of human equality are advanced on theological and biological bases. Theologically, the creationist account of the genesis of life in the universe traced it to one God. This implies that men are equal on the basis of the source of their beings, which is God. Meanwhile, biologically, it is scientifically argued that all men are equal in the composition of 46 chromosomes and the mortality of all men as well as genetic depreciation suffered by all men\(^{45}\). These later grounds
may be religiously biased but the former ground on the basis of having the rational capacity, remains the major grounds in support of the equality of all men.

On the dimensions of equality, it is worth noting that the concept of equality manifests in different dimensions. When it comes to political ethics, what is at stake is the individual’s well-being. Equality therefore, can take a dimension of equality of welfare. The central criterion for justice must in this sense, consequently be equalizing the level of welfare. Again, there can be equality of resources. According to Rawls, human beings should have the same initial expectations of “basic goods” i.e. all-purpose goods. However, this in no way precludes ending up with different quantities of such goods or resources, as a result of personal economic decisions and actions. Consequently, there is a dimension of equality and responsibility. The principle of responsibility provides a central normative vantage point for deciding on what grounds one might justify which inequality. If the inequality is the product of the decisions and intentional actions of the parties involved it implies that, responsibility becomes the available solution.

In synopsis, the principle of equality is applicable in diverse spheres of social life. It can be evidential in legal, political and socio-economic dimensions. If it takes a legal dimension, the demand is for equal legal status of all individuals in society irrespective of their birth, physical and mental capacities or other differences. If it is political dimension, the argument is to provide equal and unbiased platform for all to participate actively in the political processes of their societies. And, on the socio-economic dimension, it argues for providing all people with equal economic opportunities and equal access to social amenities.

3.6 RELATIONSHIP BETWEEN HUMAN RIGHTS, EQUALITY AND JUSTICE

For many scholars, the relationship between the concepts of human rights, equality and justice is watertight. That is, it is intertwined and overlapping. The concept of equality is often grouped among human rights while the argument for the universality of human rights is usually premised on the basis of human equality. Meanwhile, the justice is often interpreted in the light of whether equals are treated equally or the people’s rights are granted. Any structure that breeds inequality is often tagged an unjust structure. This implies that where the principle of equality operates
there is justice, where there is justice, it presupposes equality. And all these cannot be attained if the rights of the people are not protected and honoured.

In all ways, the concepts are akin to one another. From antiquity onward, equality has been considered a constitutive feature of justice. Throughout history, people and emancipatory movements use the language of justice to pillory certain inequalities. But what exactly is the connection first and foremost between equality and justice? It is worth noting that, though the terms are related, the role and correct account of equality, understood as an issue of social justice, is itself a difficult philosophical issue. However, this relationship can be better appreciated in the context of egalitarian justice which seems to capture the two key concepts. Doctrines of egalitarian justice hold that all men have certain basic equal rights.

In his work “The Justification of Egalitarian Justice” Alan Gewirth notes that:

> Unlike doctrines of purely formal justice, which require simply that all cases falling under general rules be treated in the same way in accordance with the rules regardless of their contents, egalitarian justice puts equality into the very contents of some of the most basic rules about men's rights or treatment.  

At a minimum, these rules provide that all men, irrespective of their different capacities or merits should have equal freedom to pursue their goals without violence to other men, equal possession of the necessities of life, equal opportunity to develop and utilize their talents to the fullest possible extent, equality of political and civil rights, and so forth. This goes to express the inherent link between human rights, equality and justice. Because, what is considered just is that which provides equal opportunities and above all, rights to the people. In the preamble to the Universal Declaration of Human Rights in 1948, the first sentence notes that the Declaration is informed by the “recognition of the inherent 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.”

This obviously reveals that equality and human rights are the foundation of justice. Hence, there can not be justice when the principle of equality is not applied and when the inalienable rights of the people are trampled upon. Therefore, it will be submitted that the concepts of human rights, equality and justice are interwoven and none can be achieved independently of others.
End Notes


34. Gauba, O. P. *An Introduction to Political Theory* p. 333.


37. Gauba, O. P. *An Introduction to Political Theory* p. 335.


40. Universal Declaration of Human Rights. Adopted and proclaimed by the United Nation General Assembly Resolution 217 (III) of 10 December 1948


49. Gauba, O. P. *An Introduction to Political Theory* p. 351.
CHAPTER FOUR

THE TIV CONCEPTS OF HUMAN RIGHTS AND EQUALITY

This chapter deals with the thematic preoccupation of this research work which is the critical look at the Tiv concept of human rights and equality. In the preceding chapters, we have done a preliminary work as an imperative background leading to this main consideration. The conceptualization of these key concepts has been done vis-à-vis a historical evolution of the concepts together with their diverse accompanied theories and perspectives. The questions now are who really are the Tiv people? Do they like other Africans have any conception of human rights and equality? If they have, what are the categories of human rights in Tiv society? And more importantly, what is the philosophical foundation of human rights and equality in Tiv traditional thought system? Attempts to address the above raised questions among others constitute the chief concern of this chapter.

4.1 THE TIV PEOPLE

The knowledge of the Tiv people in terms of origin, social organisation and the various structures of their society as well as their worldview is a springboard towards understanding their concepts of human rights and equality. The question of who are the Tiv sounds quite easy and the answer rather straightforward for those who know the Tiv tribe and specifically for some one of Tiv extraction. On the other hand, the question has generated a lot of varying views concerning the origin of the people. This problem of identity and definition of a people or tribe is said to be the general problem of discussing the origin or ethnicity in Nigeria and Africa at large. Expressing his sentiments in this regard, Asom Bur reiterated:

The problems of studying the origin, character and development of ethnicity in Nigeria have been, and shall continue to be the vexatious tasks of historian, anthropologists, ethnographers, ethnomiseologists, ethnologists… The Tiv people, numbering over 4 million (then) the fourth largest ethnic group in Nigeria, share this concern.

However, strong oral evidence laid veritable claim to the fact that, like other tribes in Nigeria, the Tiv migrated from outside the country before settling down where they now presently occupy. The term Tiv, according to Shagba J. Moti refers to the people for their identity and their language. The Tiv people are located in Benue State, Middle Belt region in Central Nigeria. Tivland extends on both sides of River Benue
in Central Nigeria and occupies an area of about 9,861 square miles and stretches from about 6° 30' to 8° north latitude and 8° to 10° east longitude. Based on the last official Nigerian census of 2006, the Tiv people numbered 4.6 million. That makes them the most populous ethnic group in Benue State and the fourth largest ethnic group in Nigeria.

In regard to origin, the Tiv do not seem to associate their own origin with a divinity. Their own story touches a number of ancestral personages which however are not clearly presented as divinities. Although other versions of Tiv origin exists, but the popular one which has become the generally accepted history of the Tiv reveals that Takuruku is an ancestral father of the Tiv people. That Takuruku married Aliwe and gave birth to two sons namely Tiv and Uke. Uke in short refers to all non-Tiv. That means that the Tiv are descended from Tiv, while other people of the world are descended from Uke. In spite of the thinking that Takuruku may have been the father of Tiv, many writers are puzzled that the Tiv fail to clearly identify him. As such, Shagba J. Moti and Shagbaor F. Wegh observed that:

> It may not be out of place to suggest that even if Takuruku ever lived he may have lost social relevance at sometime, and since the Tiv are not known to establish ancestral cults none was established for him, so he simply faded out of daily affairs.

The Tiv thus trace their ancestry to Tiv, more than being the ancestor, the name Tiv is tied up with the social-political experience of the people. For that reasons, unlike Takuruku, Tiv remains relevant. Tiv in turn may have had other children as claimed by other sources; however, only two seem to have survived and are clearly known namely Ichongo (circumcised) and Ipusu (the uncircumcised). History reveals that the Tiv, the father of Tiv people did not know about Ichongo (circumcised) himself, until he saw it among the Atoatiev (foreigners). After the acquisition of the knowledge of circumcision, he took one of his sons and circumcised him and then, named him Ichongo (the circumcised). For a long time until recently, circumcision was practiced as an initiation rite; it marked the end of childhood, and the beginning of adulthood. But today, every male child is circumcised as a matter of tradition. Ipusu who many claimed to be the first born in turn gave birth to Ukum, Shittle, Kparev, Tongov, Nanev and Utagyo. While Ichongo, gave birth to Iharev, Turan, Nongov, Ikurav and Udogo. The Tiv are therefore, collectively descendants of Tiv through his two children Ipusu and Ichongo. It is generally accepted that the account of Tiv genealogy tallies with Tiv social organisation. Political and governmental organisations also
reflect that Ichongo/Ipusu segmental opposition. The office of the Tor Tiv (Tiv paramount ruled) is alternated between Ichongo and Ipusu who enjoys equal status.

In terms of migration, it is popularly held that Tiv immigrated from Congo in Central Africa through South-East region of the Republic of Cameroon. The Tiv identify their home there by the name of Swem. M. Gutherie informs that, “the Tiv people in their oral tradition had claimed their pedigree to the Cameroon borders, which is also referred to as the cradle land of the Bantu people”⁶. Some scholars refer to this theory as the Bantu – Congo ancestry theory and are further buttressed by the linguistic similarity of the Tiv and the Bantu people. Hence, Tiv are described to be of semi-Bantu linguistic affinity. R. C. Abraham has argued in his thesis on a Congo origin for the Tiv based on 67 words list. This list is noted to have demonstrated some similarity between the Tiv language and the language of Bantus Nyasa who live in present day Malawi. Rupert East buttressed the above linguistic similarities when he writes:

The Tiv language belongs to a group, which has usually been called ‘semi Bantu’ or more recently, classifying Sudanic. The tribe certainly has Bantu affinities, both ethnologically and linguistic, in the remote they once formed a part of the main body of Bantu people⁷.

According to Moti and Wegh, it is from the stand point of this words list that Tiv language is now regarded as a Bantu related language⁸. Also in addition to the linguistic similarity, there is also an illustration from the cultural and physique similarity between the Tiv and the Bantu descent. In this regard, Gbor notes that there are certain cultural and physical traits between the Tiv and some central African nations. The cultural similarities are in the area of songs, folklores, worship and physical traits⁹. This is further confirmed by ethnographic studies. J. Orkar agreeing with these evidences also cites example between Tiv concept of God and the Bantu. Other similarities are found in the agricultural practices and iron works¹⁰.

Worth noting again is the fact that the Tiv people are predominantly farmers. However, following the present influence of western civilization and education many are today involved in several white-collar jobs both within and outside the country. They are also active participants in the modern Afro and Euro-centric experience of technology, science, education, medicine, arts, communication and military¹¹. They remain determined and heroic in farming, hunting, blacksmithing and craftwork – occupations handed down from the early parents. They are self-assertive and independent minded. However, the Tiv people are the most misconceived ethnic
group in Nigeria. The misperception of the Tiv date back to the early colonial contacts, for instance Rupert East observes of the Tiv people:

They are stockily built, virile race of farmers who great aims in life are to fill their yam stores and granaries with food, and their homes with children; an independent people, who have little respect for princes, and have never felt the need for cohesion, or obedience to central authority, or unifying code.\(^1\)

This is a misconception. East Rupert here is not able to sustain his objective analysis of the stockily, virile and independent qualities of the Tiv. He therefore digresses into a diatribe simply because the Tiv have little respect for princes, perhaps East never fully understood the Tiv. The Tiv resistance of the Hausa-Fulani jihadists and later resistance of the British colonial authority does not logically follow that the Tiv “never felt the need for cohesion, or obedience to central authority or unifying code”. But East’s position is deeply informed by these two historical events which till today are not regrettable by the Tiv people.

The Tiv people for the purposes of clarity is to be noted had and still have their cohesive forces, and above all, central codes and authority which they respect. For example, there are the institutions of Orya (head of the family), Ortaregh (clan head), Tyoor (district head) and even Tor Tiv (the paramount ruler of all Tiv people), which the Tiv including the elite who today reside and work in the cosmopolitan cities still respect. This background though, sketchy has captured the main points worth knowing about the Tiv people.

4.2 THE CONCEPT OF OR-UMACHE (HUMAN BEING) IN TIV TRADITIONAL THOUGHTS

The understanding of the Tiv concept of a human being is imperative for the understanding of human rights and human equality. The Tiv term for human or man is Or. Or is first of all used generically to refer to both man and woman. Or also simply means man in the singular-masculine sense. But when the Tiv wants to distinguish clearly between male and female, they do this by referring to man as nomsoor, and to woman as kwase. Umache means mankind or humankind or human being collectively. Or-umache therefore refers to a human being both male and female.

In Tiv traditional thought system, Or-umache occupies a unique place in creation. Indeed, man is the being around whom the rest of creation revolves. The Tiv people see Or-umache not as a single substance, but rather as the dualism of iyol (body) and jijingi (soul or spirit). Jijingi can also be used to denote shadow. But the
shadow is also interpreted in relation to the spirit or the life-force of man. That man has a spirit is demonstrated by the shadow the body casts. But the shadow (Jijingi) is only a reflection of the life-principle in man. Today, the word uma (life) is used to refer to the soul. This seems to be due to Christian influence because the Tiv themselves do not distinguish sharply between spirit and soul.

*Jijingi* is the spiritual aspect of man. It is the non-extended, thinking aspect of man. Though as a non-extended, thinking aspect of man, is also believed to be the center of life force. This could be regarded as the consciousness of the individual because it is the sit of life and so distinguish the living from the dead and it is considered to leave the body at death. *Jijingi* is intangible, invisible, immaterial and spiritual could be regarded as that aspect of man that continues to live even after death.

Again, closely associated with *Jijingi* is the concept of *Ishima* (heart). It is of central importance to man, both physically and spiritually. In the physical dimension, the heart circulates blood in the body to keep it alive. Spiritually, *Ishima* is associated with *Jijingi* as it is believed to carry out both metaphysical functions such as emotion, feeling, joy, hate, happiness etc. This is however, controversial because how can that which is physical carry out the metaphysical function. In Tiv thoughts, the heart (*Ishima*) is the warehouse of man’s capacity and potentiality. Infact, for the Tiv, intellectual capacities are also seen as the products of the heart. As noted early, *Ishima* is seen to be the seat of the emotions of love, hate, joy, happiness, courage and fear. These qualities are believed to determine one’s individual character throughout one’s life. Hence, one can be said to be **or/kwase u tavershima** (man/woman of strong will or character, **ufankwagh** (kindness), **u lun a mhoonum** (merciful), **u lun a mimi** (truthful). Again, one may be described as having **boshima** (evil heart) or **shima i dedoo** (good heart).

The Tiv believe that one sees and hears with one’s heart. This is not a reference to physical seeing or hearing. The allusion is made here to psychic ability which enables one to acquire deeper insights into happenings.

Meanwhile, the *iyol* (body) is refers to the concrete, visible, tangible aspect of a person. It is the flesh, the bones, that is known through the senses and can be described in a general way or analytical by anatomy. It is that part that represents the flesh and the blood, and the material component of the man. It is the aspect that acts and reacts to his physical environment, a view also shared by Rene Descartes in his meditation that the body is extended and is a “spatio-temporary thing”.14
Basic also to the Tiv concept of man is *Awambe* (blood), which is broadly classified under *iyol* (body) as opposed to *Jijingi* (soul or spirit). *Awambe* means much to the Tiv personality as well as the family and the community. *Awambe* for the Tiv people is that which, sustain life and by its nature is held sacred for it explains the element of heredity and ancestorship and it is the central element behind the concept of *Angbian* (brotherhood) for it determines biological relations, lineage as well as one’s personality\(^{15}\). The Tiv people unlike other matriarchal societies like Akans of Ghana are patrilineal in nature by which they trace their family lineage to the father. This is the reason behind the Tiv belief that *Awambe* carries a man lifeline and also the family traits to offspring. *Awambe* is that which is carried by all kinsmen.

The community is another essential dimension in the understanding of a person in Tiv society. The community is referred to as *Ityo*. Due to the connection of *Awambe* (blood) through kinship, this defines the economic and socio-political web of the being of the society; this society being is greater than the being of the individual. According to Ndubuisi, “a normal human being has three levels of existence, first as an individual, second as a member of the group, and thirdly, as a member of the community”\(^{16}\). This position held by Ndubuisi is also shared by the Tiv. A human being in Tiv thought system has three levels of interaction or existence, first as an individual, second as a member of the group, thirdly as the member of the community. All these three levels constantly interact and permeate one another. A solitary individual does not exist; it is the society that determines the pattern of life of the individual. This is because the individual being is a life force, which interacts with others, and whatever affects the one affects the others. Order in the individual means the same to the society. That is, an individual vital force is linked in the web of kinship to form the social link in such a way that whatever affects one affects the other. The ontological basis of all kinship relations and the spirit of brotherhood and solidarity pervade all communal activities\(^{17}\).

The Tiv conception of *Or-umache* (human being) therefore ensures the equality of all people fulfilling the requirements of the common good and there after eliminating the tendency for exploitation. Besides, the relationship between the individual and his community entails certain obligations. These obligations come with the individual’s membership of the community. These obligations are thus, matched by a whole series of rights, which we shall now discuss.

### 4.3 THE TIV CONCEPT OF HUMAN RIGHTS
It is to be noted that the Tiv worldview and philosophy may be unique in its own way, but to a reasonable extent, it reflects the general experience of the African people in their traditional state. In view of the above, it has been argued that the Traditional African society was not devoid of human rights. However, the traditional African concept of human rights was quite unlike that of the West. Corroborating this fact, Khushalani asserts:

Traditional Africa does not posses a coherent system of human rights, but the philosophy underlying that system differs from that which inspired (In France) the Declaration of the Rights of man and of the citizen\(^\text{18}\).

The traditional African system of human rights not only affirmed the rights to life and to freedom of expression and association and religious liberty, but also the obligation to provide for those without the means of sustenance. Rights were derived from duties\(^\text{19}\). These rights were not stated in adversarial terms, but were derived from the responsibilities of various members of the community. Thus, Khushalani asserts that traditional African society recognized the rights of both individuals and groups and through consensual procedures provided “an almost sacred protection of fundamental human rights”\(^\text{20}\). Chris Mojekwu reports that in traditional African culture all able-bodied members shared both the responsibility of maintaining and protecting their community and the right to use its resources. He argues that:

Human rights as a basic concept was very much present in precolonial African society well before the eighteenth and nineteenth centuries. The differences was that the concept of human rights in Africa was fundamentally based on ascribed status. It was a person’s place of birth, his membership or belonging to a particular locality and within a particular social unit that gave content and meaning to his human rights – social, economic and political\(^\text{21}\).

Thus, in traditional Africa, a person without membership in social unit, an outcast or a stranger lived outside the range of human rights protection by the social unit\(^\text{22}\). The underlying fact here is that the concept of human rights in African traditional societies is not of the fruits of colonialism neither an invention of western civilization. Pauline J. Hountondji suggests that generally both the originality and coherence of western civilization is overestimated:

Europe certainly did not invent human rights, any more than it invented the idea of human dignity. It was simply able to conduct on this theme – and this
was its merit-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 not human dignity but the work of expression concerning this idea, the project of its formulation, explanation, analysis of its presuppositions and its consequences in, short, the draft of a philosophy of human rights\textsuperscript{23}. He therefore argues that the task in African studies is not to look for elements comparable to western society but to understand African societies more clearly “in order better to appreciate and transform them”\textsuperscript{24}. He further calls on both Africans and Westerners, in Paul Ricoeur’s words, “first to realize the relativity of their pretensions, then to qualify their relativism itself by reaching down to the root of the struggle for human rights – simply human dignity”\textsuperscript{25}. In the same thought pattern, Lakshman Marasinghe argues for traditional notions of human rights in Africa thus:

It is a popular myth to assume that traditional societies of Africa are devoid of an conception of human rights and that when one refers to human rights the modern societies of the west are the exclusive custodians of this universal concept\textsuperscript{26}. It is therefore obvious from the foregoing that the traditional African societies were not devoid of the concept of human rights. Being part of the African society from a broader perspective, it suffices to conclude that the idea of human rights is very much present in the traditional thought system of the Tiv people of Benue State in Central Nigeria.

In the preceding section we have discussed the Tiv concept \textit{Or-umache} (human being). It is imperative now to know what is right in Tiv. The term “Right” is a word that assumes many meanings in Tiv. For A. Dzurgba “Right” is \textit{Ian}\textsuperscript{27}. \textit{Ian} is therefore, the Tiv word for Right. That is why a Tiv man would say \textit{Ian yam “my right” or Mngu sha ian yam”}. I am on my right”, or \textit{mngu a ian sha kwagh ne}. “I have a right on this thing”. However, \textit{Ian} can also imply one’s position. This meaning can be captured in this Tiv saying: \textit{Tile sha ian you}. Meaning “Stand in your position” or \textit{lu sha ian you}. “Stay in your position”. Interestingly, whether \textit{ian} is used to denote right literally or position, it still conveys the idea of an “entitlement”. Even if it is involved to denote one’s position, it is still within the purview of the same meaning which is still simply to denote “one’s appropriate position which he/she retains an exclusive prerogative to occupy.

Thus, the term \textit{Ian} is employed to denote one’s right. So, \textit{Ian i Or-umache} can simply be translated to mean “human rights or rights of human beings”. It is to be
noted that unlike western conception of rights which is based on the ontological nature of the human person, rights in Tiv is not individualistic, but it is communal and it conveys the idea of human solidarity which serves to consolidate social cohesiveness, and a sense of shared destiny. Hence A. Dzurba observes that *Ian* in Tiv does not arise from the individual’s merit but the merit of the society. That is to say that “right” is a constitutional provision of the society from where one emerges. Like most African societies, human rights in Tiv society are not an entitlement one would claim simply by being human. Rights can only be claimed by the members of the Tiv society. By extension, even among the Tiv people, one does not just enjoy certain rights like right to land simply by being a Tiv person; the person must be legitimate member of the society. Legitimacy here denotes that the individual must be biologically related to the locality or to the family and the relationship must be patrilineally not matrilineally.

This position is premised on the patriarchal structure of the Tiv society in which legitimate membership of the family or community is through male children, because they are the only legitimate means for the continuation of the family. Infact, children that come through the female child, even if the child is a male, they are still refer to in Tiv society as *Wan Kwase* (female child). Such a child has no right to claim in his maternal home. He may have access to land and can participate in the political processes where he belongs, but he enjoys that simply at the level of privileges and they are temporal.

### 4.4 Categories of Human Rights in Tiv Society

In the foregoing, we have looked at the Tiv concept of *Orumache* (human being) in which we observed that the Tiv do not conceive of *Orumache* as distinct from his community and that it is the community that defines *Orumache* both spiritually and materially. Ontologically, it is *Awambe* (blood) on the other hand that is the basis of the formation of a society. This defines the need for interaction, socially, politically and to certain extent economically. This does not implies that the Tiv people do not acknowledged individual’s uniqueness, however, the language, culture, tradition, religious habits, attitude come from the community. The individual is therefore obliged to conform to the social order, submit to the established authorities and ensures harmony in the society.

Worth noting again is the fact that, the normative layer of the Tiv conception of *orumache* emphasizes individual obligations. These obligations are matched with series of rights of the individual simply because he lives in the community and he is
biologically related to the community. The community is bound only to ensure the rights, not to deny a legitimate member the rights. What then are these rights?

i. **Right to Land**

The Tiv society is traditionally and basically an agrarian society and so land was the most important asset. Hence the Tiv saying that ‘Aondo hemba man nya dondo’ (After God, land follows). This saying reflects the importance of land in Tiv society. A clear understanding of the Tiv attitude to land is captured by the sharp and detailed study of Paul Bohanna. He rightly observes:

\[
\text{… a Tiv who is a member of a community has a right, because of his membership to exploit sufficient farm land within the area dominated by that community, the right does not amount to “ownership” of specific land. It is rather to a sufficient amount of land that is associated with the community.}^{31}
\]

Land was therefore made available to all adults who are biologically related in the family. For the duration of his life time, any Tiv had the right to the use of a piece of the lineage land. However, land was supposed to belong to the whole lineage, conceived as including the ancestors, the living members and those yet to be born. For this reason, in traditional times the sale of land was prohibited. And the prohibition was effective. But our ancestors reckoned without the conquering power of modern commercialism, land sale is now a thriving racket as a result of urbanization, industrialization and expansion of cities and towns. As a foreseeable consequence, there are now many Tiv who have no land to till or develop. Here then, sadly, is a human right, recognized of old, that seems to have been devoured by advancing times. However, even at this point, this right remains secured in traditional Tiv communities.

ii. **Right to Life**

Life (uma) was considered sacred by the Tiv people. This was because it was closely linked to the Awambe (blood) which is held to symbolized man’s life and as such shedding blood was considered a taboo since it carries the life principle of the man. It is a common belief by the Tiv people that the life principle in man is divine. Death therefore does not mean the end of the matter and does not affect the life principle, it is immortal, death only means the separation of the life principle from the rest of human system and that is why the Tiv people celebrate old age. The whole point of life consists in the pursuit of human well being both in one’s own case and in accord with the others.\(^{32}\) The seriousness of this right is seen in the Tiv belief that no death is natural. Hence, the practice of *ku orun* (death inquisition) which is a process
by which the Tiv investigate into the cause of death of their family members. According to Moti J. S. and Wegh F. S.:

No matter where a man or woman dies, no matter the circumstances of death, the Tiv carry out such an inquisition. This is of course based on the general belief that one does not just die, …-33.

Consequently, the Tiv abhors any form of killing or self-murder. The Tiv system will not permit cases of euthanasia, abortion and any anti-life practices. Any one who commits suicide was buried far away from the house because of the evil it connotes. In fact, people were advised not to marry from the family that has a recorded case of suicide. All these goes to show the extent of Tiv respect for life and the right to life in which every one enjoys.

However, there are times when the Ityo (community) as a group accepts responsibility for someone’s death. Ityo may use the collective or constitutional tsav to eliminate a person adjudged to be notorious for perpetrating anti-community activities. Hence, there is a saying that “Or hembe Ityo ga” (no one is more than the community).

iii. **Right of Political Participation**

The Tiv traditional set up prior to colonialism was highly decentralized sometimes referred to as stateless, but more accurately described as having minimal or diffuse government34. With this, there was a little respect for hierarchy. Their situation was similar to that of Tonga of Zambia as captured by Elizabeth Colson that:

Instead, they stress personal independence, the equality of all men, and the right of each to make his own law… they are not bound by any decision to which they have not been a direct part35.

So, the right to participate in the political processes was the prerogative of every Tiv person. However, matters of politics were culturally believed to be an exclusive domain for the men. Therefore, every male person has the right to be heard in the matter that concerns him.

This was in turn based on the existential expression of two basic qualities namely: the community spirit and individualism. This expression manifested itself in the liberty and autonomy of the individual and the ability to participate in the decision making process in his community. The decision making process involves several levels of discussion, starting from the family and extended family level to the lineage control. One unique feature of the system is that it allows all members to participate
directly or indirectly through the heads of their family. All decisions are reached
through a consensus. Closely linked with this consensus system in the principle of
decentralization at all levels of political organization, the group involved enjoy self
governance; the family level, family level extended family level and the village
leaders together conduct its affairs without interference from any higher authority,
that is within its jurisdiction.

iv. **Right to Fair Hearing**

The right to fair hearing in Tiv society is expressed more in the context of *Ijir
Orun* (judgment). It was an absolute principle of Tiv Justice that no human being
could be punished without trial. Neither at the lineage nor at any level of Tiv society
could a member be subjected to any form of punishment without proof of
wrongdoing. Basic to the Tiv society was the principles of self-government and
administration of justice. This is to say that trial in Tiv society was built on the
concept of fair play and justice, dispensed in the open, which left nobody in doubt of
the ground sense of judgment out of which decisions were made. In any case
presented for consideration the parties involved are usually invited for hearing in
expression of the principles of fair hearing. This idea is informed by the Tiv saying
that “*Kor ngu kera ato*” (Truth is in the hearing). That is to say, in listening to the
both parties, the truth will be obvious from their presentation. Again, in passing the
final judgment, they take all the elements in the case as well as put into consideration
the unity and the peace of the entire community, whatever judgment is passed, it was
basically for justice and fairness as conciliation, arbitration and mediation rather than
formal judgment served as the ultimate motive behind the judgment. According to
Yougindra Khushalani:

> This conciliatory approach reflects the importance of community cohesiveness in traditional societies as
> well as the likely existence of Kinship ties between
> the litigants which could render a non consensus
decision even more disruptive to family and
> communal life. The traditional system often sought
to discover truth directly rather than through the
> clash of an adversary process in which each side
> supports its own position before an impartial and
disinterested judge.

So, the right to fair hearing is accorded every member of the Tiv society to ensure
justice, fair play and societal harmony.

v. **Right to Freedom of Worship**
It is pertinent to note that, there was no such thing as institutionalized religion in Tivland. Religion consisted simply of belief and trust in and reverence for, a Supreme Being regarded as the architect of the cosmos. The Tiv took it to be obvious that such a being existed. Hence names like *Aondongu* (God exist) captures this belief. I know of no sentiment in the Tiv corpus of proverbs, epigrams, tales, and explicit doctrines that lends the slighted support to any abridgement of the freedom of thought or expression the Tiv religion recognizes the existence of a Supreme Being called *Aondo* (God). And there is no standard or approved way of worshiped or interacting with him. Everyone outside enjoying the immunity to worship whatever he wants he can also worship in any way he deems fit as a believer. However, it must be observed, that though there is freedom of worship, there is no evidence of any atheistic belief in Tiv society. Styles, approaches and methods of worship may vary but the belief in the existence of God is generally held.

It is worth noting that the above discussed rights do not capture wholistically the different kinds of rights present in Tiv society, but it lend credence to the thesis of this work that there are rights in Tiv traditional system. However, in contrast to European conceptions stressing individual protection, Tiv and African conceptions here emphasized collective expression. The web of kinship, of family and clan, provided the framework in which individuals asserted their rights and accepted their responsibilities.

### 4.5 The Idea of Equality in Tiv Society

The idea of equality in Tiv society is tied generally to their worldview which is characterized by such principles as comprehensiveness, communality, egalitarianism and sacralism. Some of the aspects of these principles are those dealing with their religious values and customs, their notion of person hood, their view of the individual as against the community, and their value of human life as well as their view of the unborn. Rubingh aptly describe the Tiv worldview as one that:

…was complex and effective, for it organized all of life and encompassed the individual, the tribes, the land, and the far reaches of the universe in one majestic totality. Kinship bound man to man and structured the compound, the idea of tar bound man and his land, the concepts of *tsav* and *akombo* provided a union of man with the cosmic powers.
So, the idea of equality among people in Tiv society is not an abstract formulation, it is the product of their worldview that sees all men as coming from the same source. The Tiv recognized the existence of a Supreme Being called Aondo (God) who is the creator of the entire universe and everything therein. This belief is the foundation of the religious character of the Tiv. It is what gives forces and cohesion to the Tiv worldview. It unifies human experiences and homogenizes Tiv cultural institutions.

Asserting the pivotal role of religion in Tiv worldview, J. I. Tseayo noted:

Religion not only provided the Tiv with a worldview, it constituted a character for action as well. If this were taken away, the basis to life has been removed. For the Tiv religion welded experience, history, and society into meaningful frame of reference. It unifies human experiences and homogenizes Tiv cultural institutions.

It means therefore that among the Tiv, religion is not a separate sphere distinct from the other spheres of their lives such as the social, political, economic and moral spheres. It is therefore, worth noting that the idea of equality like other values stems from the religious outlook of the Tiv people that sees all men as the creatures of Aondo (God). So, the Tiv idea of having God as a common root coupled with a very strong sense of divine justice lead to the ideas of equality, justice and fairness in human relationship among the people.

It must be noted that religious beliefs and the idea of God dominate every aspect of the African life. Any formal distinction between the sacred and the secular, between the religious and the non-religious, between the spiritual and the material parts of life is foreign to traditional Africans. Mbiti puts, the African traditional religious attitude succinctly in the following words;

Wherever the African is, there is his religion, he carries it to the fields where he is sowing seeds or harvesting a new crop; he takes it with him to the beer party or to attend a funeral ceremony, and if he is educated, he takes religion with him to the examination room at school, or in the university, if he is a politician he takes it to the house of parliament.

This is to say that religious colouration is seen in every aspect of the Tiv people like other Africans. Hence, the theocentric conceptionalization of equality in Tiv society. It is pertinent to note that in the course of my research on equality, theocentricism is one of the bases for the argument in favour of human equality as evidenced in all related documents covenants and declarations. In the declaration of the American independence in 1776, this idea was expressed thus:
We hold these truths to be self-evident, that all men are created equal, that they are endowed by the creator with certain unalienable rights that among these are life, liberty and the pursuit of happiness.\footnote{42} This is just to demonstrate the fact that the Tiv people are not alone in holding the view that our equality stems from the fact of our common source from Aondo (God). This is also the view that informed the theological and sound philosophical tones in which the Lockean theories of equality and human rights are expressed:

\begin{quote}
Reason…teaches all mankind, who will but consult it, that being all equal and independent; no one ought to harm another in his life, health, liberty or possessions. For men being all the workmanship of one Omnipotent, and infinitely wise maker; all the servants of one sovereign master, sent into the world by his order and about his business, they are his property, whose workmanship they are, made to last during his, not one another’s pleasure.\footnote{43}
\end{quote}

Therefore, the Tiv idea of equality has a religious background that sees all men as the creatures of God and equal in God’s sight.

There is no direct term that can be translated in Tiv to mean equality. However, terms like \textit{Mlu mom} (all the same), \textit{Kwagh mom} (the same thing) etc. are usually employed to denote equality. \textit{Mom} literally means one. When employed in this context, it depicts the oneness and commonness of humanity as creatures of one God. However, it must be noted that though the Tiv belief that all people are \textit{kwagh mom} (the same thing or equal) does not negate uniqueness and peculiarity in terms of individual’s talents and disposition in advancing their ontologically embedded potentials. It rather echoes equal dignity and rights in practice which guarantees the pursuit and fulfillment of their interests and aspirations as a community united by a common goal.

The idea of equality in Tiv means equal rights; benefits and opportunities are open to every member of the community. It is a way of living that suppresses overt individualism and does not confers special treatment to certain group of people or a particular family. Hence, there is no monarchy or royal family in Tiv society. Every Tiv man is entitled to anything that accrues to Tiv as a people. Birth in a particular family does not give anyone privileges over others in Tiv society. Corroborating this fact, Moti noted:
Political power is not conferred because of privilege or birth or belonging to an exclusive social class…but by one’s ability to attract a following, positive articulation in speech and knowledge of the tribe’s customs and history. Wealth is also regarded as a result of a man’s hard work.\textsuperscript{44}

In sum, the Tiv society is generally egalitarians. For many people, it is the egalitarianism of the Tiv people that accounted for the stateless and de-centralized nature of their society until the advent of colonialism.

4.6 HUMAN RIGHTS, EQUALITY AND JUSTICE IN TIV SOCIETY

The relationship between justice, human rights and equality is often described to be intertwined. This is because justice represents a synthesis of the principles of human rights, equality and fraternity. Justice is the thread which runs through all these values and makes them parts of an integrated whole. According to Ferber Y. “the present of justice heralds and sustains cordiality, peace and progress, equality and self-responsibility among others”\textsuperscript{45}. Our sense of justice recognizes the dignity of the human being as such. It is the rational nature of man which clothes him with this dignity. It demands that each individual should be treated as an “end-in-itself” not as a means to an end. In this respect, all individuals should be treated as equal to each other. The theory of human rights will not conform to the principle of justice until the benefits of human rights are equally extended to each individual in society.

Worth noting is the fact that the Tiv thought system is not devoid of this link between human rights, equality and justice. The concept of justice in Tiv is very central to the understanding of the Tiv Mnenge u tar (worldview) and ieren (philosophy). It is also built on the principle of appropriateness enshrined in harmony derived from the ontological principle of balance and proportion\textsuperscript{46}. The concept of justice in Tiv means sha inja which depicts appropriateness. Justice in Tiv therefore, is an attitude, a system, a policy that is appropriate to man, society and the entire cosmic realities\textsuperscript{47}. Appropriateness here denotes the approved societal values as fairness, communality, respect to human dignity, human rights and the principle of human equality. Therefore, in Tiv society, one cannot be said to be just if he negates the principle of equality and the rights of the people, since these are the appropriate things to be done. In Tiv thought, justice also means shami (right). Shami has correlated such concepts like kwagh u vough (right thing), sha tindi (legal), sha mimi (true), doo (good) and so on. So, the right thing or the good thing which summarized justice in Tiv society can only be evident in the principle of equality which abhors
discrimination and favouritism as well as human rights which demands that all people be given their dues at all times.

4.7 THE PHILOSOPHICAL FOUNDATIONS OF HUMAN RIGHTS AND EQUALITY AMONG THE TIV

The concept of human rights and the notion of equality in Tiv thought system have certain theoretical foundations or motivations that drive its advocacy in Tiv society. In other words, there are certain reasons that motivate the belief in human rights and in the principle of human equality in Tiv society. These motivations that constitute the philosophical foundations in this regard are usually the same everywhere. The fact that all humans are ontologically the same implies that their needs are also alike. Therefore, the principle of equality is rooted in the common humanity of all men and the theory of human rights expresses the fundamental needs of man as a rational being.

The concepts of human rights and equality in Tiv thought system is also built on the principle of appropriateness enshrined in harmony derived from the ontological principle of balance and proportion. This is because, these concepts as noted before are intertwined with the principle of justice. The concept of justice in Tiv means sha inja which depicts appropriateness. Therefore, justice in Tiv is an act, an attitude, a system, a policy that is appropriate to man, society and the entire cosmic realities. For something to be appropriate or to act appropriately is to embrace such other values as fairness, equality, community, harmony, orderliness etc. This theory of justice fits perfectly with John Rawls theory of justice as fairness. These concepts are summarily linked to Gbaaondo in Tiv thoughts. The concept Gbaaondo means many things in Tiv thoughts. It is a combination of two words, gba and Aondo. Gba can mean “fall” and can also mean “create” as well as a conterminous of “exist”. Meanwhile Aondo, simply means God. In this context, gba is taking to mean create. Literary therefore, Gbaaondo denotes “God’s creation.

In Tiv world view, Gbaaondo is used to qualify that which is natural, that which is right and that which ought to be. Hence, the Tiv concepts of human rights and equality fall under the naturalist traditions which holds that nature has its own order. As an order of operation, it contains certain universal principles which are discoverable through reason or revelation to which human laws must approximates. In the case of the Tiv people, their conceptions is based not on the secular understanding of natural law theory but the theological theory as can be seen in the concept of
Gbaaondo (God’s creation or nature). This theological theory of natural law regards the universe and human society to be under the control of some divine beings. These deities are said to have laid down constant principles which constitute a higher law common to all societies. The higher law can be grasped through revelation or reason. It holds that, all human arrangements, including law, must conform as far as possible to these constant principles so as to guarantee peace and harmony in the world. It is in this regard that St. Augustine refers to the natural law as the reason and will of God which commands the preservation of the natural order and prohibits its disturbance”. The exponents of this theory of natural law include Cicero (106-43 BC), St. Augustine (350 – 430 AD), Thomas Aquinas (1224 – 1274) and Francis Suarez (1548 – 16-17) etc.

So, these concepts are seen in Tiv society as basic moral guarantees of every member of Tiv society and that compliance with them is mandatory rather than discretionary by the community. This understanding is greatly influenced by Gbaaondo that is to say that respect for human rights and equality reflects the natural order and ensures cosmic harmony as well as the advancement of the human dignity. Jack Donnely corroborates this view of the Tiv people that:

> We have human rights not to the requisites for health, but to those things needed for a life of dignity for a life worthy of human being, a life that cannot be enjoyed without these rights.\(^{50}\)

Again, the Tiv understanding of human rights and equality is informed by the communalism and egalitarian of the Tiv society which seeks to advance “common essential interests and not confer referential treatment on any member as a result of one’s birth place or social status as captured by Moti that “political power is not conferred in Tiv society because of privilege or birth or belonging to an exclusive social class…”\(^{51}\) securing member of the Tiv community’s essential interests is the principal ground upon which human rights and the principle of human is morally justified. This philosophical formulation technically falls under interest theory approach also shared by other schools of thoughts. It argue chiefly that the universality of human rights and equality is grounded in what are considered to be some basic indispensable, attributes for human well-being which humanity deemed necessarily to share. John Finnis is one of those scholars that shares this interest theory approach of the Tiv people that “human rights are justifiable on the grounds of their instrumental value for securing the necessary conditions of human well-being.”\(^{52}\).
He identified seven fundamental interests, or what he terms ‘basic firms of human goods as providing the basis for human rights. These are:

Life and its capacity for development; the acquisition of knowledge, as an end in itself; play as the capacity for recreation; aesthetic expression; sociability and friendship; practical reasonableness, the capacity for intelligent and reasonable thought processes; and finally, religion or the capacity for spiritual experience.53.

These are the essential prerequisites for human well-being and, as such, serve to justify our claims to the corresponding rights, whether they be of the claim right or liberty variety. So, for the Tiv people the “common interests” approach provides among other reasons a philosophically powerful defence of the doctrines of human rights is the principles of human equality. This is because it has the apparent advantage of appealing to human commonality, to those attributes we all share and in so doing, offers a relatively broad defence of the plethora of human rights considered by many to be fundamental and inalienable.

It is obvious therefore, that out side the other motivational theories that constitute the foundation for the discourse on human rights and equality, the Tiv idea of gbaaondo (natural and appropriateness) together with the common interest theory derived from the Tiv principles of communalism and egalitarianism remains fundamentally important in this regard. Meanwhile the idea of protecting the dignity of the human person also remains a veritable dimension in Tiv discourse on human rights and the principle of human equality.
End Notes


11. Orka, J. T.


13. East, R. Akiga’s Story p. 22.


45. Moti, J. S. *The Early Jerusalem Christian Community* p. 106.


52. Moti, J. S. *The Early Jerusalem Christian Community* p. 106.


CHAPTER FIVE

AN EVALUATION OF HUMAN RIGHTS AND EQUALITY AMONG THE TIV PEOPLE

5.1 HUMAN RIGHTS AS GBAAONDO (NATURAL OR GOD’S CREATION) IN TIV

In the foregoing, we have noted so far that the Tiv concepts of human rights and equality must be understood in the context of their philosophy which is broadly summarized in their mmenge u tar (worldview). And the Tiv worldview is described as the complex or totality of their beliefs and attitudes concerning the origin, nature, structure of the universe and the interaction of its beings with particular reference to man. It is this worldview that has provided the Tiv man with the foundation of the major problems that confront him, and are assessed and their possible solutions sought. Worth noting at this juncture is the fact that one cannot talk of Tiv worldview without reference to gbaaondo. This is because, outside the religious dimension of Tiv life which is an integral aspect of his existence, religion as J. I. Tseayo observed “not only provided the Tiv with a worldview, it constituted a character for action as well”\(^1\). Corroborating this point, E. T. Atel noted that “Religion serves as a means by which the Tiv seek to address the ultimate problems of life and to understand their relationship with the unseen world”\(^2\). In fact, as J. S. Moti and S. F. Wegh suggest:

To understand religion in Tiv one must not look for a logical interconnectedness of its different elements. What one needs to do is to see Tiv religion in the context of a unified worldview in which man, nature and supernatural constitute a continuum\(^3\).

The main point here is that no concept or an idea is conceived in Tiv thought system independently of the worldview which is greatly informed by their religious beliefs. As such, the concept of human rights and equality is not an exception. Their conceptualization in Tiv thought system is linked to gbaaondo.

The question now is what is gbaaondo? The concept of gbaaondo means many things in Tiv. It is a combination of two words, gba and aondo. Gba can mean “fell” and can also mean “create” as well as a conterminous of “exist”. A number of examples can help us to understand our argument better. In the first sense of gba, one may say: Nyam ne gba (this meat has fallen). In the second instance, one can say Aondo gba or (God created man). And lastly in the sense of gba meaning exist, one can say “er m gbe shin tar ne je or ngu a nam kwagh ga (since I existed in this world, no body has given me anything). It is to be noted that gbe as used above is a past
participle of *gba*. Meanwhile *Aondo* simply means God. In this context, *gba* is taken in the second sense to mean create, literally therefore, *gbaaondo* denotes “God creation”. In Tiv worldview, *gbaaondo* is used to qualify that which is natural, that which is right, that which is divinely intended and that which ought to be⁴.

Hence, the Tiv concept of human rights is greatly influenced and informed by *gbaaondo* that is, appropriateness which in Tiv thoughts reflects the natural order and cosmic harmony as well as what ought to be and is right. A. Dzurgba has corroborated this view by this statement that “*Gbaaondo* means also the natural ways things have been created to be, to happen, to be done and to be experienced⁵.

In this sense therefore, a critical look at the concept of human rights reveals that, comparatively with the Western tradition in this regard, the Tiv understanding of human rights falls under the naturalist tradition which sees the idea of human rights as a natural property of every legitimate member of the Tiv community. It is not the product of any legislation or enactment neither it is a fruit of treaties. Any declaration in this regard only confirms what *gbaaondo* has already ordained. However, unlike the western perspective that sees these rights to be unalienable and individualistic, that is, on the basis of being human, the Tiv understanding sees the rights as the properties of the community and benefits are restricted to only legitimate members of the community. And legitimacy here denotes biologically related paternally to the community in question.

Again, despite the fact that the community is the basis for individual rights, the Tiv thought system do recognize personal rights of individual members of the community. The reason is that the natural membership of the individual person in a community cannot rob him of his dignity and worth, a fundamental and inalienable attribute he possesses as a person and ordained by *gbaaondo*. This view is also corroborated by Gyekye thus:

> The respect for human dignity, a natural or fundamental attribute of the person which cannot as such, be set as thought by the communal structures generates regard for personal rights⁶.

He argues that since respect for human dignity is a fundamental attribute of all persons, individual rights cannot be negated. He further notes that respect for human dignity, however, this conception is derived, whether from theistic consideration as in the case of the Tiv people or through purely rational reflection on human nature is linked with, and infact, compels the recognition of rights⁷ not only in an individualistic but also communitarian context. This view of human dignity is
informed by the general African humanist conception of humankind where the well-being and interests of each member of the community are assured. This question of advancing the dignity of the human person shares the view that holding human rights and believing in the principle of human equality will offer protection against totalitarianism, authoritarianism, tyranny and the natural human tendency to dominate. The intrinsic human dignity and the need to advance it no doubt constitute the aspiration of the advocacy for human rights and the principle of equality. This fact is also corroborated by Kenneth Kaunde, while President of the Republic of Zambia thus:

Human dignity is a concept which is as old as man himself. It is basic in every human life. It refers to the intrinsic worth of man, it underlines his importance as the center of creation, probably the highest expression of God’s image in the ceaseless stream of events in our changing environment. In a large measure, I think it is time to say that this quality which is inherent in man and not imparted to him by human action makes him different from other animals. It is the most important element among the qualities which confer upon man the inalienable rights which have since been defined in more precise and unequivocal terms, in the Universal Declaration of Human Rights, the principles of which have been incorporated in the charter of the United Nations.

It is obvious, therefore that outside the other motivational theories that constitute the foundation for the discourse on human rights and equality, the question of human dignity and the need to advocate it remains fundamentally important in this regard. The Tiv people therefore derived their inspiration for the ontological and intrinsic worth of the human person (Or-umache) as the foundation for the belief in human rights and in the principle of human equality.

Thus, the recognition of individual rights, which includes the exercise of the unique qualities and dispositions of individuals by a communitarian requirement, however, the community according to the Tiv people still returns the supreme power to deny an individual his rights for the interest of the common good. For them, or hemba tyo ga (no one is above the community).

5.2 HUMAN RIGHTS AND EQUALITY AS AN EXPRESSION OF TIV COMMUNALISM AND EGALITARIANISM
In the foregoing, we have noted that the Tiv concept of human rights and equality is informed by the Tiv mnenge u tar (worldview) which is characterized by such principles as communalism and egalitarianism amongst others. In Tiv society, the principles of communality, for example the communal ownership of land (the non-ownership of land by individuals on a private basis), egalitarianism (the equality of all human beings) and solidarity (mutual) dependence and cooperation were held. The principle of communality means a social arrangement where the community is not conceived as a mere association or a sum total of isolated individuals, but as a unity in which the individual members are linked by interdependent relationships, sharing common values and working towards common goals. This principle of communalism typically reflects the African personality as the Senegalese political leader, Leopold Senghor states:

Negro-African society is collectivist…communal, because it is rather a communion of souls than an aggregate of individuals…Negro-African society puts more stress on the group than on the individual, more on solidarity than on the activity and needs of the individual, more on the communion of persons than on their autonomy. Ours is a community society.9

Here Senghor clearly emphasizes the communal nature of African societies and the precedence the community takes over the individual.

In Tiv society, this communal spirit is captured in such maxims as “kon mom ngu lun ikyo ga” (a single tree cannot make a forest), “ka tema imongu mbagbera ve fe iwa ye” (it is only by sitting together that the people of Mbagbera have come to know the art of blacksmithing), “Or hembe tyo ga” (an individual is not more than the community), Avange waren iorough uhar hen tine kon ga (a lizard do not escape two people around a tree). All these expressions reflect the value of communality and advantage of togetherness. With this, every Tiv person traditionally looks at himself but only with reference to the community into which he/she is born. This is because, self awareness and individual identity is believed to be possible only in a community10. This also reflects Mbiti’s position that one discovers himself only within a community. Thus “I am, because we are and we are, I am”11. Infact, life itself takes its meaning in the community. Corroborating this fact, Agrawal observed that “ideal interpersonal relationship is manifest in communal activity in which people cooperate with each other for common ends”12. This perfectly reflects the Tiv belief that, it is only by “zuan aver” (joining hands together) that success can be achieved.
According to Wang, this indicate “the unacceptability of egoism, individualism, male chauvinism, solipsism and other self tendencies”\textsuperscript{13}. This principle asserts the ontological primacy of the community over the reality of the individual’s life. In the words of Menkiti:

> It is the community which defines the person as a person, not some isolated static quality of rationality, will or memory...community plays a crucial role in the individual’s acquisition of full personhood\textsuperscript{14}.

This view, however, proceeds from the assumption that the welfare, values and goals of the community are supreme and the overriding consideration for morality and social justice. It stresses the value of specifically communal and public goods and conceives of values as rooted in communal practices. This implies that the individual is submerged in community and that community interests and its continued existence take preference above the will and interests of the individual.

Meanwhile, the communality of the Tiv people is also premised or linked to the Tiv principle of egalitarianism, which sees all Tiv people as equals. With egalitarianism, they (Tiv) mean that all human beings are equal, because every human being has intrinsic worth or possesses creative humanity as a creature of Aondo (God).

Corroborating this analysis of the concept of the human person, Julius Nyerere noted:

> People can accept the equality of man because they believe that all men (soc) were created by God, they can believe it because scientific evidence supports such a conclusion or they believe it simply because they believe it is the only basis on which life in society can be organized without injustice...\textsuperscript{15}

From this statement, it is deducible that the notion of equality is essential for the realization of a social organization based on fair and just principles. This notion of equality is based on the general African humanist view of the human being.

According to Gyekye, humanism in this context means to:

> Recognize the other person as a fellow human being, which in turn means to acknowledge that his/her worth as a human being is equal to our own...and at the public policy level, that the basic rights, which intrinsically belong to an individual by virtue of his/her being human, ought not to be interfered with, subverted or set at nought\textsuperscript{16}.

It is suffices, therefore to note that the Tiv concepts of human rights and equality reflect the principle of communalism and egalitarianism in Tiv thought system. The rights that the people have are communal and only members of the community have
rights to claim. Meanwhile, the notion of equality expresses the traditional principle of egalitarianism in Tiv society which believes that every human person has an intrinsic worth because of the divine element in him or her being.

5.3 YA NA ANGBIAN AS TIV PRINCIPLE OF EQUALITY IN THE
SOCIO-POLITICAL SENSE

The principle of ya na angbian captures summarily, the Tiv socio-political philosophy which practically reflects the notion of equality and justice in Tiv thought system. *Ya na angbian* is translated to mean “eat and give your brother”. This principle literally conveys the Tiv attitude to the sharing of food where by the Tiv person is enjoined to be unselfish and to eschew all attempts to greed. He gives his brother the last morsel of food in his palm and confirms that, *ka ingin i weren or ye* (it is this one that saves somebody). One is expected to invite one to join in the meal no matter how small it is. Akiga further illustrates this selflessness of the Tiv communal system and fraternity with the story of a cricket whereby a cricket is shared among those who are at the meal table and other parts reserved for those absent irrespective of who kills or catches the cricket. This characteristically defamed the popular adage of “a winner takes all”. For Akiga, therefore, the entire philosophy of *ya na angbian* is built on equality. It promotes equalitarianism, selflessness and it abhors individualism. This expresses the collective, communal and brotherly piety for one another; hence the love of your brother goes a long way to explaining your benevolence towards him.

It is also important to note that far beyond the literally practice of the *ya na angbian* philosophy, there is a deeper meaning which underpins the socio-political operation in Tiv society. It expresses the distributive justice of Tiv people in terms of political power. With this philosophy, every one who is the member of the Tiv society is eligible to occupy any position. It is the philosophy that informs the rotation of political offices and traditional positions in Tivland. It abhors the “sit tight” syndrome of the Nigerian political class. It provides opportunity for all groups, families and people in Tiv society at equal levels.

Again, the philosophy demonstrates the outright rejection of any attempt by individuals to accumulate material wealth for themselves without sharing with others. It also expresses fundamentally the “principle of egalitarianism” that “kills” individualism and promotes communalism. The philosophy shares similar elements with the political system of *ujamaa* as articulated by Julius Nyerere which revolves
around the spirit of African brotherhood. The *ya na angbian* philosophy therefore expresses the egalitarianism of the Tiv society and promotes equality, justice and fairness in the socio-political operations in Tiv society.

### 5.4 THE INSEPARABILITY OF RIGHTS AND OBLIGATION IN TIV SOCIETY

A critical examination of the concept of human rights in Tiv society has revealed the inseparability of rights and obligation or duty. This relationship is based on the concept of human dignity and the primacy of the community in advancing and enhancing the dignity of the human person in Tiv society. This conception implies that as a person, one is automatically worthy and honourable as a result of his ontologically inherently embedded worth. However, his worth and dignity cannot be enhanced in isolation from others in the society. Hence, no individual person in Tiv society is to consider himself sufficient, for in isolation, no one can function adequately and can not actualize his potentials. Hence the concept of *or yina* (man is not sufficient) fully in the society. This therefore shows that as person enjoys his rights as a member of the Tiv society, he is still obliged reciprocally to respect the rights of others and also advance the common goal.

This is so because rights in Tiv society are not stated in adversarial terms, but are derived from the responsibilities of various members of the community. Thus, the Tiv society recognized the rights of both individuals and groups as a community and through consensual procedures provided “an almost sacred protection” of fundamental human rights. This fact makes the concept of rights in Tiv society inseparable from accompanied obligations, which required the individual to place the community or the common good before individual satisfaction. However, it is to be noted that, despite the primacy of the community over individual interests, individuals still retains their rights which the society also respects as observed by Benedict Michael:

> Although the responsibility to the community was stressed, this was not to the detriments of the individual rights, which were respected, for the Tiv allowed the autonomous individual who possesses the capacity for evaluating the practices of his community to think and decide for himself on any issues in the society.

That is to say that the communality of the Tiv society does not completely subsumed the individual as a unique person in the community. Though his rights are tied to his
obligation to the community, he still enjoys the liberty as rational being to question the cultural beliefs and practices of his community.

But the Tiv society considers the social dimension of the human person as a natural quality because human beings are born into a pre-existent society. The community is then viewed as a group of persons feeling linked to it by interpersonal bonds as people who share common values, interest and goals. So, in expression of the social dimension of the community, each member acknowledges the existence of common values, obligations and understanding and feels loyal and committed to the development of that community. Such feelings are expressed through the desire and willingness one has to advance the community interest. Consequently, members of the same community are expected to demonstrate concern to fellow members well being. This also explains the flourishing of extended family ties in Tiv society. This communal feeling sustains the ya na angbian philosophy and also promotes egalitarianism. The success of an individual is not seen to be personal, but collective. It is celebrated as communal achievement. Hence, as one enjoys the rights of the community, one is also obliged to put forward one’s own unique qualities, dispositions and talents to enhance cultural development and ensures the community’s material and socio-political advancement.

5.5 THE MODERN SOCIETY AND THE CONCEPTS OF HUMAN RIGHTS AND EQUALITY AMONG THE TIV PEOPLE TODAY

The emergence of the modern society which is pluralistic and heterogeneous in nature has affected almost all facets of Tiv socio-cultural system like other societies in Africa. The contemporary human society is no longer microcosmic but macrocosmic in nature as a result of globalization. The whole human society with its diverse and pluralistic cultural and socio-orientation is gradually becoming a global village where different cultures, social institutions and life’s styles are meeting at different levels and mutually influencing each other. Thus, the way of doing things and behaving is impinging on and affecting each other. Hence, the modern society is termed pluralistic because of its diverse socio-cultural contacts.

Today, there are forces of cultural heterogeneity, moral disputes, political log jams, identity crises, personality distortion and religious conflicts which best describes the experience of modern Africa. The indisputable effect of this diverse cultural contact of the modern society is the fact of acculturation. Acculturation is the term used by anthropologists to refer to the outcome of the encounter between
cultures. When such an encounter occurs, a cross-cultural influence takes place with the result that over a period, such cultures undergo some modifications. Usually, in a normal wheel of cultural evolution, there is a gradual process of mutual cultural diffusion whereby each of the cultures consciously, sometimes unconsciously assimilates something of the other culture. This perfectly agrees with Sarpong’s statement that “when cultures encounter each other, there is bound to be impact of one upon another.”

Sequel to the above, it is obvious that the African socio-cultural system and values in general and Tiv in particular are not left out in this experience of cultural changes as a consequence of the pluralistic society. There is a total face of change which is hovering over the continent. Corroborating the issue of social change all over Africa, Mbiti says:

> Africa is caught up in a world revolution which is so dynamic that it has almost got out of human control. It is a revolution of man as a whole, and therefore, no people or country can remain unaffected by this new rhythm of human history…it is a total change and one which affects all spheres of life.

There is today a clash of different ideologies and dis-assemblage of cultural values. And against the sustenance of a true African identity in this era of globalization, various socio-cultural groups and tribes that make up this continent like the Tiv people of Benue State in Central Nigeria are pronouncedly drifting from the socio-cultural and the religio-political cohesion as well as their cherished and highly priced values and practices which defines their identity and personality in the past.

The Tiv people have yielded to unhealthy compromises of certain essential values resulting in an interminable clash of values that breeds and ferments sheer confusion and apparent unorganisation, infusing and fanning the pangs of a world order that produces distorted personality and keeps the younger generation and posterity in the state of topsy-turvy in regards their authentic identity. In the words of Emeka, “This situation of anomie is constituting itself into a new cultural way of life whereby people seem to be adjusting to the abnormal way of life.” The implication is perceivable in all facets of Tiv life and the notions of human rights and equality with their operational concepts like communalism and egalitarianism are no longer the same.

The principle of communalism that brings the concept of communal rights among the Tiv has been uprooted by individualism of the west and disintegration of human relations. Consumerism and extreme capitalism are now gauging our
economic temperature. Egoism has now comfortably settled in Tivland, and unhealthy competition now operates at all levels. *Ayatutu ka uno, ka se*, which is the expression of the oneness and equality of Tiv people and their communality, is gradually losing weight. “*Ka se*” (it is us) is now replaced with “*ka mo*” (it is me) which is the reflection of egoism and individualism which has taken over the Tivland. In the words of Wang, “brotherly love has ceased and has been over thrown by brotherly conspiracy and hatred; collectivity has given way to egoism and uncompromising individualism”.

The Tiv philosophy of *ya na angbian* which literally shows the generous sharing attitude of Tiv people is becoming history. Hitherto, no one needed to be invited to join in the meal before he/she will do so. This is because the Tiv people believe that “*luam lohon yol na*” (food invite people to join by itself). Today, if you are not invited to join, one cannot dare do so, because of class distinction to the detriment of egalitarianism and individualism to the detriment of communalism.

It is also worth noting that the Tiv worldview as observed in the foregoing was characterized among other principles by sacralism which places *Aondo* at the centre of all operations. We noted before that the idea of human rights itself is seen to be *gbaaondo* like the notion of equality is informed by the fact of our common source from *Aondo* (God). Hence, religion as we observed provides the Tiv with worldview and also constitutes the character for action. The implication is if the sacred is no longer cherished, the values that are rooted therein will also loose their worth. This is the present experience of the Tiv people; there is a transformation from the mind deeply steeped in religious thought to the one rationally conditioned. Commenting on this religious atheism that is taken shape in Tivland nay Africa, Mason noted:

> It consists in a desacralization of attitudes that is, a removal of the attitudes of awe, reverence, fear—so characteristic of religion and their replacement with attitudes of familiarity, easiness, confidence and daring.

This attitude is more common among the educated elites. For them, “it includes a whole perspective of life, which in effect eliminate God not as an ‘enemy’ but as one who is irrelevant to the struggles for survival and conflict in urban African.” This is the situation in Tivland today. The issue is, if religion is the bedrock of Tiv *mnenge u tar* (worldview) and at the same time, it losses it central position in Tiv thought system in modern times there is no way, the values that are rooted in like the notion of human rights and equality will remain the same.
But on the other hand, a critical look at the Tiv concepts of rights reveals an extreme communalistic nature of rights which subsumes the ontological basis for human rights. For rights to be human, they ought to be ontologically based. Hence, human rights are not political gifts that can be dished out to people at will or retained as the exclusive prerogative of a community. In all standards, the Tiv concept of rights especially is more of communal rights than individual human rights. It has no room for foreigners or people who are not biologically related to the Tiv society. Even people who are related to the community maternally also live simply at the level of privileges and not rights. In this case, the humanness of human rights in Tiv society is substituted to the communalistic goals which an individual member of the society is to consider paramount. Hence, the individualistic goal is lost in the community. But the concept of rights finds its broad manifestation in the liberties of the individual on the one hand and in the scope of the community on the other. Since the aim of liberal political theory is to discover what contributes to the happiness of man as well as to the development of his personality, rights occupy a significance of their own in view of the fact that such a subject necessarily involves within its fold a discussion of individual liberty vis-à-vis the authority of the community. Hence Harold J. Laski observed that:

Any system of rights therefore has three essential aspects from which it must be regarded. There is the interest of the individual always, at least ultimately, finally isolated from his fellowmen. There is the interest of the various groups in and through which his personality finds channels of expression. There is the interest of the community which is the total result of the whole pressure of the social forces.

This goes to buttress the point that ultimately, it is individuals that lay claims to rights and the community comes in at the level of recognition and enforcement of these rights. Corroborating this thought pattern, Gilchrist R. N. noted that:

Rights arise therefore from individuals as members of society and from the recognition that, for society, there is ultimately good which may be reached by the development of the powers inherent in every individual.

We may however, further appreciate the views of Laski in this regard when he noted that “rights in fact are those conditions of social life without which no man can seek in general to be himself at his best. Since the state exists to make possible that achievement, it is only by maintaining rights that its aim may be secured.”
Therefore, rights intrinsically should not be the prerogative of the community as it is the case in Tiv society but individual members of the community. As such, the communalistic character of the Tiv notion of rights lacks plausibility in my evaluation especially in this age of globalization. The individual should be the starting point of rights and the community should play the role of recognition of individual’s rights and the enforcement of their respect. It is only in this sense that the Tiv community can also recognize the rights of others who are not biologically related to them but for certain reasons comes to live among them as fellow human beings. For human rights to be truly human they are not to be held as communal prerogatives but they are to be recognized as individual claims which the community is obliged to recognize and collectively enforce.

SUMMARY

In the foregoing, this research has carefully examined the concepts of human rights and equality in reference to the Tiv people of central Nigeria. It must be noted that the concepts of human rights and equality are among the most thoroughly examined in socio-political philosophy. They have a long historical heritage. This research acknowledged the fact that the principal philosophical foundation of human rights and equality is a belief in the existence of a form of justice valid for all peoples, everywhere. In this form, the doctrines of human rights and equality have come to occupy a centre stage in geo-political affairs and the language of human rights and principle of human equality is understood and utilized by many peoples in very diverse circumstances. These concepts have now become indispensable to the contemporary understanding of how human beings should be treated, by one another and by national as well as international political bodies. This is because, these concepts are best thought of as potential moral guarantees for each human being to lead a minimally good life. The extent of which this aspiration has not been realized represents a gross failure by the contemporary world to institute a morally compelling order based upon human rights and the principle of human equality.

This research argues that for the world to realize the culture of respect for human rights and equality there must be a recognition of the cultural basis for human rights and the principle of human equality in every society. In this regard, the work frowns at the dominance of western perspectives which have now metamorphosed into globally recognized theories of human rights and equality to the detriment of other notions especially in Africa. This work therefore, have succeeded to
demonstrate the availability of these concepts in the thought system of the Tiv people of central Nigeria. This work is chiefly a library research. Most of the materials used were sourced from documentary sources. The work is divided into five chapters.

In chapter one, the work discussed the background of the study, the statement of the problem, the thesis of the work, the purpose of study, the significance of the work to the contemporary society, the scope and delimitation of the study and the methodology.

Chapter two featured the literature review. It is a fact that this work is not a pioneering attempt at conceptualizing and evaluating human rights and equality. As such, in this chapter, the work x-rayed the existing literature in this regard from ancient times to the contemporary period.

In chapter three, the work discussed thematically the conceptualization and the historico-philosophical foundations of human rights and equality. The work examined the concepts of human rights and equality, the historical evolution of human rights and equality, kinds of human rights and equality, theories of human rights and equality. The chapter further highlighted the articles of the universal declaration of Human rights and the grounds and dimensions of equality as well as the relationship between human rights, equality and justice.

In chapter four, the work treated the thematic preoccupation of this research which is the exposition of the concepts of human rights and equality in Tiv thought system. In doing so, the work discussed the Tiv people, the concept of Or-Umache (human being) in Tiv thought system. It further outlined the categories of human rights in Tiv society as well as the relationship between human rights, equality and justice in Tiv society. The chapter finally established the philosophical foundations of human rights and equality among the Tiv people.

In chapter five, the work attempted an evaluation of the concepts of human rights and equality among the Tiv people. The chapter discussed the concept of human rights as Gbaaondo (natural) in Tiv. Hence, placing the Tiv understanding of human rights in the naturalist parlance. The evaluation further showed that the Tiv people's notion of human rights and equality is an expression of Tiv communalism and egalitarianism. It also highlighted the fact that the philosophy of Ya na Angbian reflects the Tiv principle of Equality in the socio-political sense. The chapter finally identified the impact of the modern pluralistic and heterogeneous society on the Tiv concepts of human rights and Equality.
In sum, the work has successfully demonstrated the fact that the African thought system is not devoid of the concepts of human rights and equality. The work has gone further to show the meaning, significance, justification, functions and implications of this concepts for it Tiv people in Nigeria especially in this age of globalization.

CONCLUSION

By way of conclusion, this research work observed in the foregoing that the West certainly did not invent the concept of rights, any more than it invented the idea of human equality. Their merit in this regard lies chiefly and solely in their systematic research which took the form of an open progressive discussion. However, this fact does not depict that other societies especially in Africa are devoid of any conceptions of human rights and equality in their indigenous thought system. This work, therefore affirms the availability of these concepts in the thought system of Africans with particular reference to the Tiv people of Benue State in Central Nigeria. It also noted the disparity between the western notion of human rights and the African conceptions in this regard, by observing that the former is individualistic and the latter is communalistic. The work further asserts the fact of the egalitarianism of the Tiv society and observed however, that they still acknowledge the inequality that emanates from one’s efforts to advance one’s inherently and ontologically embedded potentials.

We also noted the impact of the modern pluralistic and heterogeneous society on the thought system of the Tiv people as regards the notions of human rights and equality. However, it is the submission of this work that amidst the current socio-cultural transformation, there is an imperative need to rediscover and reaffirm our cherished and unique values so as to sustain our identity, uniqueness and personality in this age of globalization. So the genuine global discourse on human rights and the principle of human equality must recognize other perspectives of these concepts in the thought system of other societies around the world especially in Africa. For the Tiv people, in view of the modern concept of citizenship in this era of globalization and emergence of pluralistic society, they (Tiv) should modify their concepts of human rights to be ontologically based so that every person who is human no matter the background or genealogy should be able to enjoy the rights that are accruable to human beings and also be treated equally in line with the principle of human equality.
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