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Research Title: The ethico-legal position of state-funded healthcare for foreign nationals in South Africa

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ABSTRACT

As South Africa ages into its democracy, the exclusion of foreign nationals (particularly those from other African countries) from state-funded services, such as healthcare, has become a key concern. Foreign nationals face significant barriers to state-funded or public healthcare access, including xenophobic behaviours and treatment from healthcare providers and provincial directives recommending up-front payment in contradiction to National Department of Health directives. Thus, limiting their access to public healthcare as most are charged exorbitant fees, mistreated, and fear deportation.

Above all, the public healthcare crisis in the country remains a key reason for the exclusion of foreigners from accessing state-funded healthcare. Policies and legislature regarding foreign nationals' access to state-funded healthcare exist, but there is a lack of implementation at the ground level. Furthermore, existing accounts in literature fail to account for the ethical need and obligation that the State has in providing state-funded healthcare to foreign nationals.

In this dissertation, I argue that the State has an ethical and legal obligation to provide state-funded healthcare to foreign nationals despite the South African public healthcare crisis. The objectives are to defend the claim that the exclusion of foreign nationals from state-funded

healthcare would be in contradiction of the African Communitarian ethic of *Ubuntu*; it would be unlawful and inherently unjust. I also support their entitlement to socio-economic rights, particularly the right to access state-funded healthcare, on the basis that foreign nationals make valuable socio-economic contributions to the country, therefore, should not be excluded from state-funded healthcare services.

This study is mostly analytically normative, involving a review of existing literature, drawing on ethical principles and the legislature to defend a thesis regarding why the State has an ethico-legal obligation to provide state-funded healthcare to foreign nationals. The analytical review showed that healthcare is not only a political or economic issue but a medical ethics issue. Consideration of ethical theories such as Utilitarianism, Kantian Ethics, African Communitarian ethic of *Ubuntu*, and Principlism show that even in a public healthcare crisis in South Africa, the exclusion of foreign nationals is not ethically justified. It is not in the interest of the common good and undermines human rights. According to the Constitution and existing South African legislature, it is also unlawful and inherently unjust.

Thus, even in the most extreme state of the public healthcare system, the State still has an ethical and legal obligation to fulfil to all people in the land as per the South African Constitution of 1996. One life's value compared to another remains equal, and citizenship ought not to be a discriminating factor.

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Right to Health, Foreign Nationals' Healthcare, *Ubuntu*, South African Public Healthcare Crisis, Rationing in Healthcare, Distributive Justice.