


According to this theory, an action is good or moral if its consequences are beneficial to the person carrying out the act. If this is not the case, then the action is bad or immoral. This theory has however been criticized for its anti-moral spirit.

2.4 Deontological Theories

The most prominent deontologist in the history of moral philosophy, Immanuel Kant (1724-1804) insisted that morality should never be based on emotions or feelings, but instead should be based on reason. Kant was of the view that an action is right or wrong, not because of its consequences, but because of the principles or maxim or intention for carrying out the act. What makes an action moral is the principle guiding the act, or the good intentions or good will behind act. Kant placed a lot of premium on the good will as the only thing that is good in itself and that nothing can be moral unless accompanied by the good will. Anybody who displays any type of virtue that is not accompanied by the good will, then both the virtue and the agent are not moral.

He believed that when a person acts as a result of a good will then he/she will be acting from a sense of duty. A person acts from a sense of duty when he or she performs the act for duty’s sake and not because of any other considerations, personal or otherwise. Morality is therefore closely bound up with ones duties and obligations. When one understands the nature of ones obligations and acts upon them for no other reasons other than the fact that they are one’s obligations, then one is moral.

Duty is the recognition that you are under a moral obligation, an obligation to do what is right. Duty is acting out of respect for the moral law (Stewart and Blocker, 1996:319).

Kant went further to formulate formal categorical imperatives as the ultimate test of morality. A categorical imperative is an unconditional directive or principle that presents how we ought to act as required by the moral law, irrespective of the outcome that is personally desired. It is a general rule in accordance to which we are all expected to act by virtue of the fact that we are rational.
• Duty of Beneficence (duty to help others in need)
• Duty of non maleficence (duty not to unjustifiably harm others)
• Duty of justice (duty to confirm to the demands of justice).

3. Duties to ourselves
• Duty of self-improvement (duty to improve ourselves physically, intellectually and morally to reach our fullest potential).

The first level of duties only arise when we have acted in the requisite way towards a person like making a promise, or receiving some benefits from the person. The duties of beneficence, non malificence and justice are owed to all people irrespective of our previous relations with them. From the above duties we can derive many other specific duties.

2.4 Ethical Principles

These are established ethical values or rules that are universally accepted and which ought to guide our conduct and relation with others.

2.4.1 Respect for Persons

This principle incorporates the requirement that individuals should be treated as autonomous agents and that people with diminished autonomy should be protected. Autonomy is a form of individual liberty where an individual is be left alone to determine a course of action in accordance with a plan of his or her own choice. It is premised on the facts that such an individual has the capacity to deliberate about the plan of action. Secondly, that he or she has the capacity to put the plan into action. Autonomy mandates a strong sense of personal responsibility for our own lives. Human beings should be treated in ways that respect their independent choices and judgments. This requires that we respect people’s considered opinions and choices, and refrain from interfering with these opinions and choices unless they are harmful to others.

In most cases, however, such choices can only be made when an individual has full information about the issue at hand and the various options available. In the medical field, for example, a person can only give informed consent to a medical procedure only when full information about the risks and benefits have been made available to him/her.
Induced abortion is the deliberate termination of a pregnancy. This type of abortion involves a deliberate intervention to cut short the pregnancy and cause the death of the unborn child.

Inevitable or spontaneous abortion is one that occurs without any intervention and is usually called miscarriage. It is the expulsion of an embryo or fetus due to accidental trauma or natural causes before the 20th week of gestation. A pregnancy that ends between 20 to 37th weeks of gestation, but results in a live-born infant is called ‘premature birth’. When a fetus dies in uterus after about 20 weeks or during delivery it is usually termed as ‘still born’.

Criminal abortion is the illegal and deliberate termination of a pregnancy usually for social and economic reasons. Reasons for criminal abortion are classified as elective.

Therapeutic abortion is the legal and deliberate termination of a pregnancy due to certain specific medical indications. This type of abortion is classified as safe abortion since it is done by qualified health professionals in hygienic surroundings. Pre and post abortion counseling is also provided in Therapeutic Abortion. Therapeutic abortion is done to:

1. Save the life of the pregnant woman
2. Preserve the woman’s physical or mental health
3. Selectively reduce the number of fetuses to lessen health risks associated with multiple pregnancy.
4. Terminate pregnancy that would result in a child born with congenital disorder that would be fatal or associated with significant morbidity.

Unlike therapeutic abortion, criminal abortion is usually unsafe as it is usually hurried, and mostly done by persons lacking the necessary skills and in environments that lack the minimal medical standards or both.

3.3. Common reasons for Criminal Abortion
(a) The emergence of life-sustaining technologies. This technology has made it possible to keep somebody alive using life-supporting machines, when the individual on his or her own cannot survive.

(b) The emergence and spread of terminal sickness, some of which make their victims completely helpless and dependent on others.

(c) The rising cost of health care for terminally ill patients.

(d) The emergence of human rights crusaders who have insisted on the individuals right on decisions concerning their life, death and dignity.

4.3.1 Honourable exit from pain and suffering.

Euthanasia is seen as an honorable exit from intolerable suffering, pain and hopelessness. This argument is based on the dignity of a person; that we ought to allow a person to die with dignity rather than force him or her to live his last days hooked into a machine or in great pain, hopelessness and agony.

4.3.2 Looking at life beyond mere existence

We should look at human life beyond mere biological existence. There is need for us to consider the quality of life as well. It is therefore, argued that when isolation, pain and suffering outweigh any expectation of enjoying the good life, then there is no quality in that life and death would be preferable.

4.3.3 Older people are more ready to choose death.

It has been pointed out that it is always the wish of older people not to continue hanging on to life when they are a burden to their family members. Some people would not wish to see their family members spending all their resources in a desperate attempt to save their lives. They would rather; they die, so that they leave something behind for their living family members. The cost of medical care for terminal patients is too high and some families have been left in abject poverty trying to meet the medical costs of such family members. Euthanasia in such a case can be cost-effective for the family members left behind so that they are left with something to use to feed and educate themselves. This will be in accordance with the utilitarian consideration.
4.3.4 **The principle of individual autonomy.**

Another argument based on the principle of individual autonomy or freedom states that we should respect the decisions of competent patients, who, like others have the right over decisions affecting their lives or death. If a person is dying and nothing can be done, why shouldn’t such a person exercise his right and choose death now rather than later?

4.3.5 **The principle of Non-maleficence.**

Euthanasia is seen as an act of mercy based on the principle of nonmaleficence. The principle states that we have an obligation not to cause or allow pain or suffering. It is one’s moral responsibility to always act so as to relieve pain and suffering. If the only way left to relieve somebody from pain and suffering is euthanasia, then it is our obligation to allow it. It will be an act of mercy, kindness and compassion.

4.3.6 **Cost effectiveness.**

Euthanasia is said to be cost-effective in the following senses:-

- it saves on bed space in hospitals so that curable patients can be admitted.
- It enables doctors and other medical personnel to attend to other patients who can be cured.
- It saves on drugs and fluids.

4.3.7 **A better option.**

It is argued that euthanasia is a better option for patients’ family members who are unable to do anything even when the patient is under great pain and suffering. “The inability of a family to do anything for their relative may cause pain and suffering almost as great as that experienced by the patient” (Shannom, 1997: 106)

4.4 **Arguments against Euthanasia**

4.4.1 **Sanctity of human life.**

One of the strongest arguments against euthanasia is based on the sanctity of human life. Human life is seen to have intrinsic value and ought to be respected and cherished. This being the case, nothing should be allowed to interfere with human life. Indeed, the fear is that if euthanasia is made legal, it is likely to weaken our respect for human life. A loss of respect for human life can easily lead to the extension of euthanasia services
These possibilities do complicate our traditional understanding of parenthood as constituted of a whole mother and father.

6.6. **Ethical issues in Surrogate Motherhood**

In the 1986 Baby M case mentioned above, a number of ethical issues came up during the protracted and emotional court proceedings.

In the Baby M contract, the adopting couple were of distinctly higher economic and educational status as compared to the surrogate and her husband. The issue of class distinction was troubling to many who saw surrogacy as a technology that would be used by the rich to exploit the poor women. Surrogacy was criticized for being exploitative and turning, poor women unto ‘breeders’ or “rich people’s baby farms.” (Shenkin, 1991:330).

There was also the problem of weighing between the degree of a child and its mother and that of the child and its father or sperm donor. The general feeling has been that the relationship of a child to the woman who carries it and gives birth to it is different from the relationship of the child to the father. It is postulated that the bonding between the mother and her child is much stronger and important to the well being of the child than that of the child to the father or sperm donor. The argument was used to support a mother’s right to the custody of the child against the claim of the contracting father.

In commercial surrogacy, selection of surrogates from the many applicants is done on the basis of the applicants’ physical health. They are also in most cases required to demonstrate their fertility. All these are done for only one value the recruiters are looking for their reproductive value. Weighted against the Kantian categorical imperatives, this amounts to the use of women as a means to other people’s happiness. This act reduces the value of women to their reproductive capacities only and compromises their human dignity. Although a woman has a right over her body, she should never fall to the temptation of allowing herself to be exploited as “a farmland of children” for the rich. It is consistent with human dignity for a woman to deliberately become pregnant for economic
In the contemporary world, homosexuality and in fact, same sex marriages are increasingly being tolerated, recognized and even protected by law, especially in the developed world. Apart from legalizing homosexuality, countries like Denmark, Sweden, Norway and Netherlands have gone ahead to allow same sex marriages. In Africa, only South Africa has gone ahead to decriminalize homosexuality but in the rest of Africa, it remains a criminal offence. In Zimbabwe, President Robert Mugabe has constantly criticized homosexuality terming its adherents as beings who are “lower than dogs and pigs”. In Kenya, former President Daniel Arab Moi was very vocal against homosexuality terming it as ‘a scourge’ that violates African traditions and religious teachings. Across in Uganda, president Museveni once ordered his security agents to round up all homosexuals for committing what he called ‘abominable acts.’

This has however not rooted out homosexuality in these countries. And as one homosexual said in Kenya, “nothing can stop people from getting what they want, no matter how awful the situation might be” (Kuria, 2005:99). And I would dare add, however strict governments and public disapproval are. Perhaps the solution to the problem does not lie in legislation alone.

The ordination of Rev. Gene Robinson, a known gay, as a bishop of the Anglican church of New Hampshire in 2003 was as shocking and as surprising both to the proponents and those opposed to homosexuality. The fact that this was happening in a religious institution was unexpected.

Before this there had been an earlier but unsuccessful attempt to ordain Jeffrey John, a gay as a bishop of the Church of Reading. The attempts to ordain gay bishops have been fiercely opposed by Christians all over the world. The strongest opposition came from Africa. Nigeria’s Archbishop Peter Akinola opposed Robinson’s ordination terming it as a “satanic attack on God’s Church” (Kuria, 2005:99).

7.5.1 Moral Issues in the Debate on Homosexuality

1. Violation of traditional and family values
Secondly, homosexuality is a promiscuous way of life and many such relationships rarely last long. This encourages the spread of diseases loneliness, misery and unhappiness for those who become entangled in it. Homosexuality relationships lack the stabilizing protection offered by laws of marriage. Such relationships are easily dissolved without any recourse to law.

Thirdly, and related to the above, many homosexuals are afflicted by serious psychological problems resulting from rejection by society, possible stigmatization, a feeling of guilt, insecurity and a constant fear of disgrace and ruin.

Fourthly, homosexuality is said to be offensive and disgusting especially to those who are forced to witness public display of homosexual affection. It is argued that the public and more so children should be spared from such scenes in public places like lavatories, parks and theaters.

Finally, it has been pointed out that homosexuals especially those who have been in the business for long and those who engage in anal intercourse end up with a destroyed rectal system that is no longer able to hold waste for long.

7.5.5 The oppressive nature of heterosexual relationships
Some feminists have supported homosexuality especially lesbianism because it liberates women from men’s oppression under heterosexual marriages. They have argued that traditional family that is centred around marriage, procreation and child bearing has historically served as system that is used subordinate and oppress women. In this case therefore, lesbianism pushes men out of the lives of women leaving women free from their oppression.

7.5.6 Justice and Discrimination
Homosexuals’ rights movements like the Intersex society of North America and the International lesbian and Gay association of England have been blaming governments for being biased against them in favour of heterosexuals. They think that this is a kind of
References


8.3 Social and Moral Effects of Substance Abuse

As we look at the social and moral effects of substance abuse, it is important to know that the harmful effects of substance abuse are not just limited to what we are going to look at. There are also many harmful effects touching on health and physical well-being.

8.3. 1. Degeneration of the abusers moral character

Drug abuse and alcoholism leads to a general degeneration of the user’s moral character or disposition. When under the influence of drugs or alcohol one loses moral control and will power, laying himself/herself open to any suggestion that might be made by any unscrupulous villains. In the long run drug abuse and alcoholism leads to a general moral breakdown in a society leading to increased cases of crime such as rape, incest, domestic violence, promiscuity, murder, robbery and other related evils. Whenever there are many drunkards and drug abusers in a certain region it will obviously be followed by many of the above evils.

8.3. 2. Youths rebellion

Increased cases of alcoholism and drug abuse among the youths usually leads to some kind of sub-cultures and rebellion which manifests themselves in many different ways such as radical politics, sexual promiscuity, indecent styles of dressing, school and college riots, refusal to subscribe to old mores and deliberate efforts to undermine institutions that symbolize the old moves or systems. Increased cases of sexual promiscuity, school riots which have also claimed lives are usually triggered off by alcohol and drug abusers.

8.3. 3. STDs. and Unwanted Pregnancies

Alcoholism and drug abuse has contributed greatly to the high prevalence of HIV/AIDS and unwanted pregnancies, in the country. Consequently many lives have been lost and cases of criminal abortion, child unwantedness and abuse have increased. When under the influence of drugs and alcohol an individual loses control over himself or herself and can easily end up engaging in dangerous sexual behaviour only to regret the
following day or later. Another common thing among drug abusers is the tendency to share certain needles used to inject some drugs which increases the risk of contracting HIV/AIDS and hepatitis.

8.3. 4. Weakening religious hold on society
An increased case of alcoholism and drug abuse has contributed to the weakening of the hitherto religious hold on the youths and other members of society leading to a reduced role of religion in the molding of the youths. An increasing number of young men and women are no longer interested in religion and less and less numbers are participating in religious activities or worship. The role of religion in society which has been immense is now being challenged.

8.3. 5. Disruption of family life and marriages
Drug abuse and alcoholism can disrupt family life and marriages through domestic violence, abuse of children and libido reduction. Drug addiction and alcoholism among parents can be very detrimental to the welfare and future of their children.

8.3. 6. Substance abuse is expensive
Drug abuse is a very expensive habit to support and can easily turn a rich person or family into a pauper or paupers. This has its own harmful spill over effects to the future of the children and dependants of drug abusers.

8.3. 7. Substance addiction
Substance abuse and alcoholism can lead to addiction. One of the most difficult things for drug abusers to do is to stay off drugs once they have become addicted. The physical and mental agony of withdrawing is usually too much for a drug abuser to bear. In fact, most addicts can only stop their habit in hospital or once they die.

8.3. 8. Insanity, Brain damage and Senility
It may also be argued that Mill’s doctrine was meant to be applied only to mature persons but not children who still require to be taken care of by others. Such children need to be protected against their own actions as well as against external harm.

There are also other actions although done by individuals are bound to offend public morality, and indirectly cause harm to those close to the person concerned. Drug abusers and alcoholics do not just harm themselves, there are many other possible harmful effects to others and society at large that arise from their addiction.

We cannot therefore perhaps justify drug and alcohol abuse using Mill’s principle of individual liberty.

According to Gore Vidal (Pojman 2004), the problem of drug addiction can be solved simply by legalizing drugs and selling them at cost. Once this is done, all drugs should have precise prescription of their effect. As he points out:

It is possible to stop most drug addiction in the United States within a very short time. Simply make all drugs available and sell them at cost. Label each drug with a precise description of what effect-good or bad – the drug will have on the taker. This will require heroic honesty. (Pojman, 2004: 824)

Vidal thinks that the above measures will help in taking the crime element out of drugs as there would be no incentive for criminals to make money. He also feels that we should legalize drugs because users will duly harm themselves and not society.

William Bennett (Pojman, 2004) opposes Vidal’s views arguing that the dangers in legalizing drugs far outweigh the benefits. He argues that even limited experiments in drug legalization have shown that when drugs are more widely available, addiction skyrockets. He cites the case of Italy which liberalized its drug law and has now one of the highest heroin-related death rates in western Europe.
denial of freedom to women by men. The subjugation of women permeates all areas of human life, be it social, economic or political.

It is for this reason that most feminist movements have placed a lot of emphasis on individual freedom in their efforts to liberate women. In addition to freedom, they have also been at the forefront in fighting for equality between the sexes. The movements have been advocating for social, economic and political arrangements that are devoid of any form domination and subordination of one sex by another.

9.3.3. Inequality among human beings

When any group of individuals cries for equality, the cry is actually against inequality that is based on irrelevant reasons or factors. This happens usually when the ground of the particular inequality attacked is morally irrelevant while an existing relevant ground for differentiation is ignored. In this case, the objection is not to inequality as such but to the ground of differentiation. When unequal treatment conflicts with merit, there is cause for alarm.

Inequality among human beings may look normal as long as it is brought into being under conditions of equal opportunity or relevant considerations. Unequal treatment always requires justification and only certain kinds of justification suffice. Sex is certainly not a morally relevant basis of unequal treatment.

Relevant considerations should involve things that individuals have control over. People do not choose to be and cannot avoid being male or female. Therefore, to use sex as a basis of discrimination and more specifically, as a basis of distributing opportunities and social inputs, is morally wrong. We must not treat people differently in ways which profoundly affect their lives on the basis of a feature or reason which they are not responsible. Sex is a feature of persons for which they have no responsibility over. We have a moral obligation to remove unwanted advantages or disadvantages from individual members or groups of individuals. Gender inequality is therefore, a misguided derivative from biological consideration, yet it is responsible for the sorry state in which women find themselves in.
10.1 Introduction

In the recent past, people have come to realize that the world is faced with an environmental crisis and unless something is done, then mankind has no future. Many areas of knowledge have now joined the efforts towards environmental conservations. In this lecture, you will be introduced to a new emerging branch of ethics that has joined this effort, as a philosophical contribution towards the same.

10.2 Objectives or Aim

At the end of this lecture, you should be able to:

1. Define environmental ethics
2. Discuss the philosophical concerns in environmental ethics
3. Distinguish between anthropocentric and ecocentric ethics.

10.3. Definition of Environmental Ethics.

Armstrong and Botzler, (1983:xv) captures the current environmental crisis very well when they wrote:

Since the first earth day in 1970, the world has lost nearly 200 million hectares of tree cover. Deserts have expanded by over 120 million hectares. Thousands of plant and animal species no longer exist; at least 140 plant and animal species become extinct each day. Over 1.6 billion people have been added to the world’s population, and one in three children is malnourished .... Approximately 480 billion tons of topsoil have been lost. Such facts have led to the perception by many that the planet is experiencing a serious environmental crisis.
Ethics, since its beginning, has been human centered or anthropocentric. It has only been concerned with the conduct of human beings in relationship to each other.

**10.3.1. Anthropocentrism**

Anthropocentrism is the view that ethical principles apply to human beings only and that human needs and interests are of paramount and exclusive value and importance. Non-human beings are not considered as subjects for moral considerations and respect. The general view here is that ethics is an intra-human phenomenon, and the human rules of conduct are for human benefits only. Human beings have no moral obligations to other species of nature. (Armstrong and Botzler, 1993).

Anthropocentrism is said to have its roots in religious and classical philosophies. In the Bible, for example, God is said to have directed man “to go to the world and be fruitful, multiply, and fill the earth and subdue it, have dominion over the fish of the sea and the birds of the air, and over every living thing”. In the book of Genesis, we learn that only human beings are made in the image of God. We are not, however, told in whose image other things of nature are made. These teachings in the Bible have led some environmentalists to accuse Christianity as being anthropocentric and arrogant towards nature.

Others, however, do not share this view, and argue that while man was given dominion over the earth he is required to be a good steward of the earth. Man was only given the earth as a caretaker, “a trustee” or a “steward”, to look after it for God. If man destroys it, he will have failed in his responsibility of stewardship and therefore sinned against God.

Anthropocentric classical philosophy is dominated by the philosophy of Aristotle, St. Thomas Aquinas, Rene Descartes and Immanuel Kant. These philosophers cite the lack of rationality and language in non-human beings as the reason why they are inferior to man and should be subjected to man’s dominion. St. Thomas Aquinas, for example, believes that only man possesses intellect on earth and should therefore, have dominion over all other God’s earthly creations. For Rene Descartes, the possession of language and reason by man sets him apart from other creations that are no more than machines with parts
proponents seeks therefore to maximize the satisfaction of interests whether they be those of human beings or non-human animals.

Another group of animals’ rights defenders are the deontologists with Tom Regan as the foremost proponent. This group argues that both human and non-human animals share essential psychological properties such as desires, memory, intelligence and many others, which give both of them an equal intrinsic value upon which equal rights are founded. Animals therefore deserve the same moral rights as human beings Armstrong, 1993).

Immanuel Kant’s deontologist gives the capacity to reason as the basis for membership in the moral community. Animal rights philosophers, however, reject Kant’s emphasis on reason as the basis of rights. Instead, they argue that any being that has some minimal degree of self-consciousness and the ability to act in accordance with its preferences deserves to be treated with respect. Regan looks at animal rights as being inalienable such that humans should have no right to experiment on any animal in order to satisfy their own interests. He calls for total dissolution of commercial animal farming, elimination of hunting and trapping and abolition of animal experiments.

Other moral philosophers like K.G. Frey and Mary Anne Warren do not agree with the utilitarian and deontological arguments in support of animal rights. They, broadly speaking, urge for measures to minimize animal suffering and not granting them equal rights with human beings (Ibid).

10.8 Summary

Environmental ethics is an applied branch of philosophy that attempts to extend moral respect and considerations to non-human beings. The current environmental crisis has led to a shift in ethics from being anthropocentric to ecocentric. Anthropocentric ethics is man centered and considers ethics as an


Legally however, the principle of confidentiality does not hold in instances when individual rights conflict with the interests of the community at large. In most countries, for example, medical practitioners are required by law to report cases of communicable and venereal diseases, instances of child abuse, gun shots or knife injuries to the authorities. Cases of epilepsy are also supposed to be reported to authorities that deal with motor vehicle driving licenses.

In the case of HIV/AIDS the exceptional cases include one where an identifiable individual or group of individuals are at risk of contracting the virus from a known HIV/AIDS victim. In this case the individual(s) are alerted about the danger. Secondly, there are cases where an HIV/AIDS victim fails or is unlikely to disclose his or her status to an individual or individuals who he or she has placed under risk, like a spouse. A man needs to disclose his HIV status to his wife and vice versa.

Whatever is the situation, the fact is that if the principle of confidentiality is maintained, then more and more HIV/AIDS victims and other individuals will be willing to seek for medical assistance and therefore help in the management and control of HIV/AIDS. If however, this principle is breached frequently, then less and less HIV/AIDS victims and other individuals will be willing to seek medical assistance, a fact that would jeopardize the control of the spread and management of the HIV/AIDS. Perhaps, the middle ground will be to encourage and urge those who test positive to reveal their status to their people and/or partners (Mappes and DeGrazia, 1996).

11.3.2 Controversy relating to HIV/AIDS Testing

The second ethical issue relates to the controversy relating to HIV testing. In the attempt to control the spread and management of HIV/AIDS through the screening of patients, there are only two options: to make the screening voluntary or mandatory. There has been, in fact, suggestions for compulsory testing and isolation of those who test positive; a suggestion that was enacted in Cuba. Bioethics however, has not been for mandatory testing unless there is a successful therapy for the disease. In such a situation, therefore,
Some experts on HIV/AIDS and human rights have used the Benthamite Principle of the greatest happiness of the greatest number, as a reason for sometimes curtailing the personal liberty of HIV/AIDS patients for the sake of the common good and possibility of promoting the health of the individual concerned. But even with an argument there will be need to provide an appropriate balance between the protection of the common good and the well-being of the individual patient (Sharrat, 1991.)

11.3.7 Truth Telling and Informed consent

Another ethical issue deals with the issue of truth telling and informed consent. The principle on truth telling simply requires physicians to tell their patients all the truth in a clear way about their illness, injuries and/or dying. This principles spring from the ethical role that it is right to tell the truth and wrong to tell lies. This rule however, may have exemptions especially in a situation where there is a strong indication that the patient does not want to know the truth and that his or her life will be seriously jeopardized if he/she was told the truth.

Using the Kantian categorical imperative, all lies irrespective of their consequences may be considered wrong. In fact, rule-utilitarians and deontologists would ask, what would be the effect on the patient – physician relationship if physicians were to follow the rule – lie to your patient wherever you believe it is in the best interest of the patients? Although doing so may look attractive, but there is a possible long term effect of eroding the patient’s trust in the physician and the medical profession.

The paternalistic view on truth telling holds the position that patients are not medical experts and may not be able to clearly understand medical issues, however much physicians try to make it possible. The patients need not demand for the truth but should instead trust that the physicians are doing everything in their patients’ best interests. Many physicians have pointed out that withholding the truths from patients, especially when the truths is bad news, is good for the patient’s morale and for their will to get better. The truth
<table>
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<tr>
<th>International Treaty</th>
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<tr>
<td>1. International convention on the Elimination of All Forms of Racial Discrimination (ICERD)</td>
<td>Ratified 13 September 2001</td>
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<td>2. International Covenant on Civil and Political Rights (ICCPR)</td>
<td>Ratified 1 May 1972</td>
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<tr>
<td>5. Convention against Torture and other cruel, inhuman or degrading treatment or punishment (CAT)</td>
<td>Ratified 21 February 1990</td>
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<td>7. International Convention on the protection of the Rights of All Migrant workers and members of their families (CMW)</td>
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At the regional level, Kenya is party to the African Charter on Human and Peoples’ Rights (ACHPR), it has ratified the African charter on the Rights and Welfare of the child (ACRWC) and the convention governing specific aspects of refugee problems in Africa.

When a country ratifies a treaty, it means that it accepts the principles of the treaty and is therefore required to harmonize its domestic legislation in line with the international treaty, so that the citizens can have the right to hold its leadership to account through their domestic legislations. Governments of such countries are thereafter required to promote and respect its peoples’ human rights, and also protect such rights from infringement by other non-state actors.
12.9 Activity

1. Discuss the main historical events that led to the Universal Declaration of human rights.

2. Using the Universal Declaration of Human Rights (UDHR) categorize all the rights contained there in into the following categories

   a. Positive rights
   b. Negative rights

3. Using appropriate examples discuss cases of cross human rights violations in Kenya during President Kibaki’s reign.

4. In what ways do you consider official corruption as a violation of human rights in Kenya?

12.9 References


www.gtz.de/humanrights.

http://muse.jhu.edu/journals/humanrights quarterly/vo20/20

Appendix I

Universal Declaration of Human Rights

PREAMBLE

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,
(4) Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25

(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26

(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available, and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27

(1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.
be deprived of its own means of subsistence.

3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

PART II

Article 2

1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.

3. Each State Party to the present Covenant undertakes:

(a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

(b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;

(c) To ensure that the competent authorities shall enforce such remedies when granted.

Article 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

Article 4

1. In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly
(e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;

(g) Not to be compelled to testify against himself or to confess guilt.

4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.

5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.

6. When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

7. No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

Article 15

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of the lighter penalty, the offender shall benefit thereby.

2. Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.

Article 16

Everyone shall have the right to recognition everywhere as a person before the law.

Article 17

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, or correspondence, nor to unlawful attacks on his honour and reputation.
referred to in article 30, paragraph 4.

2. Elections at the expiry of office shall be held in accordance with the preceding articles of this part of the present Covenant.

**Article 33**

1. If, in the unanimous opinion of the other members, a member of the Committee has ceased to carry out his functions for any cause other than absence of a temporary character, the Chairman of the Committee shall notify the Secretary-General of the United Nations, who shall then declare the seat of that member to be vacant.

2. In the event of the death or the resignation of a member of the Committee, the Chairman shall immediately notify the Secretary-General of the United Nations, who shall declare the seat vacant from the date of death or the date on which the resignation takes effect.

**Article 34**

1. When a vacancy is declared in accordance with article 33 and if the term of office of the member to be replaced does not expire within six months of the declaration of the vacancy, the Secretary-General of the United Nations shall notify each of the States Parties to the present Covenant, which may within two months submit nominations in accordance with article 29 for the purpose of filling the vacancy.

2. The Secretary-General of the United Nations shall prepare a list in alphabetical order of the persons thus nominated and shall submit it to the States Parties to the present Covenant. The election to fill the vacancy shall then take place in accordance with the relevant provisions of this part of the present Covenant.

3. A member of the Committee elected to fill a vacancy declared in accordance with article 33 shall hold office for the remainder of the term of the member who vacated the seat on the Committee under the provisions of that article.

**Article 35**

The members of the Committee shall, with the approval of the General Assembly of the United Nations, receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide, having regard to the importance of the Committee's responsibilities.

**Article 36**

The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Covenant.

**Article 37**

1. The Secretary-General of the United Nations shall convene the initial meeting of the Committee at the Headquarters of the United Nations.
3. Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals.

**Article 3**

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.

**Article 4**

The States Parties to the present Covenant recognize that, in the enjoyment of those rights provided by the State in conformity with the present Covenant, the State may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society.

**Article 5**

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights or freedoms recognized herein, or at their limitation to a greater extent than is provided for in the present Covenant.

2. No restriction upon or derogation from any of the fundamental human rights recognized or existing in any country in virtue of law, conventions, regulations or custom shall be admitted on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

**PART III**

**Article 6**

1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.
Eluana Englaro, the comatose woman at the center of a right to die case in Italy, died today despite an attempt by Prime Minister Silvio Berlusconi to order doctors to keep her alive through a feeding tube. The 38 year old Englaro had been in a coma since a 1992 car crash. Nutrition was stopped four days ago at the request of the family. The case divided mainly catholic Italy, with daily demonstrations and sit-ins by those who favored letting her die and those who said it was tantamount to murder. It also led to a constitutional crisis pitting Berlusconi against the head of state and provoked a debate about whether the Vatican was unduly interfering. Berlusconi said in a statement he was “deeply pained” to hear of Englaro’s death and was “very sad that the government’s attempt to save a life were rendered impossible”. A moment of silence was observed in the senate, which was debating a law that would have forced the clinic in northern Italy where she was hospitalized to resume feeding her through out a tube.

The silence quickly turned to shouting and finger pointing as center left and center right politicians accused each other of trying to make capital from the case that has riveted Italy for months and raised the ire of the Vatican. “She didn’t die. She was killed”, Gaetano Quagliarello, a centre right senator from Berlusconi’s party shouted in the senate as other law makers screamed “murderers, murderers” towards the centre left benches. Englaro was called “Italy’s Terri Schiavo”, the American woman in vegetative state who was allowed to die in 2005 after a long legal fight. “May the lord forgive those who brought her to this point”, said Cardinal Javier Lozano Barragan, the Vatican’s health minister, who backed Berlusconi’s attempts to force the clinic to resume feeding. He told Ansa news agency that he would consider it “a crime if any human intervention was decisive in her death”. Catholic activists who were opposed to stopping nutrition said magistrates should order the woman’s body sequestered pending autopsy and a full judicial investigation.

2. The clamour for the rights of homosexuals in Kenya is a threat to our long-held societal values and morality. Discuss.

3. a) What is Affirmative Action?
   b) Discuss the inherent moral problems in Affirmative Action strategies.

4. a) When is the use of substances considered an abuse?
   b) Bearing in mind the main causes of substance abuse, suggest the most viable ways of controlling the problem among the youths in the country.

5. Identify and discuss the main moral challenges that society faces in its war against the problem of HIV/AIDS.

6. The state of morality in our country especially among the youth is rather low, and it is becoming a major concern for parents, religious leaders and educationists that the moral fibre of our society is slowly giving way to a moral breakdown.
   a) What in your view are the possible causes of this problem?