

On the Normative Aspects of Globalisation

by

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Introduction

Worth addressing in any discussion on globalisation are the possible implications for the basic unit of socio-cultural and political change – the person. How do changing social structures affect what it means to be a person? Personhood is a central part of the human experience and how we conceive ourselves has implications for how we relate with others and perceive our roles in society. For the African this is even more so since a large part of the way he sees himself is socially constituted. As Mbiti says, in African traditional thought, it is not “I think therefore I am” but “I am because *we are*.”¹ Further implications of a project of personhood can be seen for moral and political thought – how we are to determine what is right to do and how we are to order our societies. We see that at the foundation of philosophical thinking is what it means to be a person. Investigating personhood situates the person at the centre of philosophical endeavour. When we investigate what it means to be a person, we are actually engaging in an indirect investigation into all other aspects of philosophy. This is particularly so in the African context where conceptualisation is mostly people-based and embedded in the culture of a community. The person is the starting point for philosophical characterisation and so understanding the ways in which we conceive persons is central to understanding our worldview as Africans.

This paper discusses the characterisations of Menkiti and Gyekye on the relationship between the person and the community in African thought. This is with the aim of uncovering certain tensions and showing how they can be causally linked to globalisation. We investigate to what extent these tensions can be resolved by looking at Kant’s ethics and its development by C. Korsgaard. We then explore the possible implications of this for African legal thinking and the vision of a ‘general’ jurisprudence that some Western legal philosophers like Twining have proposed.

The paper is structured in five main sections. Section I deals with a discussion of Menkiti’s characterisation of the nature of personhood in African thought and the significance of communal obligations in the scheme. We show how there is a paradox in the way he connects the achievement of personhood with the performance of rituals and cultural practices. This paradox cannot be resolved without contradictions in his characterisation. We go on in Section II to discuss Gyekye’s critique of Menkiti and his notion of the relationship between the person and the community in African culture, implying a moderate communitarianism rather than an absolute conception, as can be seen in Menkiti’s characterisation. We show however how this modification of Menkiti’s account, though it appears to resolve some of Menkiti’s difficulties, gives rise to problems when conceptualising the boundaries of personhood in relation to the community. We then in Section III take recourse to Kantian thought for a possible resolution of these issues and in Section IV discuss some significant developments of Kantian thought as proposed Korsgaard and show their relevance to our project. We then in Section V explore the significance of this for African legal thinking and the possibility of a general jurisprudence. We argue that the challenge that globalisation presents to legal thinking is not the achievement of a general jurisprudence but rather a dialogue of legal cultures proposed here.

Menkiti and Communal Obligations

Menkiti presents what we call the traditional view of the relationship between the person and the community in African thought. He argues that there is a difference between the conception of the person in Western thought and that in African thought. This difference lies in the primacy given to the community over the person. According to Menkiti, "...the reality of the communal world takes precedence over the individual life histories."² For him there exists a communal conception of the good and this communal conception is prior to any individual conceptions. This priority of communal conceptions is linked with the notion that persons in African societies are defined with reference to the community. They are not defined by the characteristics which are attached to them by virtue of being human beings.

According to Menkiti, whereas in Western conceptions, the existence of rationality or any physical feature can mean the existence of a person, to define the person in African thought the starting point is the community of which the person is a part.³ Persons are perceived and evaluated through the communities they belong to. Also, persons perceive themselves in terms of the community. Thus in addition to being perceived by others through the community, they also perceive themselves through the community. For Menkiti, these internal and external perceptions constitute persons. As he puts it, "it is in rootedness in an ongoing human community that the individual comes to see himself as a man."⁴ When the community sees him as a man, he begins to see himself as a man. The community is therefore necessary for the external and internal construction of the person. This gives rise to a worldview that is principally communally defined. Menkiti regards language as an important aspect of the construction and maintenance of this communal worldview.⁵ In speaking a common language a person not only adopts meanings of the community, he also shares these meanings with other members of the community. This is because he speaks the language of the community and he shares this language with other members of the community. This gives him a sense of self that cannot be distinguished from the 'communal self' if there can be said to be one. On this foundation, Menkiti expresses the notion that the community constitutes persons. Since persons are defined by the community and not some personal attribute, it follows that the community defines them.

However, this seems to be a hasty jump. The fact that the community plays an encompassing role in the lives of its members cannot not mean (without further elaboration), that it constitutes persons. Menkiti seems to clarify this by showing in what way he thinks the community constitutes persons. He calls this the "process of incorporation."⁶ In this scheme, persons are constituted as they perform the rituals that the community prescribes as necessary for the constitution of persons. These rituals can be a series of tests or activities the member must participate in, in order to attain personhood. Without this process of incorporation, members are, according to Menkiti, "mere danglers".⁷ Since the attainment of personhood is based on the fulfilment of the rituals, non-compliance would mean failure to attain personhood. He therefore describes personhood in African thought as "something at which individuals could fail."⁸ It is an achievement and not presumed to exist merely because the person is born. For Menkiti, the process of incorporation is also used to transform the person.⁹ It moulds him into the communal ideal or at least a communally compatible conception. However, this does not seem to follow from his subsidiary notion that the

community constitutes the person. For if the community constitutes the person it cannot at the same time ‘transform’ the person. This is because transformation means that there already exists something to be transformed.

There is a paradox here. Where the person does not exist prior to the process of incorporation, how can it be said that the process transforms him? Menkiti could however be taken to mean that there exists, prior to the process of incorporation, an entity which can be called a ‘person-candidate’ and this entity needs to be transformed not only into a person but also and more importantly into a communally acceptable person. As we see, in the process of incorporation, the role of the community is an active one. This follows from Menkiti’s main notion of the constitutive community.

He describes the role of the community as being that of the “catalyst and prescriber of norms.”¹⁰ The individual in this scheme is passive and the community is active. The community sets the rules and prescribes the goals to be attained. It also sets the parameters for persons. In this way, it plays a regulatory and governing role over persons. It is taken to have ontological priority over persons. This position of ontological priority makes its influence deep and wide-ranging, so that the starting point for the normative definition of persons must begin from the community and not from persons. It is what is left from a description of the significance of the community that then comprises the individual.

What sort of conception can such a person who is derived from this description of the community then have? A passive one! Passivity would mean reflective ratification of the values and norms of the community. Since reflection is present even in the person who is communally defined, it must have a role. It cannot be dormant, even though it would seem to be so. Its role would be to *recognise* the authority of the community and *accept* its requirements as binding on him. The role of reflection does not and cannot extend to choice and reflective rejection.¹¹ This would be incompatible with the description of the community and its significance for the person. However, even in its passive sense, the role of reflection here is necessary for the success of the description of the community. Agent-recognition must exist to give rise to the authority of the community. Where persons do not recognise the authority of the community and accept its requirements as binding, the community cannot exist as described by Menkiti. Persons need to accord the community such an important place in their lives. We do not think that Menkiti will dispute the need for agent-recognition for his description of the community.

However, if agent-recognition is needed for the success of Menkiti’s description, then the person seems prior to the community. In other words, to the extent that reflective ratification is necessary for the authority of the community, the argument for the ontological primacy of the community over the person hangs by a thin thread. The thread being that if the agent does not recognise and accept the community the whole description fails. Thus, even in its passive form of mere recognition and ratification, the role of reflection contradicts the presumed overreaching influence of the community. The community cannot be that powerful if persons have to recognise and accept it to give it its normative force.

The process of incorporation has other implications. As Menkiti notes, children and animals cannot have rights because they cannot be persons in African thought.¹² Children by virtue of their age are only at the beginning of the process and therefore cannot have achieved full personhood. Also, animals by their nature cannot at whatever age, perform the rituals of personhood. This means that, in his representation of African thought on the normative conception of the person, children and animals cannot have rights since rights can only be attached to persons.

However, the tension here is that a strict understanding of Menkiti's characterisation of what he refers to as the "processual nature of being" would mean that only old people who have completed the rites of passage into personhood would have rights. It is worth noting that Menkiti's formulation makes good provision and philosophical foundation for the rights of older people. However, with the absence of similar rights for younger individuals, it would be a surprise how many would survive long enough to enjoy these rights. For instance, where the right to life has a problematic philosophical foundation because of the implication of the processual conception of personhood, any one would feel at liberty to take the life of the person-candidate. It would not be morally wrong because what you are killing is not a person anyway. However, Menkiti could mean that different sorts of rights would be attached to person-candidates at various points of the process. He however does not clarify this in his characterisation. But it is clear that whether or not person-candidates at various points of the process have rights, children who because of their age have not yet begun the process, are not considered by him to be persons yet and therefore can be taken not to even have the right to life.

This implication though grave is not our main concern. Another implication is of more concern us. Our aim is to investigate the status of individual rights in African philosophical thought. The major notion of Menkiti's formulation is that the community has ontological priority over persons. The subsidiary notion he derives from this is that the community constitutes the person. This constitution is comprised by the continual participation in as he says, "communal life through the discharge of the various obligations defined by one's stations."¹³ Therefore, the performance of the rituals and obligations, (though a subsidiary notion derived from the main notion of the primacy of the community), is a very important and defining aspect of the main notion. The way that the community ensures and asserts its primacy is through the agent's compliance with the rituals. The community continues to exist through the compliance of its members with its requirements.¹⁴

The two notions are drawn from each other and depend on the other. As agent-recognition shows us, where persons do not comply with the requirements of the community, they do not only fail as Menkiti says to constitute themselves, they also fail to constitute the community. In complying with the requirements, they are recognising the authority of the community. The community lives on through its members. Duties can therefore be seen as necessary for the survival of this conception of the community and Menkiti concedes this when he says that "African societies tend to be organized around the requirements of duty ..."¹⁵ Since duties and the performance of these duties are fundamental to the survival of the community, it tries to preserve them and ensure that members perform them. What is important however is the relationship between individual rights and communal duties. It is

worth noting how Menkiti addresses this. He does not leave us in much doubt in relation to this. He says,

... priority is given to duties which individuals owe to the collectivity, and their rights, whatever these may be, are seen as secondary to their exercise of their duties.¹⁶

As we see, for Menkiti, communal duties are prior to individual rights. The primacy and importance of the continued existence of the community supersedes all other considerations including the welfare of members. Members are expected to consider the welfare of the community before their own. We see that the status of rights in African thought according to Menkiti's formulation is that they are secondary to duties owed to the community. It can be said that for him, individual rights only exist to the extent that they do not conflict with communal duties. With the overarching nature of the community the rights of persons are not given adequate normative space to flourish. In the next section we are going to discuss Gyekye's response to Menkiti and to what extent he adequately addresses this problem.

Gyekye's Moderate Communitarianism

Gyekye presents what we call the modern view of the nature of the relationship between the person and the community in African thought. He is aware of the traditional view and intends to modify it. He is of the view that,

Menkiti's views on the metaphysical status of the community vis-à-vis that of the person and his account of personhood in African moral, social and political philosophy are, in my opinion, overstated and not entirely correct, and require some amendments or refinements.¹⁷

The refinement referred to is in the area of the conception of the persons that form the community. He seems, unlike Menkiti, to place emphasis on the value of the person rather than on the community. He argues that the social structure should be conducive to the realisation of the goals of individuals.¹⁸ The community is made up of persons and they constitute what is seen as the community. Persons give the community its life and form. They therefore occupy an important status. According to Gyekye, "just as we would not speak of a forest where there is only one tree, so we would not – cannot – speak of a community where there is only one person."¹⁹ Every community is made up of persons and these persons are necessary for its continued existence. Gyekye argues that although the importance of the community cannot be denied, the person still has a very significant place in the scheme of things. He says:

Failure to recognise this may result in pushing the significance and implications of a person's communal nature beyond their limits, an act that would in turn result in investing the community with an all-engulfing moral authority to determine all things about the life of the individual person.²⁰

Where normative emphasis is placed on the role of the community, the place of individual rights seems non-existent. For Menkiti, the community has ontological priority and constitutes persons. This constitution is effected by the continual participation of members in the rituals of the community. It is a *practical* constitution

because each stage of personhood is tied to the performance of the rituals in the process of incorporation. This practical constitution gives rise to the distinction between persons and person-candidates.

However, as we see, Gyekye does not agree with Menkiti. Personhood is not socially constructed. It is something that pre-exists the social structure. According to him, “a human person is a person whatever his age or social status.”²¹ He argues that social status is something that a person acquires and the *object* of acquisition cannot constitute the *subject* of acquisition.²² The exercise of acquisition shows that persons pre-exist it. In other words, you cannot become a person after having acquired something that you need to be a person in order to acquire. This acquisition also implies that the subject has the moral capacity to commence, continue and complete the process. By virtue of being persons we have what Gyekye calls, a “moral sense”.²³ He says,

... the human person is considered to possess an innate capacity for virtue, for performing morally right actions and therefore should be treated as a morally responsible agent.²⁴

Moral sense is a capacity for virtue possessed by persons. It makes us capable of reflecting and deciding what we ought or ought not to do. However, Gyekye does not explain the origin and form of this moral sense. This is because if the source of the moral sense is the community and its content, in terms of what it perceives as good or evil, mirrors the communal conception, his argument against the constitutive community becomes weak.

He appears to solve this problem by offering an account of the nature of the role of reflection in the moral agent. We saw that the use of reflection in Menkiti’s scheme is passive because it only recognises the authority of the community and accepts its requirements as binding. However, Gyekye seems to suggest a more active role for reflection. Although this is a subsidiary notion that flows from Gyekye’s general emphasis on the value of persons, it is a very important and defining one. He argues that reflection can be used to reject communal duties that are not acceptable. According to him,

... individual persons ... may find that aspects of ... cultural givens are inelegant, undignifying or unenlightening and can thoughtfully be questioned and evaluated.

The evaluation may result in the individual’s affirming or amending or refining existing communal goals, values and practices; but it may or could also result in the individual’s total rejection of them.²⁵

Our inquiry as to the content and origin of the moral sense seems answered. This is because if the agent can reject certain communal duties, then it means that his moral conceptions are separate from that of the community. This difference means that the community cannot be the source of the moral sense. Therefore, the role that Gyekye gives reflection is the distinguishing factor in his scheme. An active use of reflection entails also an *authoritative* use of reflection. This is because while the passive use of reflection endorses the external source as the moral authority for the

action, the active use of reflection endorses *the agent* as the moral authority for the action. This source is external because it entails heteronomous relations to the will.²⁶ Where reflection is used merely to ratify, the agent is not established as the cause of the action. It rather establishes the external entity as the cause and this means that the agent is not acting autonomously. It is autonomy that gives rise to the assertive use of reflection. As Gyekye says, “the capacity of self-assertion which the individual can exercise presupposes, and in fact derives from, the autonomous nature of the person.”²⁷ He relies on autonomy to ground his active use of reflection.

This is in line with his argument that personhood is not, as Menkiti says, achieved by the participation of the agent in the rituals and practices of the community. He already exists as a person and this means that he can reflect and use reflection authoritatively. Rationality is a constitutive attribute of the person. Thus, because he is a person, he can reflect actively and because he can reflect actively he is already a person. He is not therefore constituted or indeed ‘constitute-able’ by the community. He is autonomous. He stands on his own normatively. *He constitutes himself.*

Autonomy and the active use of reflection mean that the agent can, as Gyekye says, distance himself from communal values and question them.²⁸ For him, this “distancing” is not always a bad thing. Indeed it is this ability to distance oneself that fosters growth and development in the community. This is because it makes for the revision and amendment of its values and practices. According to Gyekye,

The fact of the changes that do occur in the existing communal values – for some new values are evolved as some of the pristine ones fall into obsolescence – this fact is undoubtedly the result of the evaluative activities and choices of some autonomous, self-assertive individual person.²⁹

Where persons are autonomous and free, the active use of reflection imports dynamism into the communal value system. As persons revise rules and practices, new norms are created to replace old ones. This continual development means that individuals can grow alongside the community. Thus, for Gyekye the notion of autonomy in the relationship between the person and the community in African thought is not a bad word. Indeed it might not seem too much like a paradox to say that the success of the community depends on the autonomy of its members.

Thus, though for Menkiti, the role of the community is one of “catalyst and prescriber of norms”³⁰, for Gyekye it is a nurturer.³¹ Its role is to provide the enabling environment for individual development and in doing this, continue its own existence. In doing this, it plays a passive and not an active role with relation to normativity. Since autonomy means that the agent can reject certain communal duties that he does not find agreeable, it is inconsistent with Menkiti’s description of the community. As we saw, Menkiti’s description affirms the ontological priority of the community over the person and what this means for the relationship between rights and duties is that individual rights are secondary to communal duties. Menkiti’s description of the community is clearly in line with his characterisation of the relationship between rights and duties. However, in Gyekye’s characterisation it is not as clear. He argues that in addition to being autonomous persons are also “relational.”³² This relationality means that they cannot exist on their own. According to him,

It is the necessary relationships which complete the being of the individual person who, prior to entering into these relationships, would not be self-complete for, as we are reminded by an Akan maxim, a person is not a palm tree that he should be self-complete or self-sufficient.³³

Persons are not expected to survive in isolation from other people. We have what Gyekye calls a “natural sociality”.³⁴ This is an attribute of the human person that enables him to flourish and function effectively. Since human beings are naturally social, they need the community to express this aspect of themselves and it is only in doing so that they are able to live flourishing lives.³⁵ Gyekye then argues further that because of the implications of natural sociality, some of our goals have to be set by the community. His argument can be simply put as follows: because of natural sociality, we cannot do without the society and because we cannot do without the society, it must set some of our goals.

However, the first and second parts of the argument do not necessarily lead to the third. Human beings are social beings and must live in societies, but that fact does not further imply that they must be morally dependent on those societies. Moral autonomy is not inconsistent with natural sociality. It is true that no one can live in isolation and physical autonomy may be impossible but it is not physical autonomy that is at issue so the palm tree proverb is not a very good analogy. It only shows that the physical autonomy that is possible for plants may not be similarly possible for human beings. It gives no answers with relation to moral autonomy. It does not follow from the fact that human beings must live in societies that the society must set all or any of their goals. Indeed persons can and do live in societies and still set their own goals. Because they have the capacity to distance themselves from communal values, they *can* set their own goals.

Also, Gyekye’s argument on natural sociality gives rise to a “partial autonomy”, which is not compatible with his description of the person. He argues that by autonomy he does not mean self-completeness.³⁶ However, autonomy does not mean self-completeness. Autonomy and self-completeness are intrinsically distinct concepts even though they may look alike. Self-completeness is an empty and ambiguous term. It can be used to mean that the person does not need any other person but himself to exist. In this sense, self-completeness is not impossible. The argument on natural sociality should give an account of the continued existence of persons who wilfully remove themselves from association with other persons. Moral autonomy is however different from this wilful removal.

Autonomy, for Kant, means the freedom to be ruled by oneself.³⁷ It is not a lawless or a physically isolative freedom. It is a freedom in relation to moral action and not physical presence. Kant does not stop at defining autonomy as freedom. He argues that there is a need to prescribe the law with which the autonomous person rules himself. The import of this law is the defining factor for Kant’s form of autonomy. With the application of this law, autonomy cannot mean selfishness or self-completeness. Autonomy can then mean altruism and even natural sociality. The law is as follows: act only according to the maxim that you can will as a universal law. This means that if the act cannot be willed as a universal law, it is not something that the autonomous person should do. In willing an act as a universal law, the agent acts in consideration not only of himself but also of the world around him. The act

must be something that can be universally willed without destroying itself or the normative order of which it is a part. In trying to will an act as a universal maxim, the agent cannot act from a selfish motive. The formula requires him to act universally. This means that autonomy cannot mean acting in isolation because the formula of universal law compels the autonomous person to act *universally*.

Gyekye argues that the community sets some of the goals of persons and so partly constitutes persons.³⁸ This entails a *partial* autonomy. However, Kant's description of autonomy also means that there cannot be partial autonomy. This is because a person cannot be autonomous and act heteronomously. Though he may reflectively endorse some communal values this does not mean that he is acting heteronomously. This is because in reflectively endorsing certain values he is acting autonomously in relation to those values. Reflective endorsement is therefore different from reflective ratification. In reflective ratification, the person uncritically adopts the communal values. However, in reflective endorsement the person critically adopts the values and *makes them his own*. His autonomy is therefore not threatened by the reflective endorsement of communal values. Reflective endorsement does not mean that the community constitutes persons. In endorsing, they make the values their own and *wholly* constitute themselves. Reflective endorsement is therefore useful to diffuse the tension in relation to the conception of the person in Gyekye's formulation. However, another tension lies within his account of the relationship between individual rights and communal duties. As we have seen, Gyekye emphasizes the importance of the autonomy of persons in the community and gives reflection an active role. However, this is not consistent with his account of the relationship between individual rights and communal duties. According to him,

However, in the light of the overwhelming emphasis on duties within the communitarian moral framework, rights would not be given priority over the values of duty and so would not be in-violable or infeasible: if might on this showing, be appropriate occasionally to override some individual rights for the sake of protecting the good of the community itself.³⁹

Individuals would not have a penchant for, an obsession with insisting on their rights, knowing that insistence on their rights could divert attention to duties they, as members of the communal society, strongly feel towards other members of the community.⁴⁰

It is clear that, although Gyekye, in his characterisation, emphasizes the value of persons and gives reflection an active role, his position on the relationship between individual rights and communal duties is not different from that of Menkiti. They both agree that individual rights are secondary to communal duties. While this conclusion follows from Menkiti's main notion of the ontological priority of the community, the conclusion when set against the background of Gyekye's notions of the value of persons and the active use of reflection is more problematic. These two notions are not compatible with the conclusion. This is because, if as the active use of reflection entails, persons are free to choose, this freedom extends to situations where the need could arise to exercise reflective rejection against a non-acceptable communal duty. However, Gyekye's conclusion means that the exercise of the individual rights is only to the extent that it does not conflict with a communal duty. As a result of the value he places on persons, he distinguishes his form of

communitarianism from that of Menkiti. He calls his own version a ‘restricted’ or ‘moderate’ communitarianism.

However, from the similarity of conclusions, it is not clear how moderate or restricted his form of communitarianism is. With the similarity of the conclusions, Gyekye’s attempt at an amendment or refinement of Menkiti’s characterisation does not appear very strong. Also, it is not clear whether a ‘restricted’ communitarianism entails a communitarian accommodation of liberalism or simply an attempt to stretch its principles to cover individual rights. Gyekye is of the view that,

... communitarianism *must realize* that allowing free rein for the exercise of individual rights – which obviously includes the exercise of the unique qualities, talents and dispositions of the individuals – will enhance the cultural development and success of the community.⁴¹ (Italics emphasis supplied).

He appears to be trying to ‘adjust’ communitarianism to fit with his notion of the active use of reflection. However, these two notions are separate and are not compatible with each other.

Generally, communitarianism implies the normative priority of the community over the person and his ends. On the other hand, an active use of reflection implies the normative priority of persons over the community and its ends. It is therefore possible to interpret Gyekye in two conflicting ways. From his notion of the authoritative use of reflection, it can be said that persons can and should exercise their capacity for reflective rejection against an unacceptable communal duty. This affirms their welfare as prior to that of the community. However, in saying that communal duties are prior to individual rights, Gyekye’s conception fails to provide a significant status for individual rights – a position not so different from that of Menkiti. Any improved status that appeared implied by virtue of his description of the active role of reflection defuses. This is because it is contradicted by the conclusion he draws with relation to the primacy of communal duties over individual rights. Taken together, the active role of reflection and the primacy of communal duties over individual rights entail a contradiction in Gyekye’s argument.

In the next section, we are going to explore to what extent importing Kant’s concept of the categorical imperative into Gyekye’s notion of the active use of reflection can give individual rights a more significant status.

Kant’s Kingdom of Ends

Thus far, we have seen that in African thought it appears that individual rights take a secondary place to communal duties. Although Gyekye, unlike Menkiti, emphasizes the value of persons, he does not arrive at a different position with relation to the relationship between individual rights and communal duties. Persons are only valuable to the extent that they comply with the requirements of the community. What Gyekye’s argument seems to amount to is merely an elaboration of Menkiti’s argument. He gives content to it by showing how individual reflection functions in the scheme. However, where reflection functions in the way he suggests, there arises a conflict with his conclusion on the priority of communal duties. There

then arises the need to attempt at a resolution of this conflict to give individual rights a more significant status in African thought.

Gyekye's active use of reflection is a good place to start. The question might arise why we need to accord a more significant status to individual rights. The need arises from the fact that as Gyekye argues, some communal duties might be unacceptable and need revision.⁴² It is the role of individual members to revise these unacceptable duties which may be unappealing because they cause hardship to some or all of the members of the community. They might also be regarded as unacceptable where they no longer represent the present socio-cultural realities of the community. The active use of reflection provides the individual with a powerful tool for cultural change. This use of reflection entails that he can reject communal duties that he does not find appealing and reasonable to do. This notion of reflection, of course, has no place in Menkiti's scheme. This is because the 'person-candidate' cannot refuse to do the rituals and practices that form part of the process of incorporating him into the community. In refusing to comply with these practices he fails to become a person. Also, according to Menkiti's account the person-candidate is not deemed to have this kind of moral capacity. He only has the capacity to recognise and accept the authority of the community. In using reflection actively, the person not only constructs his own values, he also reconstructs communal values. By being able to reject communal duties that he does not find appealing, he is exercising his freedom – he is being autonomous.

However, as we have seen autonomy does not mean a lawless freedom. It means freedom according to moral law and for Kant that moral law is the categorical imperative which flows from the formula of universal law. The categorical imperative is as follows: act only according to that maxim that you can will as a universal law.⁴³ This means that in acting autonomously members of the community can only reject communal duties that cannot be willed as universal maxims. Conversely, they are bound to endorse laws that can be willed as universal maxims. The question then arises how we pass a communal duty through the formula of universal law. We can do this by asking if the communal duty is something that can be successfully willed as a universal maxim. Successful willing can mean three things. It can mean that in being a universal maxim, it would not work against itself.⁴⁴ It can also mean that in being a universal maxim, it would not be incompatible with other universal maxims.⁴⁵ Lastly it can mean that in being a universal maxim, it would not work to destroy the normative order of which it is a part.⁴⁶ An example that can illustrate these three meanings of successful willing is the universal maxim of not keeping promises.⁴⁷ If not keeping promises was willed as a universal maxim, everyone would know that even if someone made a promise, they would not intend to keep it. It would destroy the institution of promise-keeping and make the maxim irrelevant. Also, such a maxim would be incompatible with another act that can be willed as a universal maxim which is the act of promise-keeping. It is an act that if willed as a universal maxim would work towards the smooth running of the normative order. Willing the opposite would not promote the normative order, (which to a large extent depends on the keeping of promises).

The significance of universal willing for Gyekye's active use of reflection is that it clarifies it. It gives it a system and a method. This is because where reflection with relation to communal duties has no method it becomes lawless, inconsistent and

ambiguous. It can therefore be possible for two individual members of the community to reflectively reject and endorse a particular communal duty at the same time. They would both be exercising Gyekye's active use of reflection and be in conflict with each other. However, the formula of universal law avoids this conflict by giving active reflection a method. Thus, when faced with an unacceptable communal duty, a member can pass the duty through the formula of universal law. He can ask, 'is it something that can successfully be willed as a universal maxim?' If it can, then the member is bound by the law of his own autonomy to do it whether or not he feels like it. If on the other hand it cannot be successfully willed as a universal maxim he is bound to reflectively reject it. In endorsing it, he makes the universally 'will-able' duty an autonomous duty and in rejecting it, he begins a revision of communal norms.

Without the formula of universal law, Gyekye's active use of reflection would entail a random disregard of communal values with no real commitment to constructive reform. Members would reject what they like and only do what they accept when they feel like it. The unrestricted use of reflection can bring about not only the destruction of the community but also the destruction of the member himself. This is because where he acts autonomously he constitutes himself as a moral agent.⁴⁸ The law of autonomy constitutes his agency. Where he acts contrary to this he destroys himself. Acting in accordance with the categorical imperative makes his actions consistent because they are guided by a moral law.⁴⁹ However, if he acts lawlessly, he loses the internal coherence which gives rise to his identity as a rational person. Thus, when the agent acts autonomously, he acts not only for the good of the community but also for the good of himself. In constituting the community, he is constituting himself. Self-constitution and communal constitution become one and the same activity. When he acts, he at the same time constitutes himself and the community of which he is a part. In this way, autonomous action can give rise to social change.

However, Kant considers membership of a social community to be preceded by the agent's membership of what he calls the Kingdom of Ends. By the Kingdom, Kant means a "systematic union of various rational beings through common laws."⁵⁰ The Kingdom of Ends is an aggregation of universal ends into a systematic whole after excluding personal inclinations and material ends by the operation of the Formula of Universal Law. In the Kingdom, persons consider themselves and others as ends in themselves and not as means to ends. There is thus a moral convergence that is achieved by the common objective laws. The citizen of the Kingdom of Ends is a lawgiver to himself and not bound by the law of another. He is free and autonomous.⁵¹ His autonomy is an expression of his freedom and for Kant, all rational persons desire freedom.

There is however a distinction between a *member* of the Kingdom of Ends and a *sovereign*, one which Korsgaard does not make in her characterisation of practical identity. The basic criterion to be part of the Kingdom of Ends is to act in accordance with universal laws. To be a sovereign however, the agent must not only act according to universal laws, he must also not be subject to any other will apart from his own. The member has a will that is not so good and so requires objective representations in form of categorical imperatives. However, the sovereign has the

good will and so is not influenced by any subjective reasons that need to be controlled by a maxim. This will requires obligation and its operation (which is duty).

According to Kant, “a will whose maxims necessarily harmonise with the laws of autonomy is a holy, absolutely good will.”⁵² He therefore has no need for obligation and duty because the operation of his good will is always good. Kant characterises morality as the process of conforming to the dynamics of how the Kingdom of Ends operates. This dynamics is couched thus:

to do no action on any other maxim than one such that it would be consistent with it to be a universal law, and hence to act only so that the will could regard itself as at the same time giving universal law through its maxim.⁵³

We are engaging in morality when the ‘relation of our actions to the autonomy of the will’ produces a universal by way of the maxims. Where an action is in conformity with the autonomy of the will, it is moral and when it does not (that is, heteronomous), it is immoral. The law of the Kingdom of Ends (that is, the categorical imperative) is therefore the law of the will. To be a member of the Kingdom of Ends is to have your will act according to the formula of universal law.

The problem with this notion, though it ascribes a certain universality to morality (where the agent is acting as part of a society of rational agents) it does not adequately account for the significance of community and communal membership. The notion of communal identity which as we see, is fundamental to both Menkiti’s and Gyekye’s account does not feature significantly in a Kantian scheme. It rather creates a notional artificial construct (the Kingdom of Ends), from it ascribe an identity to the agent and therefrom derive the morality of action. The consequent tension is that the person and not the community appears to be the source of identity in relation to normativity. Thus, where importing the categorical imperative into Gyekye’s active use of reflection also imports a contradiction by virtue of the inherent individualist notion in the Kingdom of Ends, Kant cannot be taken to offer much by way of resolving the tensions in Gyekye’s characterisation. In the next section we are going to look at how C. Korsgaard’s reinterprets Kant in such a way to address communal identity in relation to normativity.

Korsgaard on Practical Identity

Korsgaard’s premise is that as human beings we are not only normative, we are also reflective. We are able to reflect on things, including our actions and ourselves. Following this, we are therefore able to conceive ourselves in ways not unrelated to our actions. For Korsgaard, the perception of deliberation is different when looked at from a different perspective. In other words, though it may seem to me that you act according to your most compelling desire, in actual fact when you deliberate, it is as though there is a *you* above all your desires which chooses which desire to will as a law. She argues that this you is a perceived self and according to Kant is not there to prove the existence of a metaphysical self. It rather shows that this perceived self informs our choices of desire.

For instance, with the Kikuyu tribe being part of the nation of Kenya, a Kenyan that is Kikuyu may perceive herself either as Kikuyu, as Kenyan or both.

According to Korsgaard, how you think of yourself will determine whether the willed law is the law of the Kingdom of Ends or the law of any other group. Self-perception is characterised as fundamental to normativity. The conception of identity relevant here is not the one in which others ordinarily perceive you but the one under which you value you yourself – who you believe you are. Korsgaard calls this conception your *practical identity*. According to her, this conception embraces other ‘identities’ like being a girl, a daughter, a friend, a student and so on. These identities are normative in the sense that as Korsgaard says, “... [they] give rise to reasons and obligations. Your reasons express your identity, your nature; your obligations spring from what that identity forbids.”⁵⁴

The way we perceive ourselves gives rise to positive obligations. Where we violate them, we lose a sense of who we are. For Korsgaard, we are no longer able to think of ourselves in the way in which we value our humanity. Kant describes this in terms of a sort of death. Korsgaard seeks to argue that where going against our moral judgments does not have this kind of effect on us, it cannot be binding or motivating. The question arises what the practical identity should consist of. Korsgaard begins by arguing that we are morally reflective beings and so we should be governed by some maxim. This is since reflection alone is not sufficient to ground obligation following the arguments of externalists. Even though upon reflection I think a particular action is good to do, that does not constitute a motivating and binding reason to do it.

However, Korsgaard also argues that when we do not do what on reflection we have decided to do, we punish ourselves by guilt, regret, repentance and remorse. According to her, the acting self conceives of the reflecting self as the law-giver. It is the concept of the law-giver that makes reflection authoritative. The law-giver *is* the source of obligation. The realist objection that there arises a need to further investigate the normativity of the law-giver becomes answered: *we obey the law-giver because it is the authority of our own will.*

This does not deviate from a Kantian conception. For Korsgaard, however, the introduction of practical identity not only gives acting a purpose but also is able to provide a structure that accommodates the communal identity that arises from being part of a Menkitian or Gyekye community. As part of my practical identity, I act to construct my communal identity. It allows the agent to exercise reflective authority but with regards to the identity which as Korsgaard would argue, constitutes a way in which he values himself. For Korsgaard, the method of self-constitution includes unifying and coordinating oneself in such a way that action represents a successful achievement internal constitution.

To describe this dynamic (what she calls the ‘Constitutional model’) she uses constitution conceptions in Plato and Kant to show the role of action in the construction of identity. She characterises Plato’s conception of justice and Kant’s Categorical Imperative as offering standards of action culminating in self-unification. Korsgaard uses these two accounts to give a metaphysical foundation for practical identity. For Korsgaard, the method of the Categorical Imperative implies the Constitutional model. She says, “inclination presents the proposal; reason decides whether to act on it or not, and the decision takes the form of a legislative act.”⁵⁵ In this way, Platonic justice is compatible with the Categorical Imperative.

For Korsgaard, the similarity between the theories of Plato and Kant can be found in what they would consider to be tantamount to bad action. For the Constitutional model good action is action that is consistent with the agent's constitution. However, following the Constitutional model, bad action does not exist because an unjust person cannot act at all. However, Korsgaard argues that the unjust person may act but what appears to onlookers to be action is actually the product of a warring of his soul and not the product of deliberation.⁵⁶ A bad action is therefore one which is unjust (for Plato) and not universalisable (for Kant). With Plato we find the structure of the Constitutional model and with Kant, Korsgaard gives the substantive dynamics of the unification of the various parts. In the Constitutional model we find a successful combination of the ethics of Plato and Kant. Following the Constitutional model, action is therefore good when it works to the unification of the soul. As bad action is symptomatic of a diseased soul, so also is good action beneficial to the soul. Justice becomes therefore as Korsgaard says, "the condition of being able to maintain our unity as agents."⁵⁷ This description embodies the culmination of the Platonic and Kantian principles. The Categorical Imperative helps us to be unified. In acting from the Categorical Imperative, we constitute ourselves. The Categorical Imperative therefore becomes the internal normative standard for action.

Thus, with Korsgaard's characterisation the significance of the Categorical Imperative in Gyekye's scheme is not only to guide action but also to constitute identity. It is a conception that is able to incorporate the significant place that communal identity holds in African thought. Even though Kant's approach to duty gives the role of reflection in Gyekye's characterisation a structure it does not accommodate the notion of communal identity. With the concept of practical identity, it is able to do this as it is incorporated in the characterisation of identity, the notion of the 'binding-ness' of action. In other words, it not only explains the structure of identity but also how this structure can make certain actions binding for the person. Action is at once linked to identity and to agency. Through action, persons construct their identity and in doing so, the identity of the community. Where action is understood as a tool for the constitution of identity, its obligatoriness becomes clearer. It is then easier to understand when Menkiti says that becoming a person is something to be achieved as one complies with communal directives.

This is because where the achievement of personhood is linked to compliance with the practices of the community, the notion of necessitation that is at the basis of obligation,⁵⁸ is imported into the characterisation of personhood. Also imported is the notion of the public nature of personhood. Being a person is not then a *personal* thing. It is a *public* experience. Its publicity is not only derived from the fact that the communal directives are a significant part of its characterisation but also that the nature of the practices makes it that personhood is a *shared* experience. Many of the practices carried out are done in collaboration with other members of the community. In being mostly collaborative, the rituals that make up, as it were, the 'steps to personhood', reinforce the public nature of personhood. To be a person is therefore to be *publicly* a person. Private personhood is incompatible with African thought on the nature of personhood.

Resolving the Crisis of Personhood in African Philosophy

Worth looking at is how the above resolution would work with relation to an actual scenario involving a required communal duty that is for some reason unacceptable. An example of such a scenario is the customary duties required of widows. These are mostly communal duties attached to the period of mourning that the widow is obligated to go through in the event of the death of her husband. Some of these practices are objectionable. They are, as Gyekye would say, “inelegant, undignifying” and “unenlightening”.⁵⁹ The practices sometimes include physical and psychological abuse. According to Sossou, “widowhood practice throughout West Africa is a period of hardship and deprivation. It includes varying degrees of physical seclusion and a state of ritual contamination or impurity calling for purification.”⁶⁰ The practices can be said to represent how the cultures conceptualise death.⁶¹ Some cultures believe that death contaminates the widow and that she must be purified.⁶² The practices in a way represent the metaphysical beliefs of the community. They mirror the ways in which the community interprets death and its significance for persons. These practices can entail different acts like sleeping in the graveyard,⁶³ drinking water that has been used to cleanse the corpse,⁶⁴ forced crying at specified times of the day for days,⁶⁵ shaving of body hair,⁶⁶ forced nudity,⁶⁷ controlled physical appearance,⁶⁸ physical and social seclusion,⁶⁹ disinheritance⁷⁰ and so on. They can be seen as requirements that constitute the duties that the widow owes the dead spouse and the community in general.

However, these duties are unacceptable because they cause hardship to the widow. Though she is bound by custom to do them, they do not contribute to her own well being. They also do not represent her as an autonomous being in the sense of being an end in herself and not a means to an end. We find this sense of autonomy in Kant’s formula of humanity which is as follows: “so act that you use humanity, whether in you own person or in the person of any other, always at the same time as an end, never merely as a means.”⁷¹ This is a parameter for evaluating actions. If the act represents you as an end in yourself and as a means to an end then in doing that act, you are acting autonomously.

The common sense derivation of this notion is that no one likes to feel used.⁷² In this way, the formula of humanity is a principle of value. This is because to treat someone as an end in herself and not simply as a means to another end is to value her humanity. The duties as we can see do not ascribe value to her as an end in herself – as an autonomous being. Where an attempt is made to will any of the above listed widowhood practices as a universal, three possible meanings of successful willing arise - that in being a universal maxim, the act would not work against itself; be incompatible with other maxims; or work to destroy the normative order of which it is a part. If any of the practices were universally willed it would work against itself. This is because instead of being what it is intended to be - a time when the community’s beliefs about death are expressed and celebrated, it would merely be a time of suffering for the widow and those close to her. Also, willing these practices as universal laws would give rise to conflicts with other maxims.

Universal maxims that can be willed according to the formula of universality are supposed to be consistent with each other. An example of a universal maxim that would conflict with the maxim of the performance of unacceptable communal duties

of widows is the maxim that the well being of persons should be preserved. It can be called a maxim of human welfare. Without this maxim, it would be the moral law and not the exception to cause suffering to persons. Also, one would be justified in not for instance, helping a drowning man. Therefore, because the act of preserving the well being of others can be successfully willed as a universal maxim and it conflicts with the universal willing of the performance of unacceptable communal duties of widows, the latter maxim cannot be successfully willed.

In addition, willing the performance of these duties as a universal maxim would not work to the preservation of the moral order. This is because the moral order depends on the autonomy of its agents for its existence. Where persons are not free or are 'partially' autonomous there would be inequality among persons. Inequality gives rise to exploitation and domination by the upper class of persons. Whereas political orders can thrive on inequality, moral orders are constituted by equal and autonomous persons. That is the foundation of the moral order. Therefore, if something is a moral law, it is a moral law for every body. Agents in the moral order are ends in themselves. Thus, if an act de-values an agent, it is not something that he or any other person should do. This is because to act in this way would be to destroy the foundation of universal value on which the moral order is based. This is why an act that de-values the agent cannot be willed as a universal maxim. This is because it is something that would de-value everybody and destroy the moral order. Thus, if it is something that de-values everybody, it is not something that he should do. Moral orders are based on this universal or equal value. This means that anything that is good for you should be good for me and vice versa.

In failing the three tests of the formula of universality, it can be said that the performance of unacceptable communal duties of widows cannot be willed as a universal maxim. It is not something that Gyekye's autonomous persons when using reflection actively should do. However, this argument has not sufficiently acknowledged the concept of communal identity which is at the foundation of African thought. Where the widow, for instance, does not comply with a communal practice, is not the construction of her communal identity at stake? As we saw, Korsgaard's response to this tension would be to conceptualize communal identity as practical identity and consider it as constructed where the agent acts in compliance with the formula of universal law. In other words, by characterising communal identity as a practical identity, she does not lose her communal identity by not complying with an unacceptable communal duty. She is in fact *unifying* with herself with her community. Communal identification is therefore not incompatible with non-compliance with communal directives. This helps clarify any tensions in African thought on the normative relationship between the person and the community by giving individual rights a more significant status and giving the active use of reflection in Gyekye's scheme, a method – the categorical imperative.

This method not only makes for consistency and certainty of moral deliberation in relation to communal values, it also resolves the contradiction in favour of individual rights. This is because Gyekye's autonomous person is not morally bound to perform a communal duty that cannot be willed as a universal maxim. The significance of this for personhood in African thought is that it signals a movement from a communitarian conception to a more liberalist conception. This does not mean that the significance of the community is downplayed for as Gyekye

argues the community benefits from the exercise of reflective ability by its members.⁷³ According to him, “the conceptions [of the person] are articulated in the critical analyses and arguments of its intellectuals.”⁷⁴ Reflective activity is fundamental to the development and continued existence of the community. In reflecting, we create new cultures and communal values become dynamic not static. However, from the example of the universal willing of unacceptable communal duties of widows, we saw that the reflective exercise is done by the agent possessing the duty. Autonomous reflection is a first-person sort of reflection. It is done by the agent himself and not another for him. Thus, though reflective activity can be done by ‘intellectuals’, the kind of reflective activity needed for socio-cultural reform is a first-person reflection. It is reflection *by the person who possesses the unacceptable communal duty*.

We can see this in Gyekye’s description of the active use of reflection. The agent himself must find the duties “inelegant, undignifying or unenlightening”.⁷⁵ Thus, the active use of reflection places a moral responsibility on persons to begin the change. This responsibility though an enormous one, is necessary if communal values are to develop. Autonomy places on persons, a responsibility to ensure the development and continued existence of their communities.

What is the significance of the relationship between the personhood discourse and globalisation? An important aspect of Africa’s relationship with the world is the *African’s* relationship with the world. The tensions that were noticeable in the characterisations of Menkiti and Gyekye are not tensions that emanate solely from the formulations but from the changing conceptions of the African person as a rights-holder that have occurred as a result of cultural influences from the west. There has emerged caution about according to a political structure like the community absolute normative authority with relation to persons. The notion of individual rights is a mechanism that tries to represent this caution by allowing persons to challenge the community thereby diluting any conception of absolute moral authority.

This represents a more normative aspect of the effect of a globalizing world. Globalisation can be seen as completing a revolution in the normative conception of the person in African thought, the seeds of which were sown during colonisation. This revolution has seen not only a change in the dynamics of personhood but also in the structure of the community. In the African context any change in the conception of the person effects a change in the structure of the community in relation to persons. The more central the position of individual rights, the less absolute the influence of the community would be but as we have argued this does not mean a threat to the role of the community. The community can only continue to develop if people play a significant role in socio-cultural reform. Thus, even though it can appear that the exercise of individual rights would signal the destruction of the community, it actually makes for the constant re-birth and growth of the community. Not paying adequate attention to individual rights in African thought creates other less easily resolvable problems.

The reception of foreign laws during colonisation brought with it aspects of the more individualist culture existent in the western worldview. This inevitably creates a conflict with the indigenous culture and there emerges two major normative orders – that of the received law and that of the indigenous culture. At the basis of

this conflict is the difficulty of reconciling liberalist and communitarian conceptions of the person and the role of the community with relation to this. However, with the introduction of certain robust concepts as we did with Kant's categorical imperative and Korsgaard's practical identity, there is an increased possibility to resolve any tensions that arise. Some have argued that the challenge that globalisation presents to us as philosophers is the need for a general jurisprudence; one that will represent an aggregation of various legal cultures that arise from different societies.⁷⁶ However, the possibility of this arising in the absence of a dialogue between these cultures is grim. This dialogue needs to be on an equal platform not on one where one culture assumes a hegemonic dominance over others. It is only in the event of such a dialogue that concepts can arise which will form the basis of any general jurisprudence.

One of the prerequisites for such a dialogue however is the resolution of issues of identity. This is particularly relevant in the African context where arriving at a coherent sense of identity has not been a very easy enterprise. This paper aims to be part of that project of getting to better understand ourselves. Understanding what our conceptions of what it means to be a person is central to any project of cultural identity. As we can see, the tensions that appear to arise in the normative conception of the person in African thought represent the effect of colonisation on traditional African culture and attempts to resolve these tensions represent attempts to reconstruct our identity after what Wiredu calls the 'accident' of colonisation.⁷⁷ Though a task such as this is an overwhelming one and cannot be completed in a hurry, it signals a step towards the dialogue that is necessary to arrive at a less western-particularist jurisprudence.

Conclusion

The relationship between the person and the community in African traditional thought is one that is representative of what is distinctive about African thinking. Our investigation has sought to uncover certain tensions in the formulations of key thinkers in this regard, Menkiti and Gyekye, with the aim of attempting at a resolution by taking recourse to some concepts in Kantian and Korsgaardian ethics. We also show how this relates to arriving at a general jurisprudence that represents all legal cultures. Though we are sceptical about the possibility of such a jurisprudence, we argue that a dialogue of legal cultures is necessary if any such endeavour is to be a reality.

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Notes

¹ Mbiti, J. *African Religions and Philosophy*. Heinemann. 1969. p. 108, See also, Bewaji, J. A. I. 1999. "The Social Contract Tradition" in *Proceedings of Twentieth World Congress of Philosophy*. Boston, USA. Social Philosophy Section. (Electronic) <http://www.bu.edu/wep/Papers/SociBewa.html>

² Menkiti, Ifeanyi. "Person and Community in African Traditional Thought." In *African Philosophy: An Introduction*. Edited by Richard A. Wright. University Press of America. 1979. p. 171. Also see Menkiti, I. 'On the Normative Conception of a Person'. *A Companion to African Philosophy*. Edited by Kwasi Wiredu. Blackwell Publishing. 2004. p. 324.

³ Ibid., p. 171.

⁴ Ibid., p. 171-172.

⁵ Ibid., p. 172.

⁶ Ibid., p. 172.

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- ⁷ Ibid.
- ⁸ Ibid., p. 173.
- ⁹ He says, ‘We must also conceive of this organism as going through a long process of social and *ritual transformation* until it attains the full complement of excellencies seen as truly definitive of man.’ (Emphasis supplied), p. 172.
- ¹⁰ Ibid., p. 172.
- ¹¹ Gyekye gives an account of the use of reflective rejection. Gyekye, Kwame. “Person and Community in African Thought.” *Ghanaian Philosophical Studies I. Cultural Heritage and Contemporary Change Series II. Africa*. Volume 1. Edited by Kwasi Wiredu and Kwame Gyekye. Published with support of CIPSH/UNESCO and The Council for Research in Values and Philosophy. 1992. p. 112.
- ¹² Op. cit., Menkiti, p. 175, 177.
- ¹³ Ibid., p. 176.
- ¹⁴ Khapoya, V. *The African Experience: An Introduction*. Second Edition. Upper Saddle River, N.J.: Prentice Hall. 1998. p. 45.
- ¹⁵ Op. cit., Menkiti, p. 180.
- ¹⁶ Ibid.
- ¹⁷ Op. cit., Gyekye, p. 103.
- ¹⁸ Ibid, p. 101.
- ¹⁹ Ibid., p. 105.
- ²⁰ Ibid., p. 106.
- ²¹ Ibid., p. 108.
- ²² Ibid.
- ²³ Ibid., p. 110.
- ²⁴ Ibid., p. 109.
- ²⁵ Ibid., p. 112.
- ²⁶ Kant, Immanuel. *Groundwork of the Metaphysics of Morals*. Edited by Mary Gregor. Cambridge University Press. 1997. p. 47, 4:441.
- ²⁷ Op. cit., Gyekye, p. 112.
- ²⁸ Ibid., p. 116.
- ²⁹ Ibid., p. 112.
- ³⁰ Op. cit., Menkiti, p. 172.
- ³¹ Op. cit., Gyekye, p. 111.
- ³² Ibid., p. 104.
- ³³ Ibid., p. 104-105.
- ³⁴ Ibid., p. 118.
- ³⁵ He says, ‘it is evidently true that in the social context, in terms of functioning or flourishing in a human community, the individual person is not self-sufficient; his capacities, talents and dispositions are not adequate for the realization of his potential and basic needs. What accrues to his natural sociality – and hence his natural rationality – provides the buttress indispensable to the actualisation of his possibilities.’ p. 105.
- ³⁶ Ibid., p. 112.
- ³⁷ Op. cit., Kant, p. 46, 4:440.
- ³⁸ Op. cit., Gyekye, p. 113.
- ³⁹ Ibid., p. 120.
- ⁴⁰ Ibid., p. 116.
- ⁴¹ Ibid., p. 115.
- ⁴² Ibid., p. 112.

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- ⁴³ Op. cit., Kant, p. 30, 4:420.
- ⁴⁴ Ibid., 4:402.
- ⁴⁵ Ibid., 4: 402; 4: 403.
- ⁴⁶ Ibid., 4: 402; 4: 403.
- ⁴⁷ Kant uses this example in the *Groundwork*, p. 15, 4:403.
- ⁴⁸ According to Korsgaard, ‘action is self-constitution.’ *Oxford Lectures on Self-constitution*. Unpublished. 1.3.4 [Hereafter referred to as Korsgaard (1)] .
- ⁴⁹ Korsgaard refers to the categorical imperative as *the moral Law*. Korsgaard (1), Lecture 3, p. 3.
- ⁵⁰ Op. cit., Kant, 4:433.
- ⁵¹ Ibid., 4:453; 4:455.
- ⁵² Ibid., 4:439.
- ⁵³ Ibid., 4:434.
- ⁵⁴ Korsgaard, C. *The Sources of Normativity*. Cambridge University Press. 1996. [Hereafter referred to as Korsgaard (2)] p. 101.
- ⁵⁵ Korsgaard (1), p. 12.
- ⁵⁶ Korsgaard (1), p. 18.
- ⁵⁷ Korsgaard (1), p. 22.
- ⁵⁸ Korsgaard (1), Lecture 1, p. 3.
- ⁵⁹ Op. cit., Gyekye, p. 112.
- ⁶⁰ Sossou Marie-Antoinette. “Widowhood practices in West Africa: the silent victims.” *International Journal of Social Welfare*. 2002. Volume 11. p. 203.
- ⁶¹ Ibid., p. 202.
- ⁶² Ibid., p. 203.
- ⁶³ Ibid., p. 204.
- ⁶⁴ This is done among the Ikwerre of Eastern Nigeria. Ubani, N. “Widowhood Practices in Eastern Nigeria”. *The Plight of the Nigerian Widow*. Published by FIDA and CEDPA, p. 33.
- ⁶⁵ Op. cit., Sossou, p. 204.
- ⁶⁶ Ibid., p. 205.
- ⁶⁷ Ibid., p. 204.
- ⁶⁸ Ibid.; Okoye, P. *Widowhood: A Natural or Cultural Tragedy?*. Nucik Publishers. P. 123.
- ⁶⁹ Ibid., p. 206.
- ⁷⁰ Ibid.
- ⁷¹ Op. cit., Kant, p. 38,4:429.
- ⁷² Davies, Nancy. “Using Persons and Common Sense.” *Ethics*. Volume 94. 1984. p. 387.
- ⁷³ Op. cit., Gyekye, p. 112.
- ⁷⁴ Ibid., p. 101.
- ⁷⁵ Ibid., Gyekye, p. 112.
- ⁷⁶ Twining, W. ‘General Jurisprudence’ Proceedings of the World Congress on Social and Legal Philosophy (IVR), May, 2005, p. 614.
- ⁷⁷ Wiredu, K. *Cultural Universals and Particulars: An African Perspective*. Indiana University Press. 1996. p. 4.