

Chapter 4

UNESCO Declaration: Enlightening the Cosmic Context of Global Bioethics

One of the most important components of the culture of Ubuntu is its respect for the essential cosmic/global context. The meaning of this context can be enlightened by considering the UNESCO Universal Declaration on Bioethics and Human Rights. One of the major components of the UNESCO Universal Declaration on Bioethics and Human Rights concerns justice. The ethical debate on human rights respects the universal primacy of the human person within the parameters of the principle of justice. Another major component of the UNESCO Universal Declaration on Bioethics and Human rights is based on diversity.

The debate on ethical responsibility must respect cultural and racial diversity within a global context. Another important component of the UNESCO Universal Declaration on Bioethics and Human Rights is respect for the biosphere. Respecting diversity includes respect for the biosphere as the cosmic context for discourse on ethical responsibility. This chapter explores all three components of UNESCO Declaration on Bioethics and Human Rights to enlighten Ubuntu's aspect of universal/global context. Before elaborating on the major themes of comparison between Ubuntu and the UNESCO's Universal Declaration on Bioethics and Human Rights section one gives a brief analysis of the articles of the declaration from Ubuntu perspective.

4.1 UNESCO Declaration on Bioethics and Human Rights from Ubuntu Perspective

The UNESCO Declaration on Bioethics and Human Rights is to a great extent formalization and systematization of the ideals of Ubuntu. Many scholars who understand indigenous cultures and their objectives, especially with regards to ethics and morality, realize that most articles of the UNESCO Declaration on Bioethics and Human Rights verbalize the content and ideals of such indigenous cultures. This section demonstrates the similarities between Ubuntu and UNESCO's Declaration on Bioethics and Human Rights. Needless to mention, Ubuntu represents many indigenous cultures.

4.1.1 Articles Regulating Societal/National, and Global Behavior

The UNESCO Declaration on Bioethics and Human Rights is not only about personal ethics. It is an official text of international and global bioethics. Even though its effect covers all individuals, the code transcends individuals to deal with their socio-geographical contexts. Much as it seeks to safeguard the good of the human race presently alive, the Declaration also transcends the present generation to protect the common good of humanity both now and in the future. The articles of the UNESCO Declaration on Bioethics and Human Rights helps one see how Ubuntu as a very simplified pragmatic philosophy of life aimed at, and worked on the same objectives and ideals.

4.1.1.1 Scope and Aims

Article number 1 section one of the Declaration, “addresses issues related to medicine, life sciences and associated technologies as applied to human beings, taking into account their social, legal and environmental dimensions.” Section two of article 1 states that the “Declaration is addressed to States. As appropriate and relevant, it also provides guidance to decisions or practices of individuals, groups, communities, institutions and corporations, public and private.”¹ Although Ubuntu is neither formalized nor systematic, it applies both to human beings as individuals and as a species. The treatment an individual or society gives to another individual or society define the subject. Life is relationship. According to Ubuntu, life devoid of relationship whatsoever is void. So many sayings and proverbs remind the society the importance of quality human relationship. A relationship does not only define the parties involved in it, it defines existence itself. Article number 26 cautions that the Declaration should be treated holistically as one document since its principles are interrelated and complementary to one another. It goes, “This Declaration is to be understood as a whole and the principles are to be understood as complementary and interrelated. Each principle is to be considered in the context of the other principles, as appropriate and relevant in the circumstances.”² This methodological article of the Declaration is so much similar to Ubuntu methodology. Ubuntu wisdom, guidance, regulations and ideals are all summarized and contained in this maxim: *a human being is human because of other human beings*. One’s actions should reciprocate the goodness that he/she has received from others/community. Personal actions should contribute to community’s project of creating and fostering individual and communal life. Specifics and details are not as important. Ubuntu is holistic in approach.

Article 27 underline the fact that state laws should “be consistent with international human rights law.” It elaborates, “If the application of the principles of this Declaration is to be limited, it should be by law, including laws in the interests of public safety, for the investigation, detection and prosecution of criminal offences,

¹ Andorno (2009b, p. 67).

² Andorno (2009b, p. 327).

for the protection of public health or for the protection of the rights and freedoms of others.”³ Like the Declaration Ubuntu applies universally to all human beings regardless their location on the globe. However, specific societies/communities may discipline or even execute a constituent who threatens either the life of the community as a whole or other lives.

Article number 28 denies “acts contrary to human rights.” The Declaration explains, “Fundamental freedoms and human dignity Nothing in this Declaration may be interpreted as implying for any State, group or person any claim to engage in any activity or to perform any act contrary to human rights, fundamental freedoms and human dignity.”⁴ Some scholars from the Western hemisphere misjudge Ubuntu as a kind of communistic dictatorship which does not care for individual rights, freedoms and dignity. The truth is, Ubuntu does care for all those individual rights and entitlements just as much as any other modern societal system. The difference is, Ubuntu cares for an individual necessarily within the matrix of society. Ubuntu fails to find individual rights outside the society or community because, in its view, no individual can survive outside the society.

Article 2 of the Declaration states the aims of the Declaration, which are:

- a. To provide a universal framework of principles and procedures to guide States in the formulation of their legislation, policies or other instruments in the field of bioethics;
- b. To guide the actions of individuals, groups, communities, institutions and corporations, public and private;
- c. To promote respect for human dignity and protect human rights, by ensuring respect for the life of human beings, and fundamental freedoms, consistent with international human rights law;
- d. To recognize the importance of freedom of scientific research and the benefits derived from scientific and technological developments, while stressing the need for such research and developments to occur within the framework of ethical principles set out in this Declaration and to respect human dignity, human rights and fundamental freedoms;
- e. To foster multidisciplinary and pluralistic dialogue about bioethical issues between all stakeholders and within society as a whole;
- f. To promote equitable access to medical, scientific and technological developments as well as the greatest possible flow and the rapid sharing of knowledge concerning those developments and the sharing of benefits, with particular attention to the needs of developing countries;
- g. To safeguard and promote the interests of the present and future generations;
- h. To underline the importance of biodiversity and its conservation as a common concern of humankind.⁵

³ Andorno (2009b, p. 334).

⁴ Andorno (2009b, p. 343).

⁵ Andorno (2009b, p. 81).

As it has been mentioned above, Ubuntu is not formal but its objectives for the individual and universal good of the human beings of this generation and of future generations is clear and indisputable.

Article 16's objective is protection of future generations. The article aims at regulating "the impact of life sciences on future generations, including on their genetic constitution."⁶ According to Ubuntu all life is sacred and it actually belongs to God. Human beings may not temper with life. It is the obligation of human beings to protect, nurture and cherish life as it comes from God through nature. In other words, Ubuntu philosophy would not condone taking risks with lives of future generations whether human, animate or vegetative.

Article 17 aims at protecting "the environment, the biosphere and biodiversity. The article states:

Due regard is to be given to the interconnection between human beings and other forms of life, to the importance of appropriate access and utilization of biological and genetic resources, to respect for traditional knowledge and to the role of human beings in the protection of the environment, the biosphere and biodiversity.⁷

Ubuntu hold nature as sacred, especially because of the role it plays to human life. As individual human beings cannot realistically be separated from the universal human society, so is the human species from nature. Bujo states, "African ethics treats the dignity of the human person as including the dignity of the entire creation, so that the cosmic dimension is one of its basic components."⁸ This perspective underlines ethical conduct may be "based on the individual but is realized primarily by means of a relational network that is equally anthropocentric, cosmic, and theocentric."⁹

4.1.1.2 Ideals and Values Protected

Article number 10 states, "The fundamental equality of all human beings in dignity and rights is to be respected so that they are treated justly and equitably."¹⁰

The very kernel of the essence of Ubuntu philosophy is acknowledgement of basic human equality which must not only be recognized but which must be protected and respected. The Statement: "a human being is a human being because of other human beings" does not only reveal human symbiosis and mutuality but also human basic equality. This recognition implies and obliges the ethical principles of justice, beneficence, nonmaleficence and solidarity.

Related to article number 10, is article number 11 which forbid discrimination. It states, "No individual or group should be discriminated against or stigmatized on any grounds, in violation of human dignity, human rights and fundamental freedoms."¹¹

⁶ Andorno (2009b, p. 243).

⁷ Andorno (2009b, p. 248).

⁸ Bujo (2001, p. 2).

⁹ Bujo (2001, p. 2).

¹⁰ Andorno (2009b, p. 173).

¹¹ Andorno (2009b, p. 187).

Ubuntu has strong regulations that guide and guard the society against discrimination. Not even war captives would be discriminated upon. Instead, they would be adapted as members of the society. Orphans would neither be allowed to feel nor know that their biological parent/parents were dead. They would naturally be adopted by uncles or aunties. Children belonged to the entire society. Strangers would be welcomed, fed and accommodated. People of other ethnicities would be made to feel at home. Unlike the modern Western tendency, Ubuntu did not verbalize much about the seriousness of discrimination, it resisted it vehemently.

Also closely related to article number 10 and 11 is article number 12 which recognize cultural diversity and pluralism. The article urges for respect for diversity and pluralism but warns about the limits of cultural pluralism and diversity. It states,

“The importance of cultural diversity and pluralism should be given due regard.

However, such considerations are not to be invoked to infringe upon human dignity, human rights and fundamental freedoms, nor upon the principles set out in this Declaration, nor to limit their scope.”¹² Among other values, Ubuntu is based on the recognition, not only of human essential equality, but also of human plurality and diversity. Ubuntu cherishes plurality and diversity as richness. Humans flourish on the otherness of others. In other words, it is human plurality and diversity that enrich each member of the society. Such diversity extends from personal to societal or national.

Article 13 is related to article 12. It states, “Solidarity among human beings and international cooperation towards that end are to be encouraged.”¹³ Just as a baby cannot make it by itself right after it is born, just as it needs other people to help it get gradually more independent, so does any individual remain in need of others/community for his/her self-actualization. For Ubuntu, human growth and development is a continuum that goes on from the womb into the society. It is within the society that one continually finds/realizes oneself. The deeper one relates with the society the more mature that person may become. Personal rights have to be enjoyed within the society because without the society the person does not exist. This principle of Ubuntu applies also for national states. Relationship and mutuality is crucial for human prosperity.

Article 14 is on social responsibility and health. It states:

1. The promotion of health and social development for their people is a central purpose of governments that all sectors of society share.
2. Taking into account that the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition, progress in science and technology should advance:
 - a. Access to quality health care and essential medicines, especially for the health of women and children, because health is essential to life itself and must be considered to be a social and human good;

¹² Andorno (2009b, p. 199).

¹³ Andorno (2009b, p. 211).

- b. Access to adequate nutrition and water;
- c. Improvement of living conditions and the environment;
- d. Elimination of the marginalization and the exclusion of persons on the basis of any grounds;
- e. Reduction of poverty and illiteracy.¹⁴

Relative to the wealth of the community/society, Ubuntu would unanimously and naturally set a poverty line below which no member of the society should be allowed to fall. In case of sickness or any condition that threaten or compromise human life, each member of the society would bring in his best contribution to save life regardless of the merits of the victim.

Article number 15 is based on distribution. It states,

1. Benefits resulting from any scientific research and its applications should be shared with society as a whole and within the international community, in particular with developing countries. In giving effect to this principle, benefits may take any of the following forms:
 - a. Special and sustainable assistance to, and acknowledgement of, the persons and groups that have taken part in the research;
 - b. Access to quality health care;
 - c. Provision of new diagnostic and therapeutic modalities or products stemming from research;
 - d. Support for health services;
 - e. Access to scientific and technological knowledge;
 - f. Capacity-building facilities for research purposes;
 - g. Other forms of benefit consistent with the principles set out in this Declaration.¹⁵

African society's reverence for life would never allow human life to be used in any way as a means to another end, even if that other end is another human life. It was very much in line with Aristotelian teleology. All human beings ultimately crave happiness or happy life. However, individual happiness is not the ultimate end since, as Aristotle noted, "For a while the good of an individual is a desirable thing, what is good for a people or for cities is a nobler and more godlike thing."¹⁶ In other words, the entire society is ultimately invested in the happiness of the society, which, in turn, is shared by the constituents of that society.

4.1.1.3 Implementation

Article number 19 of the UNESCO Declaration on Bioethics and Human Rights recommends establishment, promotion and support of "Independent, multidisci-

¹⁴ Andorno (2009b, p. 218).

¹⁵ Andorno (2009b, p. 231).

¹⁶ Aristotle (2000, p. 4).

plinary and pluralist ethics committees.” The Declaration explains the functions of such ethics committees as to;

- a. Assess the relevant ethical, legal, scientific and social issues related to research projects involving human beings;
- b. Provide advice on ethical problems in clinical settings;
- c. Assess scientific and technological developments, formulate recommendations and contribute to the preparation of guidelines on issues within the scope of this Declaration;
- d. Foster debate, education and public awareness of, and engagement in, bioethics.¹⁷

Traditional African society was organized partially according to the principle of subsidiarity. Division of labor, usually according to personal or group’s capabilities and talents was a *modus operandi*; specialized details like formation of ethics committees were inexistent. However, the functions of ethics committees would naturally be performed either by elders, or medicine men/women or chiefs and their councils.

Article number 20 states, “Appropriate assessment and adequate management of risk related to medicine, life sciences and associated technologies should be promoted.”¹⁸ In the traditional African society risk assessment and the balance between beneficence and nonmaleficence was basically the function of medicine men/women. However, when it was evident that a member of the society was actively dying, postponement of death or prolongation of the process of dying was not considered ethical.

Ubuntu believe in the eschatological life hereafter. For an actively dying person, risks would be taken that would save the life of the ill member of the society, otherwise the sick person would be initiated into the world of the *living-dead*, using the words of Mbiti. It is on these grounds Bujo raises the controversial ethical question: “Is it not an offence to human dignity to prolong life by artificial means when only a vegetative life is possible, or when the inevitable death can only be postponed for a few hours or days?”¹⁹

Article number 21 regulates transnational practices. It states,

1. States, public and private institutions, and professionals associated with transnational activities should endeavor to ensure that any activity within the scope of this Declaration, undertaken, funded or otherwise pursued in whole or in part in different States, is consistent with the principles set out in this Declaration.
2. When research is undertaken or otherwise pursued in one or more States (the host State(s)) and funded by a source in another State, such research should be the object of an appropriate level of ethical review in the host State(s) and the State in which the funder is located. This review should be based on ethical and legal standards that are consistent with the principles set out in this Declaration.

¹⁷ Andorno (2009b, p. 263).

¹⁸ Andorno (2009b, p. 271).

¹⁹ Bujo (1992, pp. 122–123).

3. Transnational health research should be responsive to the needs of host countries, and the importance of research contributing to the alleviation of urgent global health problems should be recognized.
4. When negotiating a research agreement, terms for collaboration and agreement on the benefits of research should be established with equal participation by those party to the negotiation.
5. States should take appropriate measures, both at the national and international levels, to combat bioterrorism and illicit traffic in organs, tissues, samples, genetic resources and genetic-related materials.

4.1.1.4 Promotion of the Declaration²⁰

Being an all-encompassing universal norm, regulation and ideal; and being a theory, ideal and praxis, Ubuntu transcends national boundaries into the essence of humanity that all members of the species share. Exploitation is against Ubuntu whether it is between few members of the society or between national states.

Article number 22 empowers and encourages states to implement the principles of the Declaration. It as well underlines implementation of article number 19 which concerns creation and utilization of ethics committees. It states,

1. States should take all appropriate measures, whether of a legislative, administrative or other character, to give effect to the principles set out in this Declaration in accordance with international human rights law. Such measures should be supported by action in the spheres of education, training and public information.
2. States should encourage the establishment of independent, multidisciplinary and pluralist ethics committees, as set out in Article 19.²¹

This article's requirements on the states regarding implementation remained a duty and an obligation of each member of the traditional African society. Leadership would naturally eventually oversee harmony and concordance within their societies, but every member of the society would be responsible for oneself and for others in matters of morals and good conduct.

Article number 23 urges states to provide "Bioethics education, training and information." The Declaration explains,

1. In order to promote the principles set out in this Declaration and to achieve a better understanding of the ethical implications of scientific and technological developments, in particular for young people, States should endeavor to foster bioethics education and training at all levels as well as to encourage information and knowledge dissemination programmes about bioethics.

²⁰ Andorno (2009b, p. 283).

²¹ Andorno (2009b, p. 293).

2. States should encourage the participation of international and regional intergovernmental organizations and international, regional and national non-governmental organizations in this endeavor.²²

For African traditional society, each moment and each event is an occasion of learning. Learning is always based on life experience. Particular cases would be remembered for many years and passed on to subsequent generations as warning, regulation or instruction regarding right behavior or right course of action.

Article number 24 underlines International cooperation. It stipulates,

1. States should foster international dissemination of scientific information and encourage the free flow and sharing of scientific and technological knowledge.
2. Within the framework of international cooperation, States should promote cultural and scientific cooperation and enter into bilateral and multilateral agreements enabling developing countries to build up their capacity to participate in generating and sharing scientific knowledge, the related know-how and the benefits thereof.
3. States should respect and promote solidarity between and among States, as well as individuals, families, groups and communities, with special regard for those rendered vulnerable by disease or disability or other personal, societal or environmental conditions and those with the most limited resources.

The recommendations made by this article synchronize with Ubuntu philosophy. Personal and societal cooperation for the sake of common good belongs to the meaning of Ubuntu. However, unfortunately international exploitation is rampant right from the times of slave trade. Nowadays slave trade has changed its appearance into the often hidden underground international exploitation in form of prostitution which takes advantage of financial vulnerability of the victims, experimentation on human subject in poor countries and similar imperialistic unethical practices. In this case UNESCO and Ubuntu could not agree more.

Article number 25 is on “follow-up action by UNESCO.” The article states,

1. UNESCO shall promote and disseminate the principles set out in this Declaration. In doing so, UNESCO should seek the help and assistance of the Intergovernmental Bioethics Committee (IGBC) and the International Bioethics Committee (IBC).
2. UNESCO shall reaffirm its commitment to dealing with bioethics and to promoting collaboration between IGBC and IBC.²³

One of the handicaps of UNESCO is its lack of authority to actually implement the Declaration. UNESCO’s Declaration on Bioethics and Human Rights still remains contingent on national states. As is evident in this number, it seeks collaboration of the Intergovernmental Bioethics Committee and the International Bioethics Committee. It is like a toothless dog that cannot bite. This situation is especially regret-

²² Andorno (2009b, p. 303).

²³ Andorno (2009b, p. 317).

table when the world is confronted by tragedies such as the Syrian one in which a national administration can decide to gas its own people to death. The crisis in Syria reflects societal need for Ubuntu philosophy.

4.1.2 Articles Regulating Individual Human Treatment

The ultimate beneficiary of the stipulations and regulations of the UNESCO Declaration on Bioethics and Human Rights is both the human race as species and as an individual who will live in an environment worth of his dignity. Thus the declaration gives several directions on the treatment of individual human beings. Hence, the scope of the Declaration is not limited to universal norms or guidelines; it is also for and about individual good.

4.1.2.1 Self Determination

Article 18 deals with decision-making and the bioethical issues around it. It stipulates,

1. Professionalism, honesty, integrity and transparency in decision-making should be promoted, in particular declarations of all conflicts of interest and appropriate sharing of knowledge. Every endeavor should be made to use the best available scientific knowledge and methodology in addressing and periodically reviewing bioethical issues.
2. Persons and professionals concerned and society as a whole should be engaged in dialogue on a regular basis.
3. Opportunities for informed pluralistic public debate, seeking the expression of all relevant opinions, should be promoted.²⁴

Although traditional medicine is not formalized Ubuntu philosophy favors informed decision-making. However, owing to Ubuntu worldview, decision-making and informed consent is not a private affair. Not only the patient would receive information that would help him make informed consent, the extended family or the community in which the patient belongs would also be involved in the process and participate in the decision-making.

Article 5 of the Declaration addresses respect for “Autonomy and individual responsibility.” The autonomy of persons to make decisions, while taking responsibility for those decisions and respecting the autonomy of others, is to be respected. For persons who are not capable of exercising autonomy, special measures are to be taken to protect their rights and interests.”²⁵ African concept of personal autonomy is necessarily relational. It has to be relational because, as Gyekye states, “The person is constituted, at least partly, by social relationships in which he necessarily

²⁴ Andorno (2009b, p. 255).

²⁵ Andorno (2009b, p. 111).

finds himself.”²⁶ Although personal life is real, its reality is only meaningful in the context of relationality.

As far as Africans are concerned, the reality of the communal world takes precedence over the reality of the individual life histories, whatever these may be.”²⁷ Hence, consent that excludes the inescapable network of relationships that form an extended family or community is simply unrealistic. It is from this perspective Osuji states, “consent rests on the consensus reached in consultation with the group rather than on that by the individual patient alone.”²⁸ In sum, African autonomy is realistically relational. This inescapable existential relationality of human personhood is the distinguishing and the greatest contribution of Ubuntu philosophy to the world.

Article 6 is closely related with article 5. It is on consent. It states,

1. Any preventive, diagnostic and therapeutic medical intervention is only to be carried out with the prior, free and informed consent of the person concerned, based on adequate information. The consent should, where appropriate, be expressed and may be withdrawn by the person concerned at any time and for any reason without disadvantage or prejudice.
2. Scientific research should only be carried out with the prior, free, expressed and informed consent of the person concerned. The information should be adequate, provided in a comprehensible form and should include modalities for withdrawal of consent. Consent may be withdrawn by the person concerned at any time and for any reason without any disadvantage or prejudice. Exceptions to this principle should be made only in accordance with ethical and legal standards adopted by States, consistent with the principles and provisions set out in this Declaration, in particular in Article 27, and international human rights law.
3. In appropriate cases of research carried out on a group of persons or a community, additional agreement of the legal representatives of the group or community concerned may be sought. In no case should a collective community agreement or the consent of a community leader or other authority substitute for an individual’s informed consent.²⁹ According to Ubuntu philosophy, information that is necessary for ethical decision-making is provided to the individual who belongs to the community.

It is provided to a father of children, to a child of somebody, an uncle or aunt of someone, to a mother of someone or to a niece or nephew of someone. There is no way this individual will be treated in isolation from this network of relationships. As stated before, to be is to relate and to belong. Failure to belong and to relate is tantamount to annihilation. Informed consent, therefore, is provided to a person who is necessarily in the context of belonging and relating. In other words, it is

²⁶ Gyekye (1997, p. 38).

²⁷ Menkiti (1984, p. 171, 180).

²⁸ Osuji (http://digital.library.duq.edu/cdm-etd/item_viewer.php?CISOROOT=/etd&CISOPTR=162271&CISOBBOX=1&REC=2).

²⁹ Andorno (2009b, p. 123).

provided by and through the extended family of the individual or the community in which the individual belongs.

Ubuntu ethics, which defines selfhood, personhood and individuality in terms of otherness, implies that reality is in unison. Human genre is a unity composed of a plurality of individuality. Basically, all individuals within the plurality are equal in dignity; so equal that each can only define his existence in terms of an-other. Consequently, any action that reduces a human person to a kind of means for an end is immoral. A human being who uses another person as a means is by his very actions not human, since one becomes human through other humans. Hence in Bantu languages we have phrases such as: “*Hana Utu!*” Swahili phrase which is literally translated as “He lacks humanness.” The phrase implies that a person is so lacking in morality (evidenced by his actions) that he is not human (since only human beings are moral beings in essence). In most African languages morality is synonymous with humanness.

4.1.2.2 Inability and Vulnerability

Article 7 has instruction on the treatment of “persons without the capacity to consent.” The Declaration instructs that, “in accordance with domestic law, special protection is to be given to persons who do not have the capacity to consent:

- a. Authorization for research and medical practice should be obtained in accordance with the best interest of the person concerned and in accordance with domestic law. However, the person concerned should be involved to the greatest extent possible in the decision-making process of consent, as well as that of withdrawing consent.
- b. Research should only be carried out for his or her direct health benefit, subject to the authorization and the protective conditions prescribed by law, and if there is no research alternative of comparable effectiveness with research participants able to consent. Research which does not have potential direct health benefit should only be undertaken by way of exception, with the utmost restraint, exposing the person only to a minimal risk and minimal burden and if the research is expected to contribute to the health benefit of other persons in the same category, subject to the conditions prescribed by law and compatible with the protection of the individual’s human rights. Refusal of such persons to take part in research should be respected.³⁰

African traditional ethics would never allow using a person as a means for another person. Every person is substantially equal to every other person. The vulnerable enjoy protection of everybody else in the community. Article 8 aims at protecting the vulnerable. The article urges respect for vulnerability and integrity of the vulnerable persons. It states, “In applying and advancing scientific knowledge, medical practice and associated technologies, human vulnerability should be taken into

³⁰ Andorno (2009b, p. 137).

account. Individuals and groups of special vulnerability should be protected and the personal integrity of such individuals respected.”³¹

Indigenous African communities have always given precedence to the, sick, bodily or mentally challenged and children. In many ethnicities failure to protect, enable and prioritize such special groups would call upon the healthy a wrath of God. It is always considered a blessing to care for those who cannot care for themselves. Implicitly, Ubuntu would never condone any kind of exploitation of the vulnerable.

Article 9 emphasizes Privacy and confidentiality. It states,

The privacy of the persons concerned and the confidentiality of their personal information should be respected. To the greatest extent possible, such information should not be used or disclosed for purposes other than those for which it was collected or consented to, consistent with international law, in particular international human rights law.³²

Ipsa facto that African life is to a very large extent a shared life, privacy and confidentiality is not as important as it is in modern Western medical ethics. MacIntyre very skillfully provides the rationale for this state of affairs. He states,

The story of my life is always embedded in the story of those communities from which I derive my identity. I am born with a past; and to try to cut myself off from that past, in the individualist mode, is to deform my present relationships. The possession of an historical identity and the possession of a social identity coincide. Notice that rebellion against my identity is always one possible mode of expressing it.”³³ Consequently, absolute privacy and confidentiality that may exclude family or immediate community is not possible. Equally important is the precedence of community over individual personal life. Senghor describes this reality artistically when he posits, “Negro-African society puts more stress on the group than 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.”³⁴ There is an individual life which is a tiny portion of the whole community life, and the two (individual and community life) are inseparable. Bujo notes that there is a unanimous consciousness of the primacy of community life over individual life. He asserts, “Every member of the community, whether it be family, clan or tribe, knows that he or she only lives by the life of the whole, and that God and the Founding Ancestor are sources of life.”³⁵

4.1.2.3 Individual Good Against Common Good Dilemma

Article number 3 underlines Human dignity and human rights. Instructs that

1. “Human dignity, human rights and fundamental freedoms are to be fully respected.

³¹ Andorno (2009b, p. 155).

³² Andorno (2009b, p. 165).

³³ MacIntyre (1984, p. 221).

³⁴ Senghor (1964, p. 49, 93–94).

³⁵ Bujo (1992, p. 124).

2. The interests and welfare of the individual should have priority over the sole interest of science or society.”³⁶ Ubuntu respects personal human dignity, fundamental freedoms and human rights in within the matrix of the society in which the individual belongs. Ubuntu differs in perspective with regards to article number 3 of the UNESCO Declaration on Bioethics and Human Rights. While the Declaration emphasizes the precedence and priority of individual interests and welfare, Ubuntu quite realistically refuses to disentangle the individual from his socio-geographical and historical contexts.

According to the philosophy of Ubuntu human dignity and the rights that accompany it are respected in a context of *Thou-I* relationship. The perspective is simply represented in the maxim, “I am because we are; and since we are, therefore I am.”³⁷ Basically Ubuntu underlines the often unrecognized role of relatedness and dependence of human individuality to other humans and the cosmos.³⁸ There is no conflict but mutual symbiotic affirmation between an individual and the community. This mindset is hardly understood in the West. Since the Declaration recommend respect for diversity and plurality this worldview must be recognized, understood and respected. Its foundation is represented in Bujo’s statement, “Individuals live only thanks to the community.”³⁹

The worldview mentioned above is not only a theory among Africans. It is an epistemological, psychological and ontological reality. Hence Bujo states “Africans do not think in ‘either/or’ but rather in ‘both/and’ categories.”⁴⁰ An individual is not against the community but with and for the community. Some critics have argued that this mentality is hazardous to individual’s identity and self-determination. “Recent research has proven conclusively that the group does not at all dissolve the ethical identity of the individual,”⁴¹ on the contrary, the group affirms and enhances the individual. The Ubuntu existential philosophy constantly underlines the undeniable role of otherness to selfhood. Implicitly, Ubuntu recognizes the significance of the bioethical principles of justice, beneficence, and non-maleficence, which tend to be wrongly preceded by that of autonomy.

In practice a patient would always be accompanied by some members of the extended family/community. This would always be the norm since one’s life does not belong solely to him/her. “According to Gikuyu ways of thinking,” for example, “nobody is an isolated individual. Or rather, his uniqueness is a secondary fact about him; first and foremost he is several people’s relative and several people’s contemporary.”⁴² Because of this constant awareness of belonging, “The personal

³⁶ Andorno (2009b, p. 91).

³⁷ Mbiti (1970, p. 41)

³⁸ Chuwa (<http://digital.library.duq.edu/cdm-etd/document.php?CISOROOT=/etd&CISOPTR=154279&REC=9>).

³⁹ Bujo (2001, p. 3).

⁴⁰ Bujo (2001, p. 1).

⁴¹ Bujo (2001, p. 6).

⁴² Kenyatta (1965, p. 297).

pronoun ‘I’ was used very rarely in public assemblies. The spirit of collectivism was much ingrained in the mind of the people.”⁴³ Thus, it is a common practice for a doctor to tell the diagnosis of a patient to the patient’s family before telling the patient himself. Usually this is done to solicit community or family support of the patient in accepting and dealing with the reality of his health condition.

Article 4 of the Declaration is on the principles of beneficence and nonmaleficence. It states, “In applying and advancing scientific knowledge, medical practice and associated technologies, direct and indirect benefits to patients, research participants and other affected individuals should be maximized and any possible harm to such individuals should be minimized.”⁴⁴ The philosophy of Ubuntu prioritizes the sick, the challenged and the vulnerable. It is the way one treats other people, especially those who are weaker than oneself that defines the individual’s morality.

Even though Africans do not have most of the technology referred to in article 4 of the Declaration, they do have in place moral regulation as per how the sick and the vulnerable should be treated. Exploitation of the sick is an abomination within African traditional society. Nursing homes are a new phenomenon in Africa and people run away from them. People would like to surround their sick or old with love and care. Vulnerability calls for more attention and protection.

4.2 Justice

One of the major components of the UNESCO Universal Declaration on Bioethics and Human Rights concerns justice. John Rawls explores the concept of justice as a complex theory.⁴⁵ Cunneen relates restorative justice and reparations in establishing truth and resolving conflict between both victim and offender while reintegrating them in the society.⁴⁶ Hans Kelsen demonstrates the difficulty of defining absolute justice, especially because justice is subordinate to, and defined by social order. Justice is, in his perspective, relative.⁴⁷ In his work “Religion without God, Social Justice without Christian Charity, and Other Dimensions of the Culture of Wars,” Cherry argues that all secular bioethics is empty if devoid of religious objectives.⁴⁸ He perceives ethics as a means to a religious end. However, the ethical debate on human rights respects the universal primacy of the human person within the parameters of the principles of justice. This component is based on two major concepts. The first concept concerns dignity and freedom within the matrix of the principles of justice and solidarity. The second concept concerns equality of human beings as a fundamental premise and both a requirement and objective of ethical discourse.

⁴³ Kenyatta (1965, p. 188).

⁴⁴ Andorno (2009b, p. 99).

⁴⁵ Rawls (1999).

⁴⁶ Cunneen (2008, p. 365).

⁴⁷ Kelsen (1996, pp. 183–206).

⁴⁸ Cherry (2009,) pp. 277–299).

4.2.1 *Dignity and Freedom*

The first concept of justice is that all human beings are naturally entitled to human dignity and fundamental freedoms. Denying them such entitlements violates their humanity.⁴⁹ Human dignity “has a key role in international bioethics” because all ethics is based on, and revolves around it.⁵⁰ The UNESCO Universal Declaration on Bioethics and Human Rights emphasizes that respect for human dignity and avoiding any abusive decision that would compromise human dignity for the sake of society “is of paramount importance.” The declaration noted, however, that in many cultures and traditions, family and the community are more important. Thus, “the primacy of the human person finds its limits in the principles of justice and solidarity.”⁵¹ The declaration intentionally linked bioethics and global problems such as access to quality health care, nutrition, drinking water, poverty and illiteracy to emphasize the global primacy of human beings.

Since human dignity and freedom should be reciprocated between individuals and the community and should be honored by both individuals and the community, the declaration introduced a new principle called “Social Responsibility.”⁵² Some critics deny UNESCO authority to set such universal standards or to even discuss ethics.⁵³ Most individual ethicists also face such criticisms.⁵⁴ There is need, however, to have universal standards for the sake of the common good of humanity. De Castro, Sy and Chin Leong raised the issue of the ‘global poor’ as an issue of social and distributive justice.⁵⁵ Hessler and Buchanan state that due to inequality in national economies and policies, distribution of healthcare is problematic.⁵⁶ However, healthcare being a human right, such impediment is a mere excuse.⁵⁷

After exploring and comparing healthcare systems in different national economies, Callahan and Wasunna discourage commercialized healthcare in the interest of human dignity.⁵⁸ Market forces of supply and demand do not necessarily recognize human dignity. Commercialized healthcare often aims at profit maximization at the expense of human dignity and freedom of choice. Ubuntu culture, though without formal written principles, fully recognizes, respects, and defends human dignity in practice. This work explores how Ubuntu assures human dignity and freedom within society as the matrix, which discerns and assures justice. Within Ubuntu, human life is invaluable. Everybody should do everything possible to pro-

⁴⁹ Andorno (2009b, pp. 91–98).

⁵⁰ Andorno (2007, p. 153).

⁵¹ Andorno (2009b, pp. 33–44).

⁵² Andorno (2009b, p. 33–34).

⁵³ Zwart (2007, p. iii).

⁵⁴ Zwart (2007, p. iii).

⁵⁵ de Castro et al. (2011, pp. 292–293).

⁵⁶ Hessler and Buchanan (2002, pp. 84–95).

⁵⁷ Rhodes et al. (2002, pp. 84–95).

⁵⁸ Callahan and Wasunna (2006, pp. 247–274).

tect and safeguard human life and dignity. This Ubuntu perspective is an inspiration to modern trends in healthcare.

4.2.1.1 Ethical Conflict Between Human Dignity and Commoditization of Healthcare

Since market economy operates on the basic principles of supply and demand, commoditization of healthcare tends to compromise human dignity. In commercialized medicine caregivers tend to specialize in the most marketable fields of medicine and patients who can afford to pay for better care or higher quality care receive better healthcare than those who cannot afford it. Treating the United States as a case study, in the last century medicine began to depend much more on sophisticated and specialized technology.⁵⁹ The advances in medical knowledge and efficiency of technology made technology an appealing option in medical care. Gradually, specialization became entrenched in the system as doctors focused on particular aspects of health such as radiology, neurology, allergy, cardiovascular surgery, oncology and other specialties. Such advances contributed to the shift to understand health care as a free-market commodity. Soon afterwards fee-for-service became the norm and included the opportunity to buy health insurance.⁶⁰

Once medicine became a commodity to be purchased, “insurance became particularly important in the United States as health care costs rose to cover the expenses of medical technology, education, specialization, staffing, and facilities.”⁶¹ Athena du Pre articulates the situation as follows:

The premise of insurance is to pool resources so that expenses are spread over a great number of people, saving any subscriber from overwhelming debt. The premise assumes that most people will not require more than they contribute and that enough people will subscribe to establish an adequate treasury.⁶²

With generous reimbursement of medical costs by third parties, physicians were autonomous in clinical decision-making that impacted on the care of their patients and did not have to worry about the impact of the cost of medical procedures and treatment choices. However, by 1960 health care was becoming increasingly expensive. Health insurance rates rose beyond the reach of many Americans.⁶³ By 2003, 41 million Americans had no health insurance.⁶⁴ At this point the harsh reality of market forces of supply and demand sidelining human dignity became more apparent.

Fiscal scarcity and the rapidly changing health care market resulted in a shift of health care organizations from being solely physician dominated, “guild-like system that depended upon diagnosis and treatment of the patient as an individual,” to

⁵⁹ du Pre (2000, p. 38).

⁶⁰ du Pre (2000, p. 39).

⁶¹ du Pre (2000, p. 39).

⁶² du Pre (2000, p. 39).

⁶³ du Pre (2000, p. 40).

⁶⁴ Physicians’ Working Group for Single-Payer National health Insurance. (2003)

an industrialized model. The industrialized model relies on population-based statistical evidence and fiscal resource availability to organize and to provide health care predictability. This shift made health care a business. Those who could not purchase healthcare had to go without.⁶⁵ Census report indicates that the number of Americans without health insurance has been rising.⁶⁶

The National Center for health Statistics reports that in 1984, approximately 30% of the population was without coverage. In 1993 that figure had risen to over 38% and by 1996 it had risen to nearly 40%.⁶⁷ In the year 1997, there were 40 million Americans without health insurance for the whole year.⁶⁸ This is over 16% of the entire population of the country. Currently approximately 47 million Americans have no health insurance. Among those who have insurance, there are many who have heavy health care burdens despite their being insured. Under insurance, a scenario whereby only some conditions are covered by insurers is common among marginalized portions of the society.⁶⁹

Underinsured people spend a disproportionate amount of their income on health care. According to a recent study, 45 million Americans live in families that spend more than 10% of after-tax income on health care.⁷⁰ Three Institute of Medicine studies reported that the most important determinant of access to health care is adequate insurance coverage.⁷¹ Even geographic areas with a robust safety-net care system fail to provide access to health services to the same extent as having health insurance.⁷²

Part of the reason for the increasing cost of health insurance is the linkage of health insurance and employment. Due to increasing cost, some employers abandoned provision of health insurance all together.⁷³ Another trend is cost sharing between employers and employees, in which case employers would pay a given portion while employees would pay a portion by themselves. Often this scenario resulted in some employees opting out due to the rising cost of insurance and cost of living.⁷⁴ According to Marie Conn, lack of insurance among the economically marginalized portions of the American population creates a vicious cycle. The poorer the population, the less coverage, since less coverage means paying out of pocket and since the poor tend to take more risks with their lives and are open to more risky situations, the poor tend to get sick more frequently and in higher numbers. Being sick more often and in higher numbers than their wealthier counterparts and having to pay more and more out of pocket results in an ever-worsening vicious cycle,

⁶⁵ Boyle et al. (2000, p. 10).

⁶⁶ Kuttner (1999b, pp. 163–164).

⁶⁷ Centers for Disease Control and Prevention. (2012).

⁶⁸ Kuttner (1999b, pp. 163–168).

⁶⁹ Aday (1993, pp. 50–55).

⁷⁰ Schoen et al. (2005, pp. w5-289–302).

⁷¹ Institute of Medicine June (2003).

⁷² Institute of Medicine (2002).

⁷³ Freudenheim (1999, pp. 248–252).

⁷⁴ Kuttner (1999a, pp. 248–252).

which in return compromises human dignity even more.⁷⁵ The group of people who most need the coverage become the most likely to be denied coverage; the higher their need for insurance coverage, the less the possibility of receiving any.⁷⁶

Those with limited coverage end up being denied coverage where they most need it since insurance providers are conditioned by market forces geared toward profit maximization. Most insurers tend to exclude some occupations, forms of industry, geographical areas, people with pre-existing conditions or those prone to some sort of illnesses.⁷⁷

The wealthiest portion of the population gets the best insurance coverage in the world since they receive their coverage as a contract with third party insurance companies.⁷⁸ Since it is a private contractual right, however, its provision is contingent on employment in companies that can afford to provide such access.⁷⁹ The access is conditioned by continuing employment. Unfortunately such kind of access is on the decrease due to rising costs of health care and the cut back on financing of health insurance by employers.⁸⁰

Due to the severity of market forces' control of healthcare, there has been a lot of abuse and neglect, which in turn would compromise human dignity. This situation led to creation of the Emergency Medical Treatment and Active Labor Act (EMLATA) by Congress in 1986. EMLATA is a limited legal right of "anti-dumping." Creation of EMLATA is a response to the dumping of so many uninsured sick persons, some in life threatening conditions. EMLATA's objective is to ascertain that uninsured patients will receive at least a minimum standard of emergency care regardless their ability to pay out of pocket.⁸¹ Anti-dumping, however, neither addresses chronic conditions nor provides for continuity of care after the emergency treatment.

This situation indicates a major flaw in the system. It reveals a counterproductive situation in which the essence of the problem is not dealt with but the outcome of the problem. The problem is lack of healthcare coverage. Instead of proactively preventing the crisis, the system provides for a safety-net that only deals with the crisis when it happens. Such a scenario is generally inefficient and in the long run uneconomical.⁸² There is an obvious issue of injustice in such a system. The following section explores possibilities of true justice.

4.2.1.2 Rawls' Perspective of Justice

The objective of Rawls theory of justice is to offer a fairer alternative to traditional concepts of utilitarianism and perfectionism as foundational theories of justice. His start-

⁷⁵ Conn (1997, pp. 899–1000).

⁷⁶ Whitted (1993, pp. 332–337).

⁷⁷ Bettistella and Kuder (1993, pp. 6–34).

⁷⁸ Sultz and Young (1997, pp. 286–287).

⁷⁹ Etheredge et al. (1996, pp. 93–104).

⁸⁰ Kuttner (1999a, pp. 248–252).

⁸¹ Emergency Medical Treatment and Active Labor (EMLATA) (1998).

⁸² Showalter (1999, Chap. 4).

ing point is an imaginary hypothetical starting position, which would legitimize social contracts. Rawls conceives justice as fairness. His pursuit of fairness led him to the development of his two famous principles of justice: the liberty principle and the difference principle. Rawls identifies the primary subject of justice as the basic structure of society, or more specifically the way in which major social institutions distribute fundamental rights and duties and determine the division of advantages from social cooperation.⁸³ His concept of justice is a provision of a standard, which improvises for the possibility of assessing the distributive aspects of the basic structure of the society.⁸⁴

Rawls' original position is imaged as a hypothetical ideal in which no one knows his place in society, his class position or social status, his fortune in distribution of natural assets and abilities, his intelligence, strength or any other endowment. This state of affairs ascertains that the fundamental agreements reached in it are fair, since Rawls' meaning of justice is fairness. In the original position, all parties involved are equal. All have the same rights in the procedure for choosing principles; each can make proposals and submit reasons for their acceptance. This hypothetical condition along with the "Veil of Ignorance" define the starting point of the principles of justice as those which rational persons concerned to advance their interests would consent to as equals when none are known to be advantaged or disadvantaged by social and natural contingencies.⁸⁵

Rawls' imagined ideal of the original position entails what he called "Veil of Ignorance," that is, a virtual committee of rational but not envious persons who would exhibit mutual disinterest in a situation of moderate scarcity as they consider the concept of rightness. Such concept has to be general in form, universal in application and publicly recognized. Rawls claims that rational people will unanimously adopt his principle of justice if their reasoning is based on general considerations, without knowing anything about their own personal situation. Such personal knowledge might tempt them to select principles of justice that gave them unfair advantage.⁸⁶

Rawls identifies two principles that he believes would be chosen by all participants under the veil of ignorance in the original position. He further contends that the principles must be arranged in a serial order with the first principle prior to the second so that they do not permit exchanges between basic liberties and economic and social gains.⁸⁷ The two principles require equality in governing the assignment of rights and duties and regulating the distribution of social and economic advantage.⁸⁸ The first principle is that, each person is to have an equal right to the most extensive scheme of equal basic liberties compatible with a similar scheme of liberties for others.⁸⁹

The second principle is that social and economic inequalities are to satisfy two conditions: (a) they are to be attached to positions and offices open to all under

⁸³ Rawls (1971, p. 7).

⁸⁴ Rawls (1971, p. 9).

⁸⁵ Rawls (1971, p. 17).

⁸⁶ Rawls (1971, pp. 130–135).

⁸⁷ Rawls (1971, p. 63).

⁸⁸ Rawls (1971, p. 61).

⁸⁹ Rawls (1971, p. 60).

conditions of fair equality of opportunity; and (b) they are to be to the greatest benefit of the least advantaged members of society (the difference principle).⁹⁰ Thus, although the distribution of wealth and income need not be equal, it must be to everyone's advantage, and positions of authority and offices of command must be accessible to all.⁹¹

There is striking similarity between Rawls' concept of justice as fairness and the basic idea of Ubuntu justice. Ubuntu does not condone dangerous inequality that may reduce a person from his essential equality with other persons on one hand, while on the other hand Ubuntu is not socialism in the sense that it does allow difference and entitlement in ownership. The permissible difference, however, is not only to the advantage of the privileged but, especially, to the advantage of the marginalized. Rawls' theory, as is Ubuntu perspective, entails a mechanism which safeguards human dignity and essential human equality while allowing some realistic entitlement and liberty. There is imbedded in the system a safety-net which prevents the gap between the richest and the poorest from enlarging disproportionately.

The rationale for regulating the economic gap between the richest and the poorest is well explained by Schrecker. He argues that "Most scarcities that underpin health disparities within and among countries are not natural; rather, they result from policy choices and the operation of social institutions." Schrecker argues for "denaturalizing scarcity as a strategy for enquiry to inform public-health ethics in an interconnected world." In his view, most scarcity is man-made.

It results from wrong policy in distribution of natural resources or products of human labor between human individuals and between populations or geographical regions. Thus "denaturalizing scarcity represents a valuable alternative to mainstream health ethics, directing our attention instead to why some settings are 'resource poor' and others are not."⁹²

Rawls' theory of justice as fairness is inherently a theory of caring justice in the sense that it recognizes and safeguards human equality, dignity, basic rights and the principle of subsidiarity. The principle of subsidiarity appreciates every person's contributions while, at the same time, encourages participation and protection of those who cannot participate. Basically, Ubuntu worldview is similar to Rawls' theory of justice. UNESCO Declaration on Bioethics and Human Rights is in many ways in agreement with Rawls' theory of justice. Rawls' justice is not against ethical liberalism; rather it regulates liberalism so that it is not disproportional thus unethical.

4.2.1.3 Nagel on Rawls' Concept of Liberalism

Nagel notes that "Rawls interprets both the protection of pluralism and individual rights and the promotion of socioeconomic equality as expressions of a single value—that of equality in the relations between people through their common politi-

⁹⁰ Rawls (1971, p. 83).

⁹¹ Rawls (1971, p. 61).

⁹² Schrecker August (2008, p. 600).

cal and social institutions.” The foundation of justice rests in the basic structure of society. The kernel of such structure is human equality. If the structure “deviates from this ideal of equality, we have societally imposed unfairness, hence the name ‘justice as fairness.’” Thus the society is responsible for the structure that either supports fair treatment of all its members or supports unfair treatment of some of its members, which ultimately becomes unfair treatment of all members of the society. The society as a corporate person is not exempt. To underline this structural ethical reality Nagel states that “a society fails to treat some of its members as equals whether it restricts their freedom of expression or permits them to grow up in poverty.”⁹³

Nagel does not only approve Rawls’ theory of justice, he states that it is “the fullest realization we have so far of this conception of the justice of a society taken as a whole whereby all institutions that form part of the basic structure of society have to be assessed by a common standard.”⁹⁴ Credibility of Rawls’ theory of justice as fairness consists of the fact that it starts from scratch and at a point of imaginable ideal but also real and factual equality which should not be overlooked, even in the sophisticated and complicated structures of modern societies.

The theory then protects the essential common human values that all human beings share. It protects and defines human freedom in relation to fairness based on human inviolability. Nagel writes “The protection of certain mutual relations among free and equal persons, giving each of them a kind of inviolability, is a condition of a just society that cannot, in Rawls’ view, be explained by its tendency to promote the general welfare. It is a basic, underived requirement.”⁹⁵ The kernel of Rawls’ theory therefore is equal human dignity which must be given its due fairness wherever humans are located geographically, socially and economically.

To be ethically justifiable the equality of human dignity which calls for its share of fair treatment should not overlook, undermine or suppress diversity, plurality and liberty. The first of Rawls’ principles is thus one of irreducible and undeniable equality while the second principle is one that protects ethically reasonable and essential inequality. Nagel relates that

Rawls’ difference principle is based on the intuitively appealing moral judgment that all inequalities in life prospects dealt out to people by the basic structure of society and for which they are not responsible are *prima facie* unfair; these inequalities can only be justified if the institutions that make up that structure are most effective in achieving an egalitarian purpose—that of making the worst-off group in the society as well off as possible.⁹⁶

In praxis an affluent society bears ethical responsibility of ascertaining that the disadvantaged children born to a poor family gets all basic needs and the education they need to have a fair chance to self-actualize and be free to excel just as children of the wealthy members of the society. In other words, if the poor keep getting poorer and keep being deprived of chances to get out of their poverty even if they

⁹³ Nagel (2003, p. 65).

⁹⁴ Nagel (2003, p. 63).

⁹⁵ Nagel (2003, p. 65).

⁹⁶ Nagel (2003, p. 71).

would want to; if they are not enabled by their wealthier counterparts because the structure does not support it, the whole socio-economic structure is unethical.⁹⁷

People ought not be systematically rewarded or penalized “on the basis of their draw in the natural or genetic lottery.” The only way to justify difference is to ensure that “the system works to the maximum benefit of the worst off” because, as Nagel articulates, “People do not deserve their place in the natural lottery any more than they deserve their birthplace in the class structure, and they therefore do not automatically deserve what ‘naturally’ flows from either of those differences.”⁹⁸

Rawls’ justice neither disregards nor ignores human plurality. Interpreting Rawls, Nagel writes “that pluralism and toleration with regard to ultimate ends are conditions of mutual respect between citizens that our sense of justice should lead us to value intrinsically and not instrumentally.” However, the “Veil of Ignorance” is crucial since it protects the basic commonality and equality of human nature without undermining accidental differences. Interpreting Rawls Nagel writes, the “feature of the veil of ignorance, like not knowing one’s race or class background, is required because Rawls holds that equal treatment by the social and political systems of those with different comprehensive values is an important form of fairness.”⁹⁹

Plurality is to the advantage of the society. According to Rawls, “A wide range of views, forming the plurality typical of a free society, are reasonable and can support the common institutional framework.” Rawls calls this ethically justified plurality “an ‘overlapping consensus’.” Which means the uniqueness and the simultaneous compatibility of each of the “comprehensive views with a free-standing political conception that will permit them all to coexist.”¹⁰⁰

Rawls’ theory of justice, therefore, cannot be ignored by those who are concerned with social justice. The UNESCO Declaration on Bioethics and Human Rights, either directly or indirectly is inspired by, or has a lot in common with Rawls’ theory of justice as fairness. Trying to justify the objectivity of Rawls’ theory of justice, Nagel writes “Rawls has not only expressed a distinctive position but provided a framework for identifying the morally crucial differences among a whole range of views on the main questions of social justice.”¹⁰¹ Needless to say, Rawls’ theory of justice has a lot in common with Ubuntu perspective of justice. The imbedded socio-autonomous recognition of human essential equality to be protected; the importance of recognition and use of difference and plurality; especially how difference should be to the advantage of the most disadvantaged (by genetic pool or other factors) almost equate Rawls’ theory of justice with the indigenous Ubuntu perspective of justice.

⁹⁷ Nagel (2003, p. 69).

⁹⁸ Nagel (2003, p. 72).

⁹⁹ Nagel (2003, p. 73).

¹⁰⁰ Nagel (2003, p. 84).

¹⁰¹ Nagel (2003, p. 72).

4.2.2 *Equality*

The second concept of justice is the acknowledgement of universal human equality and equity, which is fundamental in ethics discourse on all that impacts humans regardless of their uniqueness and difference.¹⁰² D'Empaire notes that the "principles of equity, justice and equality are basic in ethics and they have to be considered as part of any ethical system."¹⁰³ This statement is consistent with article 10 of the UNESCO Universal Declaration on Bioethics and Human rights which states that, "The fundamental equality of all human beings in dignity and rights is to be respected so that they are treated justly and equitably."¹⁰⁴ The Declaration recognizes and emphasizes human equality which should lead to treating each human being with equity and justice.

However, basing their argument on the draft of the declaration, Rawlinson and Donchin argue that the formulation of the universal principles of the UNESCO Declaration on Bioethics and Human Rights relies solely on shared ethical values while ignoring the differences which occur as a result of different cultures and fixed structural economic differences. They contend that the UNESCO Declaration on Bioethics and Human Rights is too abstract to be applicable.¹⁰⁵

Dan Beauchamp makes a case against the commercialization and commoditization of healthcare.¹⁰⁶ From his perspective, commoditization of healthcare works against human equality. However, the challenge of translating theoretical understanding into real, practical life situations confronts all of human society. Presently, many populations are denied basic human rights throughout the globe.¹⁰⁷ Some marginalized people have been used as a means to an end by other humans. McDonald and Preto address this ethical problem in the area of global health research as conflict of interest. Daniels explores the global crisis of inequality in healthcare in depth.¹⁰⁸ Inequality in healthcare is an issue of justice which results in the denial of human equality to the victims.¹⁰⁹ Ubuntu worldview helps review the importance of assuring basic human equality for human common good.

Inequality in healthcare distribution remains a global problem even if healthcare is considered a human right that reflects respect for human dignity. Although some governments have ways to regulate healthcare distribution in order to ascertain the decent minimum for all, the still problem of unequal distribution remains. Ubuntu recognizes the equal dignity of humans in a rather practical way. Every human being has something to offer to every other human being, even if it is provision of an opportunity to help. One's very personhood is based on the recognition of other persons as equals to oneself and as participants in the formation of one's personhood.

¹⁰² d'Empire (2009, pp. 173–185).

¹⁰³ d'Empaire (2009, pp. 175–176).

¹⁰⁴ d'Empaire (2009, p. 173).

¹⁰⁵ Rawlinson and Donchin (2005, pp. 1471–8731).

¹⁰⁶ Beauchamp (1988, pp. 31–68).

¹⁰⁷ d'Empaire (2009, pp. 180–182).

¹⁰⁸ Daniels (2008, p. 333).

¹⁰⁹ McDonald and Preto (2011, pp. 327–329).

In Ubuntu culture it is the responsibility of everyone to ascertain the provision of decent minimum of care for all. Healthcare in Ubuntu reflects reverence for life as a matter of religion, morality and essence of humanity.

4.2.2.1 Castro, Sy and Leong on the Global Need to Address Dehumanizing Poverty

According to Castro, Sy and Leong extreme poverty and destitution among indigenous peoples is a global responsibility.¹¹⁰ Its mere presence indicates unjust global socio-economic distributive structures. Morally, rich countries, individuals and corporations cannot exempt themselves from the plight of the global poor. Sy and Leong contend that “A corporation’s responsibility to address the health needs of the poor extends beyond the country in which it directly operates. It has to be concerned with the global implications of its operations and not merely be preoccupied with the limited impact at the national or community level.”¹¹¹ Sy and Leong’s approach is cosmopolitan in the sense that in their view, countries, corporations and individuals belong to a global community. Cosmopolitanism contends that “distributive justice applies globally, not simply nationally or locally; therefore, there are moral obligations to address the plight of the poor of the world as a whole.”¹¹²

The mere existence of abject poverty facilitates a moral slippery slope whereby the poor are forced by their poverty to become poorer to the point of being exploited in their very humanity. Having no way out, the poor populations may easily be forced to become a means to an end for the rich. Organ transplantation trade is a good example. Sy and Leong observe that “Massive poverty in developing country communities has provided the backdrop for debates regarding compensation for organ donors. In some communities, organ selling has reached wholesale proportions, making organ trading a literal reality.” This situation demonstrates how poverty may set humans into a slippery slope of moral degradation whereby human dignity is compromised. In this case the poor are literally used as a means to the ends of the rich.

“Patients from affluent foreign countries have exploited the opportunities that are ably facilitated by clandestine brokers, thus setting in motion a practice that has straddled the boundary between transplant tourism and organ trafficking.”¹¹³ There is structural injustice when humans are forced to become a mere means; or where the situation is that of struggle for survival and survival of the fittest or strongest since such situations drain the essence of humanity by compromising its dignity. This degradation of humanity does not merely apply to the exploited poor. It applies to the entire human community.

Organ transplantation trade may lead to a situation morally similar to slave trade since people who would otherwise not give up their organs are forced by their pov-

¹¹⁰ de Castro et al. (2011, pp. 291–292).

¹¹¹ de Castro et al. (2011, p. 292).

¹¹² de Castro et al. (2011, p. 292).

¹¹³ de Castro et al. (2011, p. 297).

erty to do so against their will for sake of survival. According to Sy and Leong “organs such as kidneys and livers must be regarded as sacrosanct and outside the realm of commerce. On this basis many hold that organ donation must always be motivated only by altruism,” especially because of irreducible human dignity. “Monetary considerations demean human donors and transform their bodies into commodities that can be reduced to a monetary or material equivalent.”

It is because of the urgency to avoid the inevitable compromise of human dignity through human organ trade that “the Declaration of Istanbul on Transplant Tourism and Organ Trafficking rejects ‘transplant commercialism’ as ‘a practice in which an organ is treated as a commodity.’”¹¹⁴ Any form of directly or indirectly forced commercialism on human tissue or organ is unethical. If poverty makes people sale their own members, poverty is a structural moral evil that human community has to eradicate.

No government should prohibit its marginalized populations from engaging in illegal human organ trade if the government cannot provide for their basic need to survive. This means the problem of organ transplantation trade is much more complicated than it may look. It is a structural problem. Wherever it is happening, the immediate society and ultimately the global human society is responsible and culpable. Sy and Leong state that “Society that deliberately and systematically neglects the basic needs of the poor is being indifferent to the plight of this population and cannot be justified in prohibiting the means the poor have to address the problems themselves.”¹¹⁵ Consequently, prohibiting organ transplantation trade should be preceded by addressing the root cause of such dehumanizing trade, which is poverty. Ubuntu maxim that human beings are human because of other humans, or put briefly, “I am because you are” means that no one is free from the plight of other humans. Claiming such freedom from others would mean claiming inhumanity.

4.2.2.2 Beauchamp on the Ethical Need for Basic Human Equality in Medicine

The foundation of Beauchamp’s argument is human equality within the state. His main premise is “common membership in a republic of equals.” It is human equality and common membership of citizens in a republic that is the foundation of health-care distributive justice. “Illness is the relevant reason for distributing medical care and health protections.” The daunting ethical task is discernment and determination of the most ethical “pattern of organization of equality we ought to employ to make the equal distribution of medical care effective.”¹¹⁶

According to Beauchamp the distinguishing feature of a central government is its duty to protect public health based on citizens’ equality. In other words, it is unjust for a republic’s government to fail to safeguard both equality and health of its citizens.¹¹⁷ Beauchamp emphasizes on the objective of a republic as attempting “to

¹¹⁴ de Castro et al. (2011, p. 297).

¹¹⁵ de Castro et al. (2011, p. 298).

¹¹⁶ Beauchamp (1998, pp. 2–3).

¹¹⁷ Beauchamp (1998, pp. 11–12).

foster a sense of common membership and community.” In his view “community like friendship, family, kinship, fraternity, and patriotism, refers to shared sentiments and attachments that bind people or groups to one another.

A republic, with its stress on virtue and a shared common life, is a species of political community.”¹¹⁸ Consequently, the ethical government’s goal is to create, foster, and protect a community of equals. In order to achieve common good and promote harmony and equality the republic has a duty to limit individual liberty.¹¹⁹ Thus defining and limiting individual liberty belongs to the kernel of justice. Beauchamp states that “Justice, in my account, is based not only on considerations of what each citizen needs but also on considerations for what everyone needs together.”¹²⁰

In as much as human equality is undeniable, widening gap between the rich and the poor that tends to indicate essential human inequality is obviously unethical, unjustifiable and intolerable. Such dehumanizing gap is unethical specifically because it is unreal and untrue. Beauchamp explains this as follows: “The very obviousness of a common and shared equality is the political glue for equality and justice in health, making it more difficult to island the poor, commercialize medicine, or allow an uncontrolled and expensive medical technology to erode further the society’s commitment to equality in health.”¹²¹

The greatest single threat to human essential equality in healthcare is the ongoing commercialization of healthcare. Commercialization of healthcare is commoditization of healthcare. Commoditization of healthcare gives market forces of supply and demand precedence over human dignity. Beauchamp explains this fact in a more practical way when he states that “As medicine moves deeper into the stronghold of the market, justice for the poor and the vulnerable will be increasingly unstable and the politics of a democratic majority moving to a common health care system may be permanently undermined.”

In other words, the healthcare system is becoming unethical because it is being influenced and motivated by wrong objectives: the market. Beauchamp refers to this ethically dangerous phenomenon when he states that “the health care system, far from serving as a symbol of shared equality, is rapidly becoming a symbol of inequality.”¹²² One of the most obvious examples is the tendency to tend to deny coverage to those most in need due to profit maximization motive that has infiltrated healthcare. Beauchamp observes that “it is the ordinary and rational insurance practice to eliminate wherever possible from coverage, the highest utilizers of care, that is, ironically, those who most need care.”¹²³

Beauchamp laments that Americans resist health reform because, “we wish to provide a welfare state without the inconvenience of limiting the market.” Unfortunately it is not possible to have both scenarios. “We will have to decide soon, perhaps for all time, whether we want a just health care system or market institutions that spread

¹¹⁸ Beauchamp (1998, p. 15).

¹¹⁹ Beauchamp (1998, p. 22).

¹²⁰ Beauchamp (1998, p. 40).

¹²¹ Beauchamp (1998, p. 40).

¹²² Beauchamp (1998, p. 47).

¹²³ Beauchamp (1998, p. 51).

to every corner of American life. Our choice will have profound consequences for healthcare, for equality, and for the American republic.”¹²⁴ Opting to subject humans under the mercy of market forces is obviously unjust to human common dignity and equality. Human equality, however, ought not to undermine individual pursuit of individual good. Beauchamp explains how best to pursue individual interest ethically. His explanation is concomitant with Ubuntu perspective. He states that “In republican equality we promote our own good and our shared common good within the same democratic scheme.”¹²⁵ Since individuals humans are inseparable from society because of their social nature and neediness for society, individual pursuit of fulfillment and happiness cannot be separate from societal objectives for the common good.

4.2.2.3 Daniels on Ethics of Ignorance and International Harm in Healthcare

According to Daniels, there is an obvious colossal injustice within the global healthcare system. This global injustice within healthcare though global responsibility is ignored by individual persons, corporations and states. To explicate global inequality and injustice in health care Daniels uses the following data:

Life expectancy in Swaziland is half that in Japan. A child unfortunate enough to be born in Angola has seventy-three times as great a chance of dying before age five as a child born in Norway. A mother giving birth in southern sub-Saharan Africa has 100 times as great a chance of dying in labor as one birthing in an industrialized country.

For every mile one travels outward toward the Maryland suburbs from downtown Washington, D.C., on its underground rail subsystem, life expectancy rises by a year—reflecting the race and class inequalities in American health.¹²⁶

Health inequality between social groups according to Daniels results from “an unjust distribution of socially controllable factors that affect population health and distribution.” Health inequalities follow different but often times common patterns. Often health inequalities are “by race and ethnicity, by class and caste, and by gender—in many countries, both developed and developing.”¹²⁷

Most of the harm to the poor peoples of the world results from ignorance of the rest of world’s population about its obligations to the poor, ignorance of human rights and the need to respect them, and insensitivity to the plight of the poor. Daniels argues that “health of citizens of a specific nation is a responsibility of that specific nation. However, there are international breaches of human rights in form of omission or ignorance from wealthy nations to poor nations.” There are other oppressive or exploitative practices which are unjust to the poor and which marginalize them even more but often go on unnoticed. Some of those injustices are: hazardous waste

¹²⁴ Beauchamp (1998, p. 67).

¹²⁵ Beauchamp (1998, p. 132).

¹²⁶ Daniels (2008, p. 333).

¹²⁷ Daniels (2008, p. 334).

disposal from industrialized countries in poor developing countries, international policies that intentionally or unintentionally harm poor countries, and brain drain.¹²⁸

Brain drain by the global affluent countries from poor countries is worth attention since it is not only global ethical challenge, it is growing rapidly. “Rich countries have harmed health in poorer ones by solving their own labor shortages of trained health care personnel by actively and passively attracting immigrants from poorer countries.” For individual survival or gain, the poor struggle to leave their poor countries to find a better life in the developed countries. Unfortunately, those who can even afford to think of that migration are the well trained ones. Their leaving their own countries harms the countries which have spent their little fortune to educate them. Such poor countries are doubly harmed as they are forced by harsh realities of market forces to let go of what they need the most. On the other hand countries which already have many health professionals benefit by gaining even more supply. “In developed countries such as New Zealand, the United Kingdom, the United States, Australia and Canada, 23–24% of physicians are foreign-trained. In 2002, the National Health Service in the United Kingdom reported that 30,000 nurses, some 8.4% of all nurses, were foreign trained.”¹²⁹

International brain drain leaves the donor countries in a humanly unethical shape. The situation that results after brain drain in developing countries is dire. Over 60% of the doctors trained in Ghana in the 1980s emigrated overseas. In Ghana, 47% of physicians’ posts and 57% of registered nursing positions were unfilled. Some 7,000 expatriate South African nurses work in developed countries, while there are 32,000 public health nursing vacancies in South Africa. Whereas there are 188 physicians per 100,000 population in the United States, there are only 1 or 2 per 100,000 in large parts of Africa.¹³⁰

Even though some of the brain drain is not intentional, the harm is obvious as seen in the above figures provided by Daniels. Although the intent to harm is rarely present, the benefit is often times intended. Some developed countries even give incentives to attract professionals into their countries, regardless the harm done to the donating countries. The severity of the harm done to the economies and the people of donor countries can hardly be accurately measured:

In any case, great care must be taken to describe the baseline in measuring harm. Such a complex story about motivations, intentions, and effect might seem to weaken the straightforward appeal of the minimalist strategy, but the complexity does not undermine the view that we have obligations of justice to avoid harming health.¹³¹

Internationality and grandiosity of the brain or talent drain should not conceal its essential injustice. There is need to address this growing international problem.

Permanent or long term solution of the problem of brain or talent drain lies in recognizing human equality and addressing the core causal factors. Daniels explains the need to “move beyond minimalist strategy that justifies only avoiding and cor-

¹²⁸ Daniels (2008, p. 338).

¹²⁹ Daniels (2008, p. 338).

¹³⁰ Daniels (2008, p. 338).

¹³¹ Daniels (2008, p. 340).

recting harms. How far we go toward robust egalitarian considerations is a matter to be worked out.” However, egalitarian perspective is crucial if at all solution is to be found and maintained.

There is need to develop national and international institutional structures, based on human equality to discourage unethical brain and talents drain.¹³² Just health cannot be an exclusive pursuit of an individual person or nation. As Daniels puts it, it is individual, societal, national and international pursuit. There is an essential unity of human genre which cannot be denied.¹³³ Ubuntu warns that no humanity is possible independent of human relationships. This inspiration is not limited to unique individuals; it applies to the entire global human community. Reducing any human individual or nation to a means for another individual or nation harms the essence of human nature and its dignity.

4.3 Diversity

The second major component of the UNESCO Universal Declaration on Bioethics and Human Rights is based on diversity. The debate on ethical responsibility must respect cultural and racial diversity within a global context. Respect for diversity has two important concepts. The first concept concerns cultural pluralism within the limits of human rights. The second concept concerns nondiscrimination based on essential human equality.

4.3.1 *Cultural Pluralism*

UNESCO advocates for respect for cultural pluralism based on, not at the expense of, human dignity.¹³⁴ Article 12 of the UNESCO Universal Declaration on Bioethics and Human rights clearly recognizes the importance of cultural diversity. However, the article indicates that cultural values are secondary to human rights. Universal human rights “guarantee the particular expression of individual cultures.”¹³⁵ Human rights should, on the other hand, limit and provide for boundaries with respects to cultural pluralism. The UNESCO Declaration on Bioethics and Human Rights is founded on a basic assumption of human solidarity.

Gunson describes basic solidarity as “the willingness to take the perspective of others seriously, which in turn entails acting in ways that support the causes that are worthy of allegiance.”¹³⁶ Responding to criticism that UNESCO Universal Declara-

¹³² Daniels (2008, p. 354).

¹³³ Daniels (2008, p. 334).

¹³⁴ Revel (2009).

¹³⁵ Gunson (2009, p. 256).

¹³⁶ Gunson (2009, p. 256).

tion on Bioethics and Human Rights is a form of cultural imperialism, Andorno argues that the declaration actually works against cultural imperialism.¹³⁷ It provides “a legal standard of minimum protection necessary for human dignity.” There is a general trend to global cultural integration which begs for such a universal standard.

Chin and Starosta explore in depth the relationship between modern technology, globalization, economy, wide-spread population migrations, cultural integration, development of inevitable multi-culturalism in the context of global culture and the role of effective communication.¹³⁸ In itself, globalization necessitates better and more effective cooperation between nations and peoples in meeting the legal standard of care for all people.¹³⁹ The role of the principles of bioethics is crucial in discerning and regulating conflict between freedom of cultural practices and respect for basic human rights regardless of specific national laws and boundaries.¹⁴⁰

The culture of Ubuntu flourishes in diversity and pluralism. The ability to go beyond oneself to embrace others is an ethical ideal of conduct. Since beings become persons because of others and because relationships facilitate recognition and respect for personhood in each other, otherness and its plurality is richness. This component of Ubuntu was explored detail in Chap. 2. Ubuntu is thus enlightened by the UNESCO Declaration on Bioethics and Human Rights while it simultaneously provides sample praxis of the relevance of UNESCO’s ethical directives.

4.3.1.1 ten Have on Solution of Moral Problems by Negotiation

ten Have notes that bioethics is becoming increasingly international even though many countries in the developing world do not have “adequate infrastructure to deal with bioethical issues” such as “expertise, ethics committees, ethics teaching programs, and ethics-related regulations and legislation.” One of the reasons that ten Have points out for this awakening internationality of bioethics is the fear of the developing world to be “excluded from the benefits of biomedical progress.”

ten Have cautions against the possibility of “double, or at least different, moral standards being applied in different regions of the world.”¹⁴¹ ten Have’s warning is important, especially because of the cultural pluralism. Even though pluralism of perspectives is enrichment to global bioethics, there are ethical constants that must remain always universally objective regardless cultural perspectives. Double standard in bioethics relativizes it, thus compromising its validity.

Given the globalization of bioethics in the plurality of world cultures, there is need for negotiation. Basing his main reference on Beauchamp and Childress, ten Have critically analyses the main trends which should be considered in global bioethical negotiation. He explores foundationalism, antifoundationalism, common morality,

¹³⁷ Andorno (2009a).

¹³⁸ Chen and Starosta (2008).

¹³⁹ Taylor (2002, pp. 975–976).

¹⁴⁰ Revel (2009, p. 200).

¹⁴¹ ten Have (2011, p. 20).

principles and Fallibilism. Since each school has both proponents and opponents, there is need for negotiation. Proponents of bioethical foundationalism hold that some bioethical principles “can be based on noninferentially justified beliefs.” Such principles can thus “be rationally defended and they apply to all human beings.” Proponents of foundationalism hold that “bioethical judgments can only be justified on the basis of an ethical theory that is rational and universal at the same time.”¹⁴² Foundationalism is crucial not only because of its belief in universal principles but also because of its unifying perspective which appeals to rationality and human nature.

The opposite of foundationalism, antifoundationalism, holds that “there are no ethical principles that are certain and universally valid, so that all moral judgment can be firmly grounded on them.”¹⁴³ Since this view tends towards concreteness and uniqueness of moral situations, it holds that bioethics should be less universalistic, less generalizing and more “appreciative of the actual experiences of practitioners and more attentive to the context in which physicians, nurses, patients and others experience their moral lives.” This perspective defends the unique, historical, cultural, abstract, relational and rational nature of bioethical encounters. Antifoundationalism holds that “persons are always persons-in-relation, are always members of communities, are immersed in a tradition, and are participants in a particular culture.”¹⁴⁴ Antifoundationalism is concomitant to most ethics of care because of its emphasis on concreteness and uniqueness as opposed to universality and objectivity.

Common morality view tends to defend the innate nature of morality. ten Have refers and elaborates this tendency when he states “Before acting morally we must already know, at least to some extent, what is morally desirable or right. Otherwise, we would not recognize what is applicable in moral sense.” Hence, human beings are naturally moral beings and that “moral normativity is pre-given and common to all human beings.”

This position tends to bring together foundationalism and antifoundationalism since it recognizes both universality and historicity of moral precepts. Even though humans have innate knowledge of right and wrong, or good and bad “what we recognize in our experience is typically unclear and in need of further elucidation and interpretation.”¹⁴⁵ Unlike foundationalist perspective, common morality perspective recognizes both universality of moral principles and the role of history and context.¹⁴⁶ “Cultures differ but this does not imply that common standards and universal principles do not exist.”¹⁴⁷

Principles and Fallibilism holds that “ethical principles do not have a stable and immutable foundation, but they need justification. Moral principles are justified if they contribute to the objectives of morality, such as human flourishing.” Thus

¹⁴² ten Have (2011, p. 23).

¹⁴³ ten Have (2011, p. 24).

¹⁴⁴ ten Have (2011, pp. 24–25).

¹⁴⁵ ten Have (2011, p. 26).

¹⁴⁶ ten Have (2011, p. 27).

¹⁴⁷ ten Have (2011, p. 27).

moral principles are rightly a means to an end because, in themselves, moral principles are useless. Morality should be at the service of human flourishing.

However, principles and Fallibilism tend to make moral principles conventional and fluid. One of the advantages of this position is its openness and welcoming stance to cultural contribution into justification of moral principles for the sake of human flourishing.¹⁴⁸ This view of morality encourages dialogue and development of moral theories since it constantly engages them by its demand of justification. However, it tends to compromise universality of moral principles.

ten Have observes that there is tendency toward more negotiation with regards to ethical principles. He writes, “Deliberative democratic processes are replacing the search for universal solutions that can be applied to all human beings. However, the significance of deliberation does not restrict the universality of ethical principles. Solutions to moral problems are no longer found and based on fundamental theories but are now negotiated.”¹⁴⁹ In order to ethically respond to the demands of globalization of bioethics negotiation with indigenous and different cultures is crucial. ten Have writes that “UNESCO strives to respond in particular to the needs of developing countries, indigenous communities and vulnerable groups of persons. The declaration reminds the international community of its duty of solidarity toward all countries.”¹⁵⁰ This desire of UNESCO to respond to the particular needs of developing countries requires common mutual understanding which in turn requires effective cultural dialogue, negotiation and understanding. The requirement of mutual recognition and engagement belongs to the core of Ubuntu world view.

4.3.1.2 Walzer on Pluralism and Distributive Justice

Pluralism has a lot in common with distributive justice. In fact acceptance of pluralism is not possible without, at the same time, an acceptance of validity of distributive justice. Walzer validates this perspective when he argues that “the idea of distributive justice has as much to do with being and doing as with having, as much to do with production as with consumption, as much to do with identity and status as with land, capital or personal possessions.”¹⁵¹ In other words, Walzer argues for the centrality of the importance of distributive justice in social ethics.

Walzer sums up this perspective when he states that “distribution is what social justice is about.”¹⁵² Nothing escapes the realm of distributive justice. Even the community itself is subject to distributive justice. Walzer argues, “The community itself is a good—conceivably the most important good—that gets distributed. But it is a

¹⁴⁸ ten Have (2011, p. 28).

¹⁴⁹ ten Have (2011, p. 28).

¹⁵⁰ ten Have (2011, p. 20).

¹⁵¹ Walzer (1983, p. 3).

¹⁵² Walzer (1983, p. 11).

good that can only be distributed by taking people in, where all the senses of that latter phrase are relevant: they must be physically admitted and politically received.”

Thus, there is a different kind of distribution when applied to the community because humans become members of the community, thus being encompassed by it and becoming part of it, “hence membership cannot be handed out by some external agency; its value depends upon an internal decision.”¹⁵³ Nevertheless human community is an ethical good that is unique for its grandiosity and whose distribution is by membership into it. In fact the community as a good is a prerequisite and a condition for all other forms of distribution.

According to Walzer need is the most basic reason for distributive sphere. “Need generates a particular distributive sphere, within which it is itself the appropriate distributive principle.” Fairness requires that basic needs are met with fair distribution relative to availability of the needed good. Distributive justice does not necessarily require uniformity. Just as plurality is complicated so is distribution, and even more is distributive justice. Distributive justice is complicated by scarcity of basic needs by different people.

Walzer refers to this fact when he speaks of “needed goods distributed to needy people in a proportion to their neediness are obviously not dominated by any other goods.” Distributive justice should always be based on human equality, need, and plurality. It should be, as Walzer writes “different goods to different companies of men and women for different reasons and in accordance with different procedures.” In Walzer’s words, this statement contains the basic objective of the principle of distributive justice. He states, “To get all this right, or to get it roughly right, is to map out the entire social world.”¹⁵⁴

Most social conflict arises from unfair or ineffective distribution. Walzer argues that social justice is “intermittent, or it is endemic; at some point, counterclaims are put forward.” There are three major kinds of counter claims worth noting:

1. The claim that the dominant good, whatever it is, should be redistributed so that it can be equally or at least more widely shared: this amounts to saying that monopoly is unjust.
2. The claim that the way should be opened for the autonomous distribution of all social goods: this amounts to saying that dominance is unjust.
3. The claim that some new good, monopolized by some new group, should replace the currently dominant good: this amounts to saying that the existing pattern of dominance and monopoly is unjust.¹⁵⁵

Due to individual human and cultural uniqueness human society is inevitably pluralistic. It is pluralism that calls for just distribution. One of the major challenges facing UNESCO is to design an international model of distribution that will be just across nations. This ideal may not be easily achievable due to the different individual national identities and needs, but the closer the international community is to this

¹⁵³ Walzer (1983, p. 29).

¹⁵⁴ Walzer (1983, p. 26).

¹⁵⁵ Walzer (1983, p. 13).

ideal objective, the more just the world would be. The farther any particular nation or community of world nations deviates from the ideal of fair distribution, the more conflicts will multiply and the more human dignity is compromised.

Ubuntu aims at this ideal by linking morality with human ability to empathize and responsibly address the need of another human being, thus effecting distribution in a relational and engaging way. The society expects every person to actively participate. This kind of responsible participation is considered moral maturity. Actually, personhood is based on this sort of ethical maturity. In a very spontaneous physically coercive way Ubuntu ascertains fair distribution without encouraging uniformity or discouraging personal initiative and excellence.

4.3.1.3 Amstutz on the Ethics of Global Society and Governance

Amstutz raises one of the most disabling aspects of ‘international community.’ There is a definition problem with regards to referring to the nations of the world as an ‘international community,’ because the bonds that are necessary between nations are too weak and sometimes inexistent or hostile to deserve the word ‘community.’ According to Amstutz “The international community remains a society of states in which ultimate decision-making authority rests in member states, not intergovernmental organizations or non-governmental organizations.”

Strictly speaking, therefore, there is no international community of nations as such. “Some officials use the phrase ‘international community’ to refer to actions by the United Nations and other intergovernmental organizations, the level of solidarity among states and the degree of communal bonds among nations remain weak ... global society is held together by feeble institutions and slender affinities.”¹⁵⁶

Due to the lack of real communal solidarity and a central government there is really no real authority that oversees issues of justice between or within government with ability to intervene. United Nations and its agencies do not have such authority. They can only play an advocacy role. Amstutz points out one of the world’s institutional limitations as the ever widening economic gap between rich (North) and poor (South) nations. The second example is the obvious world’s failure to maintain global peace. “When major disputes arise between states, it is states themselves who must resolve conflicts, either directly or through intermediaries.” Another example is the “inadequate protection of human rights.” Yet another piece of evidence is the protection of the environment. Amstutz notes that “although numerous multilateral efforts have been undertaken to protect the environment, the decentralized character of global society impairs effective collective action.”¹⁵⁷

According to Amstutz several factors impede institutionalization of global governance. “One impediment is the lack of democratic legitimacy. Since global institutions are not constituted through democratic elections nor do they follow demo-

¹⁵⁶ Amstutz (2008, p. 217).

¹⁵⁷ Amstutz (2008, p. 218).

cratic decision making, they suffer from a democratic deficit.”¹⁵⁸ Each nation has its own style of governance protected by its own sovereignty. Some weaknesses are from within specific governments and can hardly be addressed from without those state governments.

There is often “fragile ties between decision makers and citizens. Robust governance presupposes a high level of social capital—that is, a high level of voluntary cooperation based on shared values, interests and trust.”¹⁵⁹ Without what Amstutz calls social capital which is voluntariness to cooperate on common values, interest and trust, establishment of community is not possible. Thus some national states, to begin with, are not themselves a community in strict sense. Creation of international community based on their being already community would be logically absurd and counterproductive.

Centralized government presupposes some sort of community that is governed; otherwise the governance is empty of meaning.¹⁶⁰ Community, in turn, presupposes “shared values and interests. The authority of law depends not only on the coercive power of institutions but also on a moral-cultural consensus. Legitimate governmental authority can exist only where a strong, consensual political culture exists.”¹⁶¹

One of the base factors which enable creation of global community is global common good. Among the types of global common good are public goods such as “ideas, values, practices, resources, and conditions that benefit everyone in a society or community. Global public goods are those collective goods that extend across borders. Examples of such goods include peace, financial stability, poverty reduction, clean air, environmental protection, and conservation of the species.”¹⁶² Being shared by all, global public good is like glue that facilitates bonding which is necessary for creation of global community. Amstutz observes two important characteristics of public goods: “first their enjoyment is not diluted or compromised as the good’s usage is extended to others ... second, no person can be excluded from enjoying a public good.”¹⁶³

One of the sources of conflict and disagreement between states is the fact that while some states work hard to protect and safeguard public goods such as the atmosphere, oceans, and soil, others do not care. They recklessly exploit them. Amstutz notes that “the extent to which states implement sustainable development strategies domestically is vitally important because domestic practices will profoundly affect transboundary air and water pollution and thus impact the quality of the earth’s atmosphere and oceans as well as the prospect for long term economic growth.”¹⁶⁴ Thus, even though there is no international community in a strict sense, there is

¹⁵⁸ Amstutz (2008, p. 220).

¹⁵⁹ Amstutz (2008, p. 220).

¹⁶⁰ Amstutz (2008, p. 220).

¹⁶¹ Amstutz (2008, p. 221).

¹⁶² Amstutz (2008, p. 222).

¹⁶³ Amstutz (2008, p. 222).

¹⁶⁴ Amstutz (2008, p. 223).

inevitable transnational influence and effect due to the common or public goods shared by all.

There is need to “balance national interests with global goods, or short-term needs with long-term concerns.”¹⁶⁵ This need can only be effectively addressed if there is a real relationship between nations. However, “The international community’s institutions remain politically underdeveloped. The world remains a decentralized community where states—not intergovernmental, nongovernmental, religious movements or advocacy networks—are the primary actors.” Unfortunately, such non-governmental agencies are so limited by states’ sovereignty that they are often rendered helpless in the face of tremendous issues like pollution that endangers all life on our planet. Amstutz states that “promoting the global common good ultimately involves cooperative action among states, especially the largest, most powerful and economically developed countries.”¹⁶⁶

Lack of global government leaves citizens of any particular state at the mercy of its national government. If the government is oppressive, exploitative or dictatorial, its citizens have nowhere to appeal. “The limitations of global governance are especially evident in promoting human dignity. Despite an expansion in humanitarian international law, gross human rights abuses persist, especially when ethnic and religious groups compete for political power or when regimes pursue political repression.”¹⁶⁷

There is need to check on the authority of individual states and how that authority is used over its people and how it affects other peoples outside its boundaries. Amstutz warns that “Until states cede more sovereignty and create institutions to make and enforce law, the international adjudication of crime will have only a marginal impact on global society.”¹⁶⁸ Ubuntu recognizes human species’ essential unity which is not only transnational but also trans-species. Human action has effect over other humans and other species and the planet. The community as a whole should see to it that individual or community action does not hurt other humans or future generations or the planet.

4.3.2 *Discrimination*

The second concept of diversity is that no individual or group should be discriminated against or stigmatized on the basis of uniqueness.¹⁶⁹ Beauchamp and Childress address the problem of human fundamental equality and the obvious unequal global access to health care as an issue of justice.¹⁷⁰ Among criticisms represented

¹⁶⁵ Amstutz (2008, p. 238).

¹⁶⁶ Amstutz (2008, p. 238).

¹⁶⁷ Amstutz (2008, p. 238).

¹⁶⁸ Amstutz (2008, p. 238).

¹⁶⁹ Rivard (2009, pp. 188–198).

¹⁷⁰ Beauchamp and Childress (2009, pp. 240–281).

by Shetty is that the UNESCO Declaration on Bioethics and Human rights discriminates against underdeveloped countries by assuming and setting the same standard for all countries.¹⁷¹ Article 11 of the UNESCO Universal Declaration on Bioethics and Human Rights rules out any form of discrimination based on gender, age, disability or physical, mental, social conditions, diseases or genetic characteristics.

Article 11 is founded on articles 1 and 2 of the declaration, that is, all persons are born free and equal in dignity and human rights, all persons, therefore, share human basic freedoms.¹⁷² Amstutz observes that “despite the divergent theories, competing ethical and philosophical justifications and contested interpretations of human rights, there is widespread political acceptance of the idea of human rights in the contemporary world.”¹⁷³ This global acceptance of human rights is based on implied acceptance of a shared common human dignity.¹⁷⁴

Sweet and Masciulli state that “dignity is a characteristic of humanity, and not just of this or that human individual, that an offense against one person’s dignity is an offense against human dignity in general.”¹⁷⁵ In an interview Jean states that one of the greatest challenges in bioethics is to reach an equilibrium between individual wellbeing and needs against that of the society.¹⁷⁶ Such equilibrium would minimize discrimination. Consequently, human dignity cannot be put aside; it has to be recognized and respected by all cultures and peoples. Nondiscrimination is based on human common dignity.

Discrimination is based on a false assumption that certain people, cultures or traits make one a better human being than others. UNESCO’s non-discrimination policy is founded on the principle of human equality. In Ubuntu culture discrimination is a serious moral evil. Ubuntu utilizes difference positively following the principle of subsidiarity, that is, difference is utilized for the good of all by division of labor based on one’s ability or disability, gender physical strength and skills for the common good.

4.3.2.1 Amstutz on Cultural Diversity and Ethics of International Human Rights

One of the greatest assumptions, one on which personal, national and international ethics is based, is that of human rights. Based on their inherent dignity all humans have basic rights which ought not to be violated. Amstutz notes however, that “Because the international community is a society of societies, each with its own social,

¹⁷¹ Shetty. (2012).

¹⁷² Rivard (2009, pp. 191–192).

¹⁷³ Amstutz (2008, p. 95).

¹⁷⁴ Sweet and Masciulli (2011).

¹⁷⁵ Sweet and Masciulli (2011, p. 9).

¹⁷⁶ Jean (2004, p. 5).

political, and economic institutions and cultural traditions, defining human rights and the policies likely to enhance human dignity is a daunting task.”¹⁷⁷

Basic human rights are inviolable in the sense that violating them would mean violating humanity itself. Occasionally, however, there are some conflicts between human rights and some cultural practices. Hence “the challenge posed by cultural pluralism is how to reconcile universal human rights claims with the fact of cultural and moral relativity.”¹⁷⁸

To some extent cultural diversity is possible between different cultures and the demands of human rights. However, Amstutz notes that “the claim of total cultural diversity is simply unattainable ... diversity cannot be total because certain moral principles are necessary for social life as such, irrespective of its particular form.” Amstutz observes that “there is common morality shared by all peoples. This morality involves such moral norms as justice, respect for human life, fellowship, freedom from arbitrary interference and honorable treatment.”¹⁷⁹ At the level of common morality, there are hardly any conflicts between human rights and specific cultures. “

The challenge for the international community is to delimit human rights and to emphasize only those rights considered essential to human dignity.”¹⁸⁰ The challenge to most indigenous cultures is to discourage cultural elements which conflict with universal human rights. UNESCO Declaration on Bioethics and Human Rights respects cultural diversity while, at the same time underlines the importance of respecting human rights, based on human dignity.

Although there is an institution responsible for the reconciliation of all global cultures with universal human rights, the reconciliation is crucial. Amstutz cautions that “in reconciling cultural relativism with the universality of human rights, it is important to emphasize that universalism and relativism are not mutually exclusive categories but rather different ends of a continuum.” For acceptability of the necessary adjustment on the side of specific cultures, Amstutz’s caution is important. It speaks to the approach that should be adapted. Both human rights and specific cultures aim at the good of society.

“The choice is not between the extremes of radical universalism, which holds that culture plays no role in defining morality, and radical cultural relativism, which holds that culture is the only source of morality.” Any approach which involves mutual exclusivity between human rights and specific cultures is bound to escalate conflicts and eventually fail. Amstutz states that “the affirmation of human rights in global society will necessarily be based on an intermediary position that recognizes both the reality of cultural pluralism and the imperative of rights claims rooted in universal morality.”¹⁸¹ Thus the appropriate stance is that of ‘both and,’ rather than that of ‘either or.’ Ubuntu believes deeply in the importance of diversity. Actually

¹⁷⁷ Amstutz (2008, p. 88).

¹⁷⁸ Amstutz (2008, p. 92).

¹⁷⁹ Amstutz (2008, p. 92).

¹⁸⁰ Amstutz (2008, p. 98).

¹⁸¹ Amstutz (2008, p. 93).

according to Ubuntu diversity and otherness are necessary for self-identity and realization, humans being human because of the otherness of other humans.

4.3.2.2 Daniels and Social Obligation to Promote Preventive Health for All

Daniels' first premise in his defense for promotion of preventive health care for all is that health is the basis and condition of most opportunities in life. That being the case, "meeting health needs protects the range of opportunities people can exercise, then any social obligations we have to protect opportunity implies obligations to protect and promote health for all people."¹⁸² Hence, in Daniels' own words, "Meeting the health needs of all persons, viewed as free and equal citizens, is of comparable and special moral importance." Moreover, Daniels consider preventive and curative healthcare to be a basic human right. Denial of healthcare, in his view, is an injustice.

The community of nations and each state has an obligation to promote and protect human health. Daniels explains, "Just health requires that we protect people's share of the normal opportunity range by treating illness when it occurs, by reducing the risks of disease and disability before they occur, and by distributing those risks equitably."¹⁸³ Daniels underlines the importance of meeting the health needs of all people fairly by making "priority-setting decisions about all these obligations through a fair, deliberative process." Daniels goes even further by arguing that "we owe people when we cannot restore their loss of functioning: our obligations take us outside the health sector."¹⁸⁴ This argument is based on his premise that "the special importance of health for protecting opportunity gives us social obligations to promote and protect health. To meet these obligations and to secure equity in health, we must design appropriate policies both inside and outside the health sector."¹⁸⁵ Daniels argument raises a lot of questions with regards to personal accountability for health. He clarifies this controversy by arguing that "Emphasizing our social obligations to meet the health needs of free and equal citizens, regardless of how those needs arise, does not mean that we cannot hold people accountable in reasonable ways for their behaviors." However, he maintains, "We must temper our judgments in light of what we know about the determinants of health and of risky behaviors, and where we have reasonable disagreements about what we do, we must be accountable for the reasonableness of our decisions."¹⁸⁶

Promotion of healthcare for all implies a degree of intrusion into personal autonomy and behaviors. Some personal preferences may have to be restricted for the sake of the health of others. Efforts to respond to a threat of spread of infectious disease, for example, "raise difficult questions about the appropriateness of restricting individual choices to safeguard other people's welfare." Examples include the

¹⁸² Daniels (2008, p. 141).

¹⁸³ Daniels (2008, p. 141).

¹⁸⁴ Daniels (2008, p. 157).

¹⁸⁵ Daniels (2008, p. 157).

¹⁸⁶ Daniels (2008, p. 158).

use of isolation and quarantine for tuberculosis and pandemic influenza.¹⁸⁷ Taking responsibility for the health of others ought to a reasonable degree, limit individual autonomy.

The extent to which this kind of restriction can be imposed is a philosophically difficult issue to discern. It may go as far as public restrictions on habits such as smoking, poor diet or lack of exercise. From the global perspective, “defining the scope of countries’ obligations to act collectively, and determining how those obligations should be enforced, will inevitably raise difficult ethical dilemmas.”¹⁸⁸ However, in line with Ubuntu world view, no human person can claim to be completely free from responsibility for other humans. A person is a product of many interpersonal relationships; disentangling a person from other persons is tantamount to annihilating him. Each human is to an extent responsible for the entire human species.

4.3.2.3 Petrini and Gainotti on Personalist Approach to Public-Health Ethics

Petrini and Gainotti observe that “The principle of autonomy has tended to dominate healthcare ethics especially in North America.” In their view the dominance of autonomy in healthcare may not always be to the advantage of healthcare since, they argue, “public health is based predominantly on population-level utility, making it more attentive to issues such as epidemics, social determinants of health, and cost-effective decision making.” Petrini and Gainotti admit that “a pervasive utilitarian component in public health is thereby undeniable.” Petrini argues against the philosophical idea that public health is paternalistic, especially because it involves states’ intrusion into personal liberties for the sake of promotion of health and safety. In their view, “The main challenge lies embedded in the relationship between individual and population health.”¹⁸⁹

Petrini and Gainotti contend that “If we want to promote development from a health viewpoint, we must move from a solitary, individualistic approach to a Personalist approach in an integral sense.” Petrini and Gainotti believe that individualistic approach to healthcare is an impediment to real progress, hence “Going forward, we must rethink the concept of coexistence in our world, starting from the assumption that we all belong to the human species, with consideration of our different identities and, therefore, shift from the ‘individual’ to the ‘person.’”¹⁹⁰ According to Petrini and Gainotti, “the founding basis of universalism, personalism and solidarity as an anthropological concept is shared, today, by representatives of different cultures.”¹⁹¹

Petrini argues that “Personalism, which suggests building up the common good on the basis of attention to and care for the good of each person,” is the best way to solve

¹⁸⁷ Coleman et al. (2008, p. 578).

¹⁸⁸ Coleman et al. (2008, p. 578).

¹⁸⁹ Petrini and Gainotti (2008, p. 191).

¹⁹⁰ Petrini and Gainotti (2008, p. 627).

¹⁹¹ Petrini and Gainotti (2008, p. 627).

conflicts between individual interests and social interests.¹⁹² In his view personalism is what is lacking in modern medicine, absence of which accounts for most ethical social conflicts. In Petrini's view "personalism is the best approach to face ethical problems not only in clinical bioethics, but also in public health ethics."¹⁹³

Personalism defends public health approach to medicine. Public health is well defined by the Institute of Medicine (IOM) as "what we, as a society, do collectively to assure the conditions for people to be."¹⁹⁴ Total embrace of public health would imply that it is unethical to exclude anybody from healthcare, regardless affordability argument. Thus "Public health practice is characterized by global attention to whole populations and therefore by an emphasis on collective health conditions, prevention, and social, economic, and demographic determinants of health and disease."¹⁹⁵ Personalism, which Petrini advocates, is a form of communitarian ethics since it "rejects the notion of timeless, universal, ethical truths based on reason." Personalism recognizes the role of reason in morality but also recognize the significant role of human relationship and community.

Like it is the case with ethics of care communitarian theories consider morality to be cultural concrete and relational rather than abstract, rational and indifferent to human relationship. "Communitarians maintain that our moral thinking has its origins in the historical traditions of particular communities. Communities are not simply collections of individuals: they are groups of individuals who share values, customs, institutions, and interests."

In other words, abstracting ethical theories from their rightful human relationships and interconnectedness is in itself unethical. Petrini posits that what is "communitarian seeks to promote the common good in terms of shared values, ideals, and goals. In the communitarian perspective, the health of the public is one of those shared values: reducing disease, saving lives, and promoting good health are shared values."¹⁹⁶ The unity of human species evident in personalism is the same unity that the ideal of Ubuntu aspires. There is, therefore, a lot in common between the ideal vision of Petrini and Gainotti in personalism and the Ubuntu worldview.

4.4 Biosphere

Another important component of the UNESCO Universal Declaration on Bioethics and Human Rights is respect for the biosphere as the cosmic context for discourse on ethical responsibility. This component consists of two important concepts. First, all humans have an ethical obligation towards other forms of life and the cosmos.

¹⁹² Petrini (2010, p. 197).

¹⁹³ Petrini (2010, p. 197).

¹⁹⁴ Petrini (2010, p. 189).

¹⁹⁵ Petrini (2010, p.189).

¹⁹⁶ Petrini (2010, pp. 192–193).

Second, life sciences have a duty to respect and preserve genetic integrity of both human and non-human generations.

4.4.1 Ecological Environment

The concept of being sensitive to the biosphere implies that every human individual and society has an ethical duty to protect other forms of life, the biosphere and biodiversity.¹⁹⁷ Article 17 is concerned with protection of the environment, biosphere and biodiversity as a human ethical responsibility. Allison warns against limiting bioethics to a ‘doctor-patient’ relationship, and argues that human relationship with animals and the environment in general is within the subject matter of bioethics.¹⁹⁸

In drafting the Universal Declaration on Bioethics and Human rights the UNESCO distributed questionnaires regarding its content. Macpherson notes that 60% of the respondents to the questionnaires “wanted the scope of the declaration to encompass all life forms, not just human life.”¹⁹⁹ The use of biotechnology should help resolve human predicaments and promote prosperity without hurting other forms of life and the cosmos.

Human activity has not always been sensitive to its negative impact on the environment.²⁰⁰ Amstutz laments the absence of central global authority to regulate national/state impact on the environment. He explores the harm caused by different national states as a matter of justice, thereby unveiling the underlying need for protection of what he calls the ‘global commons.’²⁰¹

Protection of the biosphere and other forms of life is one of the major concerns of UNESCO due to the problem of extinction of some species and environmental pollution resulting from human activity. The culture of Ubuntu has always been protective of other forms of life and the environment. Ubuntu recognizes interactive and interdependent relationship between humans and the biosphere. Killing of animals except for food or in self-defense, setting unneeded fires, or cutting trees is considered an ethical evil. Respect for other forms of life and the environment is almost a religious devotion. Violence to the environment leads to violence against humans.

4.4.1.1 Faunce on Technology, Health Care, Environmental Ethics and Rights

Empirical studies show that there is real interaction, cause-effect relationship and mutuality between technology, health care, human rights and environmental ethics. Faunce relates that the “intersections between international human rights, health

¹⁹⁷ Tandon (2009, pp. 248–254).

¹⁹⁸ Allison (2005).

¹⁹⁹ Cox Macpherson (2007, p. 588).

²⁰⁰ Tandon (2009, pp. 247–253).

²⁰¹ Amstutz (2008, pp. 167–196).

care and environmental ethics on the one hand, and international trade law on the other, provide one of the great normative challenges for global health policy as we emerge from the era of corporate globalization.”²⁰² After the World War II there was global recognition of human rights due to its dignity. This move was a reaction to the abuse of the war against human dignity. Faunce, however, laments that three things were marginalized about the normative content of societal impact of global health care ethics and rights:

The first involved how ethics and law could protect the role of the environment in human health as well as its intrinsic value to the health of all life forms. The second concerned the expanding influence of international trade law in shaping influential normative systems largely unresponsive to health care (or environmental) ethics and rights. The third concerned how emerging technologies should be regulated to help resolve some of the great problems facing humanity and its environment.²⁰³

Human right to health has “often been interpreted as a largely symbolic, non-enforceable individually, progressively realizable concession to normative decency or attempt to claim political legitimacy.”²⁰⁴ There has been an increased awareness of “justifiable and enforceable international human rights as part of any functional social contract” governing how humans treat each other regardless governmental influence and control; “Article 12 of the ICESCR importantly in this context created an international right to health, legally binding those parties who have ratified it.”²⁰⁵

This involves “core obligations to provide the basic preconditions for existence, including food, water, fuel, sanitation, housing, reasonable access to essential health services and products as well as capacity to live in non-toxic environment.”²⁰⁶ What is regrettably missing as Faunce rightly notes is “consideration of how human beings should make basic rules governing their relationship with the environment including how new technologies should be responsive to its sustainability.”²⁰⁷

Faunce foresees a great possibility of development in such a way that “norms of international human rights, bioethics, medical and environmental ethics are likely to play important roles in developing any new global social contract.” All those factors, in Faunce’s view, might combine to “support the concept of global public goods” in such a way that “no individual or ecosystem should be excluded.” Some examples of how this strategy could be implemented include “emerging technologies facilitating clean air, equitable access to food and energy, peaceful societies, control of communicable disease, transport and law and order infrastructure, as well as sustainable ecosystem.

Related global public goods will require international cooperation for their production.” Faunce argues that as global awareness levels increases about the plight of the poor populations of the world and as credible and accessible data accumulates,

²⁰² Faunce (2011, p. 49).

²⁰³ Faunce (2011, p. 50).

²⁰⁴ Faunce (2011, p. 55).

²⁰⁵ Faunce (2011, p. 51).

²⁰⁶ Faunce (2011, p. 55).

²⁰⁷ Faunce (2011, p. 51).

“it will no longer be acceptable in health policy debates to rationalize widespread deaths among increasing numbers of poor, uninsured patients and those who cannot obtain access to essential medicine or other valuable new health technologies.”²⁰⁸

Just as important is the development of global legal system that oversees and ascertains just treatment based on human equality and equity between humans but which is related to the development and use of new technologies that will not exclude or marginalize portions of human population and that will put into consideration environmental sustainability:

When sixty three experts, for example were asked to specify which aspects of nanotechnology could most assist the developing world, the nanotechnologies cited as likely to be important in this context were nanomembranes for water purification, desalination and detoxification, nanosensors for the detection of contaminants and pathogens, nanoporous zeolites, polymers and attapulgite clays for water purification, magnetic nanoparticles for water treatment and remediation and TiO₂ nanoparticles for the catalytic degradation of water pollutants.²⁰⁹

Faunce concludes that “both international human rights and global health care ethics carry the promise of enlarging the objects of human sympathy and so the applicable range of foundational virtues, principles and rules available to decision makers.” Faunce’s optimism is healthy because of its holistic and productive promise that tend’ to address the major global ethical issues simultaneously. To underline the importance urgency of his argument Faunce states that “foundational environmental virtues, such as “sustainability” and “solidarity with endangered species and habitats” respecting the earth itself as a self-sustaining entity, must now begin in academic and policy discourse to take their place alongside “justice” and “equality” in health care debates about the wise use of emerging technologies.”²¹⁰

Faunce’s perspective is plausible not only because of its realistic grasp of the holistic integral and interrelational nature of cosmic reality and human species but, especially, because of the urgency on the part of the human species to play their rightful role of stewardship.

There are a number of disturbing facts that underline the urgency of Faunce’s perspective. There is even now undeniable evidence of human failure to ascertain good stewardship not only for the planet earth but also for fellow members of the human species:

Particular challenges for the global health care ethics and human rights in the era of globalization will be the million or so women and girls under 18 trafficked annually for prostitution; the 10 million refugees; or five million internally displaced persons, the victims of any one of the 35 or so wars currently raging across the earth; of state-promoted torture or rape in the guise of ‘ethnic cleansing’; or any of the 250 million children exploited for labor, sexual gratification or as soldiers. This is in addition to 1.2 billion people living in severe poverty, without adequate obstetric care, food, safe water or sanitation.²¹¹

²⁰⁸ Faunce (2011, p. 58).

²⁰⁹ Faunce (2011, p. 59).

²¹⁰ Faunce (2011, p. 59).

²¹¹ Faunce (2011, p. 59).

Plausibility of Faunce's ideas cannot be doubted. The need for holistic and realistic approach to the integration of emerging technology, healthcare, environmental ethics and human rights has never been more urgent. Ubuntu worldview of interdependence of human species, the species' interdependence with its environment and importance of care for the biosphere is a basic inspiration to the direction Faunce points to. Korthals elucidates Faunce's argument with regards to the importance of human stewardship of their environment.

4.4.1.2 Korthals' Ethics of Environmental Health

There is a direct relationship of interdependence between the biosphere and human beings. Human beings' environment not only supports human existence, it influences it substantially and conditions it. Korthals explores this fact by relating environmental health and human health. Korthals lists at least four steps in the criterion of establishing unethical environmental influence on human beings. The first is "identification of what type of problem is an environmental factor causing unhealthy influences and where the problem is located."²¹² Using the example of obesity Korthals demonstrates how complex it may be to identify a bad environmental influence and its location.

Obviously, if a problem is named, identified and located, a search for solution is destined to fail. The second step is "the ethics of doing research into the factors that produce environmental hazards." Definitely the research itself has to be ethical if it has to lead to ethical results. The third step is assumption of the responsibility to manage and increase the environmental health of the people involved, and the fourth step is ethically establishing the right to intervene.²¹³ For a demonstrative example, Korthals sites a suburban town in New York which was constructed on a former chemical waste disposal site. He mentions how the demography of its inhabitants suffered from numerous problems related with toxicity. Some of such problems are asthma, cancer, and urinary tract infection.

To demonstrate the credibility of his argument and its validity, Korthals laments how "Government scientists made many mistakes in identifying the exact causes of the health problems that these citizens had, and resisted the data and findings of citizen activists."²¹⁴ Thus some people may be forced to live in unethical environment without their knowledge and consent. Some governments and organizations may be a bad influence on the environment of some people, in which case the innocent citizens are forcefully victimized. Korthals provides an example to demonstrate how tricky it may be. He writes,

When on-street eateries such as McDonalds, KFC, Fish'n'chips and Ben and Jerry's are tolerated not only in cities, but also in mass media advertising and sponsorship, it should not be surprising that the numbers of obese persons are greatly increasing, as they still are in

²¹² Korthals (2011, p. 425).

²¹³ Korthals (2011, p. 425).

²¹⁴ Korthals (2011, p. 415).

Britain, along with increased instances of concomitant diseases, such as type-two diabetes, cancer of the intestines and cardiovascular diseases.²¹⁵

Clearly masses of people who are poor or uneducated are forced by their environment to eat unhealthy foods and face the consequences. The environment, which disguise as friendly; it rather uses them as means to making money regardless of their wellbeing.

Citing World Health Organization (WHO) report published in 2004, Korthals explains how our commercialized environment of plenty works against our own good. “We live in an obesogenic environment” because many people take foods which are so rich in calories that the proportion between energy in-take and energy out-put is disproportional. Some foods are too rich in energy while human physical activity has reduced.²¹⁶ Unfortunately, efforts being made to reduce obesity have been undermined, sometimes on purpose, and even used for economic gains, thus reducing the obese into means to economic gain. This fact is easily demonstrated by Korthals’ example.

The American Obesity Association (AOA) formed in 1995, is nominally “a lay advocacy group representing the interest of the 70–80 million obese American women and children and adults afflicted with the disease of obesity.” However, the Association “receives most of its funding—several hundred thousand dollars in all—from pharmaceutical industry, including Interneuron, American Home Products, Roche Laboratories, Knoll Pharmaceuticals Ltd., and Servier—all of which market or develop diet pills.”²¹⁷

In sum, there is no doubt, therefore, that obesity, like some other diseases, is multifactorial in origin. It can be partially genetic, overeating, or eating of unhealthy foods, either by choice or by organized or unorganized force. Since obesity is a disease it is an ethical issue. To the degree it is caused by human beings, human organizations directly or indirectly, it deserves ethical attention and analysis.

Citing Minkler’s “Personal Responsibility for Health: Contexts and Controversies,” Korthals argues that “improving environmental health requires attributing responsibility to people, institutions, networks and policy agent, which is often connected with differences in power and interests.”²¹⁸ The environment a human subject finds himself has a huge impact on his life and health, including his self-actualization and happiness. Ubuntu world view espouse human environment and emphasize its significance, not without reason.

4.4.1.3 Tandon on Protection of the Environment, the Biosphere and Biodiversity

It is undeniable fact that the human species is sustained in existence by in interaction of many other member creatures of the planet earth. The human race can by

²¹⁵ Korthals (2011, p. 414).

²¹⁶ Korthals (2011, p. 417).

²¹⁷ Korthals (2011, p. 418). In this citation Korthals based his data on CSPI 2003, p. 17.

²¹⁸ Korthals (2011, p. 416).

no means survive independent of the biospheric environment which is a network of many organic and inorganic beings. Article 17 of the UNESCO Declaration on Bioethics and Human Rights states “Due regard is to be given to the interaction between human beings and other forms of life, to the importance of appropriate access and utilization of biological and genetic resources, to respect for traditional knowledge and to the role of human beings in the protection of the environment, the biosphere and biodiversity.”²¹⁹ Superior as it may be to other living and nonliving beings; human species is contingent and deeply dependent and sustained by its lower living and nonliving part of planet earth.

Tandon reminds us of an important fact about human beings’ relationship with the planet earth and its ecosystems. He states that, “The earth system consists of physical and biotic components, which have evolved together in continuous interaction towards its present state of complexity.” In other words, independent of human activity, the earth system has been sustaining itself by keeping the healthy balance it needed at any particular time in its on-going evolution. Tandon notes that “Over the past few decades, scientific work has established that human activities have caused abrupt and unprecedented modifications in the planetary life-support system.”

It is important to carefully discern whether such changes are for the good of the planet and its life forms—therefore for the human species—or not. This is why bioethics is essential. Any harm done to any component of the holistic nature of the planet affects not just that part but also all other parts, including humans and future generations. Tandon names the component parts as “the atmosphere, the marine and the terrestrial compartments.” All three function together in self-sustaining synergy which Tandon calls “fluxes of matter, that is the hydrological and the biogeochemical cycles. The earth system, is in principle one and indivisible, because all parts are interconnected by delicate control mechanisms operating on various space and time scales.”²²⁰ It is the planet Earth’s automated and self-sustaining principle that calls caution to human interaction and its effect over all the system.

There has been a notable change in the earth life systems due to human intervention recently because of the “advent of the industrial revolution, the development of the chemical industry and the introduction of nuclear technology.” Atmospheric pollution, soil pollution and water bodies pollution, along with human over population of some earth parts has already been proven to be hazardous to some species. Consequently Tandon warns that “recent advances in molecular biology, recombinant technology, genetics and biotechnology” should be vigilantly monitored by public system to “prevent adverse effects on the environment.”

Just as living and nonliving organisms’ relationship among themselves and between each other is complex and interdependent in many complex ways, so is evolution. Tandon states that “scientific disciplines such as biology, sociology and economics show us that our evolution involves not only competition for survival of the fittest, but a high degree of collaboration (symbiosis) for the survival of the global living system.” Needless to mention, human rationality and free will that enables

²¹⁹ Tandon (2009, p. 247).

²²⁰ Tandon (2009, p. 150).

him to effect substantial change, even annihilate the planet as we know it, must be controlled and carefully utilized. “The new development of technologies must therefore respect local and national social, cultural and environmental constraints, and should pose no risk of irreversible damage.”²²¹

Since there have already been adverse effects on the planet and its life systems, “Environmental security is no longer peripheral to the issues of human health, food and nutritional security. It is an integral part of it and neglecting it yesterday has proven costly today, and could prove far costlier tomorrow.” The most important tool needed for the care of the planet is knowledge. Understanding of the many ways human activity changes the planet and the life in it is crucial. Tandon observes that “it has been well recognized that no valid socio-economic or technological paradigm can be built unless man’s relationship with the ecosystem and the universe is properly understood and cared for.”

Due to humans’ evolving understanding of the ways the planet sustains itself and the life it contains there is need for holistic approach. Tandon cautions that “This holistic paradigm demands a technology with a human face, used as an instrument to serve both humankind and nature. The world needs to manage itself as a system” regardless of human ability to manage it with his limited understanding.²²²

Bioethics “is concerned with the moral relevance of human intervention in relation to life. In its broadest sense it is concerned with all life forms: plants, animals including humans, and the diverse ecosystems.”²²³ The main concern of bioethics is to caution and to ascertain healthy relationship not just between humans’ treatment of each other, but especially humans’ treatment of the other forms of life and the planet earth which sustains that life. Thus bioethics cannot ignore its duty towards the cosmos and its contents. Doing so may hurt human species irreversibly.

“The inescapable fact is that the introduction of new technologies necessary for development brings with it irreversible social, ecological, and health consequences, which under certain circumstances can be harmful.”²²⁴ It is because of this possibility of harm that bioethics should be concerned with the relationship between humans and their environment. The harm humans may inflict on the planet and its life forms “must be anticipated, recognized, prevented and mitigated if we are to avoid disaster of the kind most developing and developed countries are facing today.”²²⁵

This noble task of bioethics is much more basic than its duty in discerning morality of human treatment of one another. Its importance springs from its foundational and essential nature. Humans, however, are “an integral part of the biosphere has responsibilities and obligations towards all other forms of life.”²²⁶ Needless to say, humans’ responsibility towards the biosphere, hydrosphere and the earth generally ought to be one of stewardship. Ubuntu worldview which endears, cherish and nur-

²²¹ Tandon (2009, p. 251).

²²² Tandon (2009, p. 253).

²²³ Tandon (2009, p. 247).

²²⁴ Tandon (2009, p. 247).

²²⁵ Tandon (2009, p. 247).

²²⁶ Tandon (2009, p. 248).

ture the cosmos and the beings in it almost as fellows is a great inspiration to the attitude that is needed in human relationship with the cosmos.

4.4.2 *Future Generations*

Humans have an ethical obligation to the biosphere. Life sciences have an ethical obligation to safeguard future generations, including their genetic constitution.²²⁷ Article 16 of the UNESCO Universal Declaration on Bioethics and Human Rights posits that bioethical issues should be considered, not just for the present generations but also for the future generations. Present decisions affect future generations.²²⁸ Because of the Declaration's position with regards to minority, especially its position against abortion, it has won support of religious groups including the Vatican.²²⁹

Some critics argue that the declaration is minimalistic and vague because of its failure to be specific with regards to the use of language that is too general or unclear—phrases like “impact of life sciences on future generations... should be given due regard” are harmful to the message of the document.²³⁰ Using the language of Benatar, that kind of statement “gives guidance where none is needed and it fails to give guidance where it is needed.”²³¹ On the contrary, some scholars like Langlois establish the relevance of the declaration while emphasizing the role of contextualization of the general principles.²³² Thus, present generations are responsible for their actions that impact future generations.

Gene therapy and human genome information, for example, may provide accurate diagnoses and therapies for individuals but may also involve serious adverse consequences for the next generations. Allison argues that the present generation has ethical “duties” to future generations.²³³ Taylor suggests both national and global cooperation in benefiting from genetic research without violating human rights.²³⁴ Morisaki suggests involvement of many parties in the decision making process as a way of regulating reckless or inconsiderate, harmful steps.²³⁵

It has been demonstrated in Chap. 2 how Ubuntu respects and protects integrity of both human and non-human lives of the present and future generations. In Ubuntu mindset, destruction of the integrity of future generations means, at the same time, self-destruction. In Ubuntu culture genealogy is important because it

²²⁷ Morisaki (2009).

²²⁸ Serour and Ragab (2011, pp. 147–148).

²²⁹ Dickson (2005).

²³⁰ Benatar (2005, pp. 1471–8847).

²³¹ Benatar (2005, pp. 1471–8847).

²³² Langlois (2008, pp. 39–51).

²³³ Allison (2005).

²³⁴ Taylor (1999, pp. 475–541).

²³⁵ Morisaki (2009).

is an essential part of self-identity and belonging. It also communicates a sense of sacred obligation to extend the genealogical line with its integrity. Such a mindset serves as an inspiration to counter modern trends and temptations to tamper with human and non-human genetic constitutions.

4.4.2.1 Ethics of Genetic Manipulation in Relation to Future Generations

One of the greatest discoveries of the nineteenth century was Gregor Johann Mendel's laws of heredity. The discoveries facilitated understanding of the origins, significance and mechanisms of genetic diversity. "The principal phenomena involved are segregation, mutation, and recombination of genes. Together these three actions, through the opportunities they generate for genetic diversity, have since been used to improve plants, animals, and micro-organisms of interest to agriculture, industry and medicine."²³⁶

There has been rapid development in the understanding of human genome and how this understanding could be well utilized in medicine for the good of the human species. "Now that the Human Genome Project (HGP) is an ongoing and rapidly progressing reality, and human genetic engineering is expected to become procedure, the inevitable question is how these procedures will be applied." There has been a number of ethical concerns with regards to the possible application of the knowledge and possibilities that come along with accessibility to human genome. According to Walters the use of germ line gene therapy falls into three major categories: "(1) its potential clinical risks, (2) the broader concern of changing the gene pool, the genetic inheritance of the human population, and (3) social dangers."²³⁷

Eugenics is one of the most feared applications of the Human Genome Project. According to Agius and Busuttil this kind of eugenics "is often looked upon as positive eugenics, directed perhaps, towards achieving human beings endowed with optimal characteristics of physical strength and beauty, intellectual genius and longevity."²³⁸ However, the more basic question is whether our limited knowledge may interfere with natural evolution process which has developed for millions of years.

Even if there is a possibility that the present generation can make an immense contribution to the good of future generations by modifying the present genes, the risk is incalculable. Agius and Busuttil argue that the present generation has a duty to "guard the present gene pool and ensure, in the most cautious and enlightened way possible, that nothing is done which may be detrimental to future generations, and that necessary measures are taken to implement any positive measures for its enhancement."²³⁹ Even with this caution, however, it is impossible to be absolutely certain that the germ line gene change that is introduced is in both short and long run be beneficial to future generations.

²³⁶ Agius and Busuttil (1998, p. 2).

²³⁷ Walters (1986).

²³⁸ Agius and Busuttil (1998, p. 3).

²³⁹ Agius and Busuttil (1998, p. 4).

Agius and Busuttil acknowledge that there is “fear of the unknown” with regards to the possible outcome of the “powerful technology in the hands of scientists.” Although they, themselves support positive eugenics, Agius and Busuttil acknowledge that they “hear warnings of another impending calamity (due to the misuse of genetic engineering in human germ cells) posing a threat to the human genome of future generations unless action is taken to prevent it.”²⁴⁰

The fear is well founded because as Agius and Busuttil themselves acknowledge “There is of course the immense and probably insoluble problem of determining which human characteristics, among nature’s rich and superb diversity, can be improved and what constitutes the hypothetical physical and intellectual excellence that one might envisage and enhance.”²⁴¹ This being the case, there is need to proceed with a lot of caution and certainty or not to proceed at all. Humans are now holding in their own hands the fate of their own species. They can easily end it as it currently is. Ubuntu respect of the sanctity of human life and its sacredness would not easily permit any uncertain manipulation. Since human morality in Ubuntu is determined by the presence of “an-other” and the way the “other” is treated, the present generation’s morality is measured by its sense of stewardship for the future generations.

4.4.2.2 Kalfoglou on Reprogenetics

One of the most controversial topics discussed with regards to future generations springs from the advancement in genetic technology. Genetic research and technology originally was meant for proactive preventive and therapeutic of genetic diseases. However, as Kalfoglou rightly states, “Genetic testing can now influence reproductive decisions prior to conception, prior to the transfer of embryos into a woman’s uterus and during pregnancy.” Thus, even though the “original goal of most of this testing was to give couples at risk of passing a serious genetic disease on to their children more reproductive choices,” clearly in practice the use has “expanded to include screening for risk of adult-onset diseases and the ability to select for socially desirable traits, such as sex.”²⁴²

This expansion is potentially the beginning of a moral slippery slope into dangerous irredeemable situations. The beginning point lies in the fact that a human being has the ability and possibly the freedom to decide how he would want the another human being to be like regardless what is naturally right or the care recipient’s right of self-determination or the long run effect on the process of natural selection.

In the process of getting the *right* or *desired* person, several embryos may be destroyed or used as mere means for the desired one. Because of this moral dilemma, some governments such as Italy have passed stringent rules to regulate in vitro fertilization due to embryo destruction.²⁴³ Related to the moral problem of embryo

²⁴⁰ Agius and Busuttil (1998, p. 10).

²⁴¹ Agius and Busuttil (1998, p. 3).

²⁴² Kalfoglou (2011, p. 179).

²⁴³ Kalfoglou (2011, p. 185).

destruction is the problem of creation of ‘savior siblings’ because the savior sibling is a replacement or a means used to make present the dying child.

Usually savior siblings represent parents’ selfish desire to still have the dying child after death instead of another child. A savior child is not loved and accepted for itself but for the dead child.²⁴⁴ Needless to mention, the other controversial issue is that of harm (emotional, psychological, spiritual, social, economic and physical) to mothers and children. Harm usually results from the technology employed. For instance “there are short-term risks for any woman who undergoes oocyte stimulation and retrieval, including hyperstimulation syndrome, which can be a serious complication.” Currently, there is not enough knowledge about the long-term effects of such procedures, especially when repeated several times.²⁴⁵

Reprogenetics may easily compromise human dignity, hence corroding the very core of all ethical principles and morality. Children may be reduced to mere commodities, humans may be reduced to a work of art designed by other humans, and the conflict between those who would like to have the best selection of traits for their siblings and those who would rather let nature decide the future of their children. This situation may lead to a great moral scenario where the child designed is denied important human functions and qualities.

A typical example is provided by Kalfoglou in the case of a “lesbian couple who were both deaf and sought out a sperm donor who had five generations of deafness in his family in the hope that their child would also be deaf.”²⁴⁶ Nobody currently knows the long term consequences of such selections. Many nations such as Germany, Norway, Australia, and Switzerland and some U.S.A. states have passed “Laws banning the use of any type of selection based on genetics, including the use of pre-implantation genetic diagnosis (PGD) to avoid genetic disease.”²⁴⁷ Genetic testing and selection, potentially good as it may seem, it may cause stigma, discrimination and marginalization of those known to have a genetic disease or disability or a trait that falls short of preferred trait. Already some people have been denied employment positions or insurance coverage.²⁴⁸ Discrimination therefore is a potential problem.

Attempting to manipulate human nature to improve it may not only be playing God but may actually lead to a disaster owing to limited knowledge that humans have about their own nature and anything for that matter.²⁴⁹ Other ethical concerns include unpredictable racial, gender or even trait imbalance. There may be an increase in the rate of abortions since some ambitious parents who end up not getting the traits they want in a child may opt for abortion.²⁵⁰

²⁴⁴ Kalfoglou (2011, p. 186).

²⁴⁵ Kalfoglou (2011, p. 185).

²⁴⁶ Kalfoglou (2011, p. 187). Kalfoglou was citing Driscoll’s “Why We Chose Deafness for Our Children,” *Sunday Times*, London, April 14.

²⁴⁷ Kalfoglou (2011, p. 186).

²⁴⁸ Kalfoglou (2011, p. 187–188).

²⁴⁹ Kalfoglou (2011, p. 188–189).

²⁵⁰ Kalfoglou (2011, p. 189–190).

Human dignity of children is logically being compromised in the process. Kalfoglou states “If these technologies are used to alter the characteristics of children, there could be subtle but profound effects on how parents and society view children. If children are more a product of our desires rather than a begotten gift from God, our expectations for our children may change.”²⁵¹ Thus, genetic technologies, promising as they may be, especially with regards to proactive preventive medicine, they can lead to serious negative social, psychological, demographic, emotional, economic, ethical, religious and dignity consequences. In the respect Ubuntu has for human life and how nature brings forth a new member of the society as it finds fit after its experience of an unknown time span, we find both a caution and inspiration to proceed with caution in the subject of Reprogenetics.

4.4.2.3 Morisaki on Protection of Future Generations

Article 16 of the UNESCO Declaration on Bioethics and Human Rights is about protection of future generations. It specifically addresses the “impact of life sciences on future generations, including on their genetic constitution.”²⁵² Morisaki reports that “during the drafting process and the discussions of various draft texts, there has been consensus that bioethical issues should be considered not only for the present generation but also for future generations.”²⁵³

Human responsibility towards the biosphere “should extend to future generations and the actual decisions taken should keep that in mind.” Present generation has responsibility for future generations because decisions made by the present generation affect lives of future generations. “This implies that the concept of intergenerational justice is now at the fore of today’s international environmental concerns.”²⁵⁴ Acceptance of the concept of intergenerational justice implies responsibility on the part of the present generation. It also implies culpability for the wrong decisions made on behalf of the future generations with relation to their genetic constitution or their environment. Takayuki states, “Humanity is not only the international community, including all people living today, but it refers to the chain of generations who collectively form one community whether living now or in the future.”²⁵⁵

The importance of ethical concern for the future generations is heightened by the rapid development in technology and the easiness of effecting environmental or genetic germ line change. There is need to ethically weigh the pros and cons of decisions made for the present generation on future generations. Human genome information, for example “will provide not only accurate, personalized or individual diagnosis, but also will provide a better choice of therapeutic procedures. However,

²⁵¹ Kalfoglou (2011, p. 191).

²⁵² Morisaki (2009, p. 243).

²⁵³ Morisaki (2009, p. 243).

²⁵⁴ Morisaki (2009, p. 244).

²⁵⁵ Morisaki (2009, p. 244).

such new technology may result in undesired outcomes for the next generation ... as in the case of gene therapy targeting germ line cells.”²⁵⁶

The excitement of finding a solution for a health problem may easily overshadow the implication to the future generations. To avoid this threat Takayuki recommends that “scientists coming from the health arena should not be the only ones involved in the decision-making process; social scientists or lay persons should also be called upon to make a contribution.”²⁵⁷ This inclusion implies that bioethics committees should not only be representative of demographically, they should “play an important role in the decision-making process.” Takayuki recommends inclusion of “multidisciplinary discussions and international co-operation, including UNESCO activity” for the sake of reaching objectively ethical decisions in matters that affect future generations.²⁵⁸

Analogically, future generations may be considered as children or embryos because of their inability to participate in the process of decision making which affects them. “It goes without saying that all research involving their participation must be subject to rigorous evaluation, monitoring and governance” as a matter of justice.²⁵⁹ Unfortunately, children have not always been protected. “Research shows that children have been victims of unethical research practices ... The smallpox vaccine, for example, was first tested on the children of researchers and then on children living in an almshouse.”²⁶⁰

The *Belmont Report* clearly underlines “protection of vulnerable persons from exploitation in research.” For the sake of justice, owing to the fact that children cannot make informed consent, the *Belmont Report* maintains that “in some circumstances it may be fair to give preference to the participation of adults rather than conducting research on children.”²⁶¹

Clearly, ethically children are considered “vulnerable and their inclusion must be balanced with the need to protect them from potential harm, making the issues of consent of parents or legal representatives, the assent of the child and the assessment of the risks and benefits particularly important.”²⁶² However, there is a delicate balance since some research must include children and may be for the benefit of children: “International norms tend to balance the protection of children with the need to include them in research.”²⁶³

The *Declaration of Helsinki* includes children among the vulnerable and stipulates that two conditions must be met before involving them in research: “(1) the research must be indispensable to promote the health of the pediatric population;

²⁵⁶ Morisaki (2009, p. 244).

²⁵⁷ Morisaki (2009, pp. 244–245).

²⁵⁸ Morisaki (2009, p. 245).

²⁵⁹ Samuel et al. (2011, p. 261).

²⁶⁰ Samuel et al. (2011, p. 262).

²⁶¹ Samuel et al. (2011, p. 263).

²⁶² Samuel et al. (2011, p. 266).

²⁶³ Samuel et al. (2011, p. 274).

and (2) it cannot be conducted on persons incapable of providing consent.”²⁶⁴ On the part of children most consent may be provided by parents. Samuel, Coppers and Award state that “Ethical guidelines governing research with children should be clarified to ensure that researchers respect the rights of parents and children in the context of research.”²⁶⁵ The ethical concern for future generations and the need to act on their behalf as a matter of justice belongs to the kernel of Ubuntu worldview.

4.5 Conclusion

As a worldview and philosophy of life, Ubuntu ascertains human dignity and a personal freedom which meets its limits only in the freedom of others within society as necessary conditions for morality. Human life and dignity are the greatest concern. Every member of society should do everything possible to safeguard and promote it. In line with Rawls’ theory of justice and the UNESCO Declaration on Bioethics and Human Rights, Ubuntu recognizes human equality as a given, a *conditio sine qua non* of morality.

It is on this necessary condition that any morality is possible. The principle of subsidiarity is based on the essential equality of human dignity, which is non-negotiable. Since one’s personhood is conditioned by, and flourishes on others’ personhood, society is essential for not only socio-cognitive and moral development, it is essential for meaningful human life in general. Consequently, it is an obligation of every member of society to assure to the best of his ability the survival of the society. Doing so not only confirms the individual’s existence, it facilitates both individual realization and societal prosperity.

In agreement with UNESCO Declaration on Bioethics and Human rights, Ubuntu recognizes the important role of plurality. Plurality is richness on which human society thrives. Difference is cherished because it is essential for self-recognition, a person being a person because of the otherness of other persons. Disentangling a person from all others is tantamount to annihilating him as a person. In Ubuntu otherness is as important as selfhood. Each person should be responsible not only for the self but also for the entire human species.

Every person being a product of many previous generations, every person is obliged to safeguard future generations as a matter of ethics. Future generations belong to the realm of otherness that helps define selfhood. It cannot be left aside. Ubuntu, like the UNESCO declaration on Bioethics and human rights, cares about how present human activities impact future generations. Though unknown to the present generation, future generations depend greatly on the present generation. It is a grave matter to put at risk their genetic constitution. Caution should be taken, especially because of the unknown risks, given the limits of human knowledge.

²⁶⁴ Samuel et al. (2011, p. 264).

²⁶⁵ Samuel et al. (2011, p. 275).

Since human society is in symbiosis with ecosystems, the biosphere and the cosmos, the relationship between human being and the cosmos should be one of stewardship and care. Ubuntu cherishes and endears human fellowship with the environment which makes possible human life. This is an inspiration that needs to be nurtured. UNESCO Declaration on Bioethics and Human Rights is deeply concerned about ethics of human relationship with the environment. Since there is no international government which oversees ethics of personal and national treatment of the cosmos, this aspect remains a great challenge to modern society. It is possible for one state, using nuclear weapons, to annihilate the human race as we know it. This threat should be at the top of global agenda for stewardship of the human race and the planet Earth. Unchecked national sovereignty threatens multiple nations' safety, especially when reckless or hateful regimes have nuclear capabilities.

Exploring the UNESCO Declaration on Bioethics and Human Rights reveals its great similarity of ethics, perspective and objectives with Ubuntu world view. They both recognize that human dignity is nonnegotiable, that it is to be respected and promoted; they both underline the importance of plurality and diversity for human flourishing, to be encouraged and engaged for the benefit of the entire human species; they both recognize the need for good stewardship for the genetic makeup of the future generations; they both recognize and care about good stewardship for the planet earth, especially, with regards to human dependence on it. Chapter 5 will explore Catholic socio-ethical teaching in relation to Ubuntu worldview.