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# DUTIES, RIGHTS AND AFRO-COMMUNITARIAN SOCIETIES

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## Abstract

Human rights are at the center of most world societies today. The traditional assumption has been that they are necessary and universal. However, in light of their universality, there are variations with regard to a conception of human rights that each society has. That is, even if most societies acknowledge existence of human rights, how each society thinks about human rights, in terms of justification and application for example, may be different. In this paper, while presenting various African conceptions of human rights, I argue for a conception of human rights from the stand point of duties. I argue that human rights in Afro-communitarian societies are implicit within the language of duty. To understand the implicit nature of rights, I argue for rights as needs. I take human rights (as needs), to be the basic conditions for living a decent life in a society.

**Keywords:** Afro-communitarianism, Rights, Duties, Needs.

**Word Count:** 27008 excluding bibliography and cover pages

## Declaration

I declare that this research report is my own unaided work. It is submitted for the degree of Master of Arts, Philosophy, at the University of the Witwatersrand, Johannesburg. It has not been submitted before for any other degree or examination in any other university

Vitumbiko Nyirenda

_____ day of _____, 20_____

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## INTRODUCTION

Human rights have been a concern for world societies or communities for decades. It has been the central focus for many people including activist, political scientist, and philosophers. In academic circles, discussions among scholars seem to engage with the nature and function of human rights. Part of engaging with the nature of rights has been to question in virtue of what, do human beings have rights. The common assumption has been that human rights concern every human being, and are based on human nature, a view that can be labelled as “the natural justification of human rights” (Wiredu and Gyekye, 1992, Cobbah, 1987; Oyowe, 2014; Ake, 1987; Molefe, 2017). At the same time, this has not been the only basis of human rights. There are other arguments that seem to argue for non-natural basis for human rights. Part of the argument is that human rights are just a convention of the society whose existence requires recognition by the state (Allisobrook, 2018 in Etieyibo, 2018a). With regard to function of human rights, scholars for instance, question the role rights play against the background of various human rights violations common in different societies.

Nonetheless, whatever angle one approaches human rights, it appears there is a distinction that scholars draw between what they consider as the African conception of human rights and the Western conception (a better rendition would be non-African conceptions, but for the sake of specificity, I just focus on “Western”). Most of the arguments they provide are based on the differences among cultural values belonging to these two spheres. In particular, the differences in how African and Western cultures understand human nature, and how this also impacts on different conceptions of human

rights. The different views relating to these conceptions are presented in the second section of this research. In any case, following this line of argument, the research argues for another way of looking at human rights in the Afro-communitarian society, from the perspective of duties. I am sympathetic to what most scholars have written about the plausibility of human rights in the African perspective, but specifically, that rights are secondary to duties (Menkiti, 1984; Molefe, 2017; Wiredu, 2009). I argue that human rights are implicit within the language of duty. My approach is to argue for implicitness of human rights by looking at rights as needs. I take the notion of needs to capture the various use senses of the word rights in some African languages where there is no local word for rights or where is a word for rights but has the same meaning as “privileges”, “entitlements” and “freedoms.” In arguing for this position, the research is divided into three sections.

In section one, I present a debate between radical and moderate communitarianism. The aim of the debate is to show how radical and moderate communitarians understand the relationship between an individual and community. The debate highlights implications such a relationship has on an understanding of personhood an individual may have and a resulting conception of human rights.

In section two, following the debate on how African communities understand the individual community relationship, I discuss different African conceptions of human rights. I show what scholars have presented as African conceptions of human rights and human dignity. This is followed by the main claim of this work, where I propose another

way of understanding human rights as implicit within the language of duty. I take this view to agree with an assumption scholar have made, such as the view that duties are primary to rights.

Lastly, in section three, I present what I consider to be objections to the claims made in the research followed by some responses. The objections highlight some of the worries an individual might have with regard to what may be termed the “need thesis” in relation to “desires” to be discussed in this research. As a way of strengthening the main claim of the paper, I will offer my response by highlighting the distinction between the two concepts.

## SECTION ONE

### 1.0 Person and the Community

This section mainly focuses on the relationship between the individual and community. I focus on different theories of personhood (if they are different at all) exploring the relationship between the community and the individual person as presented by African philosophers. I further on the debate between radical communitarianism and moderate communitarianism. I also discuss the main issues raised by radical communitarianism as well as moderate communitarianism followed by objections and responses. The main reason for invoking the debate is to find out how the different camps of the debate understand the place of the individual within the context of a larger community and the underlying assumptions the relationship has on duties and rights individuals have towards each other and the community.

This section is structured in the following way. I start by providing a brief overview of communalism and communitarianism. This is followed by a discussion of the different theories of communitarianism, specifically radical and moderate communitarianism including objections to the theories.

### 1.1. Community, Communalism and Communitarianism

A general assumption people make is that Western societies are individualistic, whereas African societies are communitarian in nature (Metz, 2007; Mbiti, 1970; Menkiti, 1984, 2004). However, others have doubted the justification of this assumption (such as Wiredu and Gyekye, 1992; Gyekye, 1997; Oyowe, 2013a). There are also

other Western scholars who have written from the Western perspective indicating the presences of communitarianism in the West (Macintyre, 1981). Nonetheless, my focus is on Afro-communitarian societies, exploring the kind of communitarianism associated with them. The key terms that are significant to my discussion are community, communalism and communitarianism. To start with the first, the English Oxford Dictionary, defines community as "a group of people living in the same place or having a particular characteristic in common."[1] In this section, when I refer to African communities, I have in mind a group of people living on the continent of Africa. But most importantly, my discussion of features or cultural values associated with African communities does not imply that all communities have the same culture (this view is reflected in my discussion of theories below). Alternately, the assumption is that most of these communities (whatever they are) have certain elements of culture that are common among them. Thus, it is not to be understood in monolithic sense, but there is a tacit acknowledgement of distinctions among different communities.

Regarding the other two terms, communalism and communitarianism, I will make reference to ideas presented by Kwasi Wiredu. Wiredu makes the assumption that most African communities are communitarian in nature. But he also points out that there could be other communities that are not communitarian, whatever these may be (Wiredu, 2009; Ikuenobe, 2017). At the same time, there could be communities that were previously communitarian but due to mixing of cultures, these communities display both aspects of individualism (will use it interchangeably with liberalism) and

[1] https://en.oxforddictionaries.com/definition/community

communitarianism (in whatever context one might wish to cash out this idea) (Cobbah, 1987). A point worth acknowledging is that a discussion of some ideas may relate to different time frames (pre-colonial, colonial, post-colonial). At the same time, the idea here is not to argue that liberal societies have nothing to do with community at all. Such a view would be misleading, and it would be an internal inconsistency, since the idea of liberal "society" or individualistic "community" presupposes a community. The best way to understand the distinction between liberal societies that are said to be individualistic and communitarian societies and the nature of community associated with them, is to understand how the individual and community relate to each other (Macintyre, 1981; Sandel, 1982; Taylor, 1979; Neal and Paris, 1990). For instance, Patrick Neal and David Paris provide a discussion of "individual-community relation" by appealing to the notion of self or personal identity within the broader framework of shared relations (Neal and Paris, 1990). They make a distinction between essentially shared relations and contingent shared relations. Thus,

> A contingently shared relation is a relationship between two or more antecedently defined separate selves which, however much it may affect their attitudes and behavior, does not penetrate the identity of the separate selves to the point that the identity of each becomes partially or wholly constituted by the relation itself. An essentially shared relation penetrates this deeply; when two selves essentially share a relation, the identity of each self is partially or wholly constituted by the relation (Neal and Paris, 1990, 425).

What the above view illustrates is the metaphysical view of the community. This means that there could be a normative view of community, the one I will discuss below by Ifeanyi Menkiti, in which the community plays a central role in developing certain virtues among individual members (Menkiti, 1984). But what should be noted from the above quote from Neal and Paris is how the two relations relate to liberalism and communitarian. Liberalism is associated with contingently shared relations whereas communitarianism is associated with essentially shared relations (Neal and Paris, 1990). My belief is that the individual can assert his or her identity without reference to the community within the liberal societies, whereas in the communitarian context (in principle) this would not be plausible because the community penetrates the identities of individuals. But more importantly, the community is present in both cases and may have an influence. Neal and Paris argue that it is hard to think of identity that is necessarily separate from influence by the community. Such a move would be to ignore the “facts of socialization” (Paris and Neal, 1990, 425). That is, through socialization, beliefs and preferences of the individuals could be influenced or affected, despite drawing the distinctions in relation to influence on identity of individuals whether in liberal or communitarian societies.

Nonetheless, the question still remains as to what communalism and communitarianism is and whether African traditional societies were/are communitarian? These are some of the questions Wiredu responds to, and so it would be helpful to look at them. Wiredu makes a distinction between communalism and communitarianism. The former refers to a “social formation founded on kinship relations” (Wiredu, 2009, 335). On the other

hand, communitarianism refers to theories about the social formation (Wiredu, 2009). Thus, while one can describe a kind of social formation found among the Akan (for example), theorizing about that social formation is what is meant by communitarianism. This section discusses two conceptions of communitarianism, radical and moderate communitarianism (Menkiti, 1984, Wiredu and Gyekye, 1992). Before engaging with the theories, it would be helpful to present a picture of communalism that Wiredu has in mind.

According to Wiredu (2009), most African societies were communitarian and only a few can be said not to have been communitarian. He states that "African societies are founded on kinship relations starting from a household and expand to lineage and clan proportions" (Wiredu, 2009, 333). This means that an African understands oneself to first belong to a family (mostly extended family) or household; this relationship expands to a lineage then to clan (Wiredu, 2009; Cobbah, 1987). Thus, the sense of oneness or boundedness is not limited to one's immediate family but expands to a larger group, the society as a whole. For instance, Cobbah discusses how the individual sees oneself to occupy different roles that reflect one's relationship to others. One can have an individual who sees oneself as a father, uncle, brother, chief, spiritual leader and many others (Cobbah, 1987). These roles connect one to one's immediate family and beyond. One may be a father in relation to an immediate family, an uncle to another household, and a chief to that family and the whole community. Furthermore, it seems easy to understand how one relates to immediate members of the family, but when it comes to a larger group (say at a clan level), people may relate to each other in terms of common

ancestry or close bonds that develop from a shared history of living together, a common phenomenon among some African communities. One sees oneself with others whom he or she shares a history as interdependent (and through an idea of common humanity), which in turn tends to strengthen their belongingness as well as engendering duties among community members, strangers, including future generations whose history and concern is connected to the present and previous generation (Wiredu and Gyekye, 1992; Wiredu, 2009, Kelbessa, 2015). Furthermore, the sense of belongingness which tend to define what a community is also tends to apply to both the natural and supernatural world (Menkiti, 1984). This means that the sense of communalism extends generations and also incorporates the supernatural world, a strange idea that might not be well received by a person coming from a non-African world.

Seeing oneself to belong to a larger group as described above is something people come to learn. According to Wiredu, “people are brought up to develop a sense or bonding with large groups of relatives at home and outside it from very early childhood” (Wiredu, 2009, 333). In any case, such a bonding comes with certain obligations and rights. Thus, “the individual comes more and more to see herself as the center of obligations and rights” (Wiredu, 2009, 333). Wiredu relates obligations and rights to needs that individuals have within the context of the community. In other words, meeting some of these needs require that other members of the community perform their obligations with regard to needs available. At the same time, the needs reflect what sort of things people are entitled to. For instance, the right to be nursed, which he discusses (Wiredu, 1996). This right itself presupposes duties that come from others, such as the

parents, and the community and indicates that which as a child one is entitled to because one cannot provide for oneself. I will return to a discussion about this right and obligations from Wiredu's perspective in section two.

Nevertheless, communalism as described above is understood differently by different people. In other words, how individuals are said to relate to the larger community comes with different theories. What this means is that it is possible for an individual to understand oneself as related to a larger group in the sense described above, but what the relationship entails may have different interpretations. Much of the debate in African philosophy has been about whether this relationship prioritizes the individual or community, or just dialogical. As I will show, there are philosophers such as Ifeanyi Menkiti and John Mbiti who prioritizes the community over the individual (Menkiti, 1984, Mbiti, 1970). This is different from other scholars who prioritize the individual over the community (Matolino, 1984). At the same time, others such as Emmanuel Eze and Kwame Gyekye (although he can also be read as prioritizing the community) seek to find a balance between the community and the individual. For instance, Eze argues that it is not about the community being prior to the individual or the individual being prior to the community, rather the relationship is dialogical; one shapes the other (Eze 2008). In any case, I will look at these interpretations within the context of two widely debated theories of communitarianism, radical and moderate communitarianism.

## 1.2. Theories of Communitarianism

### 1.2.1. Radical Communitarianism

One common view that has received much attention in African philosophy is the radical communitarian view, also known as classical communitarianism. The attention has come from many scholars who have found its implications unattractive, as I shown below. Scholars associated with radical communitarianism include Placide Tempels, Ifeanyi Menkiti and John Mbiti (Tempels, 1959, Menkiti, 1984; Mbiti; 1970). In this section, I will mainly rely on Menkiti's views while making reference to other scholars as well. One of the common theories of communitarianism is found in Menkiti articles titled "Person and Community in Traditional African Thought" and "Normative Conception of Personhood," published in 1984 and 2004 respectively. Menkiti's papers are helpful in articulating the relationship between an individual and the community. His aim is to present a normative conception of personhood as found in some African communities. Menkiti can be interpreted as discussing what it means when a person utters a proposition "this human being is not a person." There could be different responses to this statement. Menkiti's view, the normative view, is just one among the many views found in African traditional communities.[2] He alludes to this when he states that, *"my aim in this paper is to articulate a certain conception of person as found in African traditional thought"* (Menkiti, 1984, 171, italics are mine). Whether Menkiti successfully discusses this view is a matter of debate (Wiredu and Gyekye, 1992; Matolino, 2009; Kaphagawani, 2006; Etieyibo, 2018b and Molefe, 2018).

[2] Normative here is opposed to descriptive accounts or metaphysical accounts about a person. Such accounts look at features that make up a human being such as spirit, soul, body, etc (see Wiredu, 1996, Wiredu and Gyekye, 1992; Kaphagawani, 2006; Gbadegesin, 1998).

Menkiti's starts by distinguishing between a Western view of a person and the African one. He argues that the Western account picks a certain feature of a "lone" individual or "some isolated static quality like rationality, will or memory" which is then used to define a human being as a person (Menkiti, 1984, 172).[3] For instance, in the work of Immanuel Kant, part of defining a human being as a person is by making reference to a person's rationality or autonomy (Hill, 1980). However, such a view has been challenged by some who argue that it is too exclusionary of some groups of people such as those with cognitive disabilities (Kittay, 2009; Nussbaum, 1997). They also argue that it is unhelpful in our treatment of some entities in nature such as non-human animals (Singer, 1974; Diamond, 1978). Nonetheless, Menkiti considers a Western view to be minimal, and therefore seeks to provide a maximal definition of a person as found in some African communities (Menkiti, 1984; 2004). He argues that according to an African understanding, a human being is "defined by his environing community" through some processual rites he or she has to go through, as opposed to just some static quality (Menkiti, 1984). Thus, he does not deny that individuals possess such a static quality, such as rationality, but some things about a human being, are fully realized with the help of the community through a certain process and carrying out obligations to the community, a view to be discussed below (Menkiti, 1984). The stages in the process are set by the community and that is why the community is essential for Menkiti. This

[3] By "African" reference is made to views salient in the African continent although there might be affinities somewhere other than Africa. See Metz's article, "African Conceptions of Human Dignity: Vitality and community as the Ground of Human Rights" (2012).

means that personhood is the sort of thing acquired (conferred by the community) and achieved (Menkiti, 1984).

Furthermore, according to Menkiti, the community is both ontologically and epistemologically prior to the individual. This means that a person understands his/her existence as dependent on the community; as well as comes to know him/herself through the community (Menkiti, 1984). A similar view is echoed in Mbiti who argues that the "individual is inseparable from his or her community" (Mbiti, 1970, cited in Matolino 2009, 161). For Mbiti, "a person cannot exist separately from the community" and so the individual understands his existence and the existence of the community to be one (Mbiti, 1970, Matolino, 2009, 162). I see this part of the discussion as confusing within Menkiti's paper as he aimed at discussing a normative conception of personhood and yet this discussion seems to be ontological. A discussion of this worry is also found in Motsamai Molefe's "Personhood and Rights in an African tradition" (2018). Molefe attached this discussion to personhood as personal identity. In other words, it explains how individuals come to form their personal identities. For Molefe, the community which is taken to be inseparable to the individual is not an ontological feature one could pin point as a part of a make-up of a human being's ontology. Rather, it is an external social factor crucial in forming one's identity (Molefe, 2018). In any case, what is important from the discussion so far is the role of the community in forming I individual's self-identity, a role that is also reflected in the normative conception of personhood shown below.

The community plays a central role in the normative conception of personhood. In his discussion of Menkiti, Edwin Etieyibo states that,

> Menkiti tells us that it is a role of both a catalyst as well as the prescriber of norms. That is, in order for one to become a person or to acquire personhood, the community has to set the norms since the individual cannot become a person just in virtue of his or her genetic history. In addition to prescribing the norms, the community helps facilitate the context for the individual and communal actualisation of the norms (Etieyibo, 2018b, 49).

This view places the community at the center of this normative view of personhood. It has a bigger role to play as seen above, prescription of norms and facilitation of individuals acting on the set norms. The community's assistance does not mean that the individual goes along passively in achievement of personhood. It is the goal of each individual to achieve personhood (Metz, 2010; Magesa, 1997; Ramose, 1999). I also believe that there could be another "end" where personhood is just a "means," whatever that "end" is.[4] For instance, a person may wish to achieve personhood so that they could earn certain privileges within the society (Wingo, 2006). In addition, Molefe expresses individual effort to achieve personhood in terms of perfection of one's humanity. Even though it is self-perfection, he also takes the community to be central. That is, self-perfection is only possible in a context with others (Molefe, 2018). For

[4] For a discussion of means and ends in relation to what people value see Christine Koorsgard, "Two Distinctions in Goodness" (1983).

instance, if one is aiming at becoming friendly (harmonious person), this would only be possible within the context of the communing with others and practicing the virtue of friendliness.

Furthermore, apart from community, another key feature to understanding Menkiti's normative idea of personhood is the "processual nature of being" as found in the African world view (Menkiti, 1984, 172). This is a journey a human being goes through in the achievement of personhood (Menkiti, 1984; Etieyibo, 2018b). Achievement here also implies that one can fail to become a person. Failure to reach personhood is part of what explains why the community would say to an individual "you are not a person." However, for an individual to become successful at personhood, he or she has to perform certain obligations and meet the different norms set by the community (Menkiti, 1984). These obligations and norms are met as one goes along in the community. A journey that starts from childhood, by being incorporated into the community, to the time one loses one's personhood. One implication of this "going along" in the community, is that personhood is attached to age. One becomes more of a person as one grows older. Menkiti confirms this when he cites an Igbo proverb stating,

> *what an old person sees sitting down, a young person cannot see standing up.* The proverb applies, it must be added, not just to the incremental growth of wisdom as one ages; it also applies to the ingathering of the other excellences considered to be definitive of full personhood" (Menkiti, 1984, 173, italics are mine).

The quote reveals something important to personhood. This is the view that the achievement of personhood presupposes moral excellence or moral perfection (Menkiti, 1984; Molefe, 2018; Behrens, 2013). The presupposition is that there is an expectation from the community that the individual who has achieved personhood should demonstrate (through one's action) certain moral virtues such as generosity, faithfulness, hospitality, honesty, compassion, truthfulness just to mention a few.

Menkiti characterizes the processual nature of being as the journey from an "it" to "it" (Menkiti, 1984). For purposes of distinction, in this section, I will use subscripts $it_1$ and $it_2$. "$It_1$" represents children, who have not gone through the ritual of incorporation such as the naming ceremony- the first step towards acquisition of personhood. "$It_2$" represents the nameless dead, whose names have been forgotten (Menkiti, 1984, 2004).[5] Menkiti takes the two states (child and nameless dead) as similar because they are "marked by absence of incorporation" evidenced by "absence of collectively conferred names" (Menkiti, 1984, 175). They are also forms of depersonalized existence; the child lacks moral function and it (child) is only concerned with needs. On the other hand, the nameless have no contact with the community (Menkiti, 1984, 175-176). For Menkiti, the journey is a circle, from a depersonalized form of existence at childhood to the same state, as the nameless dead (Menkiti, 2004, 327; Etieyibo, 2018b).

However, others have argued against such characterization. For instance, Bernad Matolino argues that Menkiti conflates the two states. The first "$it_1$" lacks moral standing,

[5] The nameless dead are those who have gone past the stage of ancestral stage (see Menkiti, 1984, 2004).

yet to obtain one, and yet the second "$it_2$" has had one, and so ignoring this difference tends to undermine ontological weight of the latter (Matolino, 2011b).[6] Furthermore, Etieyibo proposes that the two states should be seen as "it" and "it-it" and not as "its" (it, it) (Etieyibo, 2018b). According to Etieyibo, it would be significant to recognize the difference between the two states (child and nameless dead) in terms of moral force. The child is yet to have moral force while the other has had one. By moral force he means "the idea of morally contributing to the society" (Etieyibo, 2018b, 54). The "it" lacks what may be associated with the "it-it". The "it-it" has had life experience and left traces or a mark through its acts and deeds, "a moral mark that has become part of the community's history, moral life, experiences and norms…deeds and acts that have been institutionalized…to guide human conduct, to serve as model and exemplars for young ones, others and generations on how to live and to be morally useful and effective" (Etieyibo, 2018b, 54). This idea should be taken seriously because it appeals to the view that part of what is passed down to other generations in most African traditional societies as cultural oral tradition can be traced to generations far back, even when the names of people who came up with it cannot be remembered.

The discussion above is a normative view of personhood presented by Menkiti (Menkiti 1984, 2004). Central to the discussion are ideas such as prioritization of community over individual and the personhood as acquired and achieved through performance of duties to the community. These views have been taken up by other philosophers like Kwame Gyekye and Matolino. Unlike Matolino, Gyekye presents a different view of

[6] For a response to Matolino's objection, See Etieyibo's "Moral Force and the 'it-it' in Menkiti's Normative Conception of Personhood" 2018b.

personhood from that of Menkiti. Central to Gyekye's view as I will show below, is that he discusses Menkiti's views in relation to rights and duties.

### 1.2.2. Objection to Classical Communitarian Views

There are a number of objections to the classical or radical communitarian view. In this section, I will only consider two objections: one by Matolino and another from Gyekye. For chronological purposes, it would be helpful to start with Gyekye's objection which is prior to Matolino's objection. But for proper structuring of the two accounts of communitarianism, I will start with Matolino's objection to Menkiti and then return to some objections directed at Gyekye later. Gyekye's objection will be presented as another view or theory of communitarian because it objects to Menkiti and also proposes an alternative. In what follows, I will consider one criticism of Menkiti's view, which comes from Matolino and one of the responses given by Polycarp Ikuenobe. Matolino objection is targeted at a radical communitarianism in general, and takes Menkiti's account an example.

#### 1.2.2.1. Matolino's Objections

I have briefly presented one of Matolino's objections to Menkiti above, but now I would like to focus on other problems Matolino finds with classical communalism. I have chosen the objections I will discuss because they engage with communitarianism in general. Matolino argues that classical communitarianism takes communitarianism as the essence of African ontology (Matolino, 2011a). In other words, it is taken as the "authoritative point of reference in defining the African and things that shape the African" (Matolino, 2011a, 168). Matolino argues that claims put forward by classical

communitarians are problematic. He finds an issue with the claims because he considers them to be ethnophilosophical in nature. This is because they affirm the traditional part of African life and the uncritical part of African philosophy. He adds that classical communitarianism has the same tendencies ethnophilosophy does by taking "African thought as a group activity and unanalytical" (Matolino, 2011a, 169). According to Matolino, those who advance this move do so with an aim of finding out something different about what is African and non-African. He argues, the reason for searching what is authentically African is to have a firm ground for African ontology (Matolino, 2011a). However, such a move which is uncritical in African philosophical discourse, ignores;

> one, that social life and other reality attached to the communal experiences of the individuals and the subsequent interactions arising thereof are conventions of the time, and, two; the reality of Africans both philosophical and communal are in a constant state of transformation (Matolino, 2011a, 169).

Matolino anticipates several responses to his critique above. Regarding "one," he argues that a communitarian theorist would blame individualism for eroding the African spirit. In his response, he doubts whether the African spirit has been eroded. He argues that there is something "African" (whatever that may be) about the modern cities (Johannesburg, Accra, Nairobi etc.) that are said to have been individualized (Matolino, 2011a). They still retain an African culture. The plausible reasons being that the

dominant population in these cities is African; and that there is an effect of African culture in the nature and function of these cities (Matolino, 2011a). However, the problem here is that Matolino is vague with the claim that "there is something African about these cities." He does not state what this "something African" refers to nor does he mention the aspects of African culture manifested in these cities.

Somewhere else, he seems to acknowledge that there is something about African culture that is dead. For instance, in his paper with Wenceslaus Kwindingwi, "The End of Ubuntu," they argued that Ubuntu is dead. They give an example of Johannesburg to demonstrate the argument (Matolino and Kwindingwi, 2013).[7] The argument for the death of Ubuntu seems to imply a conflict between communitarianism and an individualistic outlook, which he seems to downplay. Thus, Ubuntu, a communal ethic, they argued is dead and their arguments seem to imply that the cause of the death of Ubuntu is the individualistic lifestyle of modern life.[8] Nonetheless, one could grant Matolino the argument that communal experiences are conversation of time (assimilation) since some aspects of culture change when come into contact with new cultures. This is evident in the modern era where interaction among people from different parts of the world leads to exchange of values, most of them traced to colonialism (Cobbah, 1987). Despite this change, it would have been helpful to flesh out what is left that is distinctively African that he refers to, as pointed above. He pointed

[7] I will not go into details about this, but Ubuntu is a worldview common in most of Sub-Saharan African cultures. It emphasizes on relational values such as love and interdependence, which Matolino and Kwindingwi seem to cast doubt over in terms of their application in modern-day cities like Johannesburg (For Ubuntu see Mertz, 2007; Mertz, 2014; Ramose, 2002; Chimakonam, 2016).

[8] This is my interpretation. Their arguments may point to something else. However, I do not see another option considering the African history of colonialism by Western countries, where individualism is the dominant ethic.

out that the cities are African just because many Africans live in these cities. I find this claim to be unsatisfactory. First, it is not clear what the logical connection between having many "Africans" (whoever these may be, indigenous Africans or non-indigenous) who live in these cities and the city being African. One awkward view that follows from this is whether cities in the West occupied by Africans are African? So, are the cities Matolino refers to, African in the way of life or just because those living in them are African (or both)?

Regarding point "two" in the quote above, Matolino anticipates a communitarian theorist to argue that the change that has happened does not reflect the "metaphysical reality of communitarianism," as such it is not African. For Matolino, the problem with this kind of argument is that it presents reality as monolithic. This springs from the fact that communitarianism is taken to be the essence of African thought. For instance, with reference to Menkiti's view, he argues that it takes communitarianism as the essence of personhood. He claims that people who argue that the "concept of the person is communitarian" do not account for other concepts of personhood like the "shadow thesis" by Alexis Kagame or "force thesis" by Tempels (Matolino, 2011a).[9] Matolino argues that the concept of communitarianism has been presented as encompassing everything (as an ethic, ontology, theory of personhood, political philosophy, social philosophy, interpersonal relational account, a determinant of personal achievement and failure as well as a psychology) (Matolino, 2011a, 172). The assumption is that communitarianism is considered as the essence of African thought. For Matolino, this

[9] For a discussion of what these two theses are, see Kaphagawani, 2004.

approach either makes a theory narrow or it becomes overused. He argues that communitarianism should only be conceived as a “social or ethical theory” (Matolino, 2011a, 172). Thus, it does not have to cover everything about African thought.

Not everyone agrees with some of the claims Matolino has presented. For instance, Ikuenobe argues that Matolino has misinterpreted or misunderstood Menkiti. The first problem he notices is that Matolino’s critique takes Tempels, Mbiti and Menkiti views as one except for differences in “terminology and strategies” (Matolino, 2011a, 167). For Ikuenobe, Matolino is being inconsistent because he seems to be against a reductionist strategy (Ikuenobe, 2017, 558). Thus, Matolino has failed to appreciate the differences, variations and nuances in their views. Instead, he interprets all of them as one (Ikuenobe, 2017). One observation I can make here is that the claim by Ikuenobe is strong only if such nuances and variations in the views would lead to different theories by Mbiti, Menkiti and Tempels. But if to all the theories what is “essential” is the communitarianism, then the claim does not affect Matolino’s objection (which somehow seems to be the case for Mbiti and Menkiti). This is because Matolino seems to argue against essentializing communitarianism. Nonetheless, as a response to Matolino, Ikuenobe unpacks the claims of Menkiti and thus highlighting what Matolino misunderstood in them.

Regarding communitarianism as ethnophilosophy, Ikuenobe argues that Matolino has just repeated Bodunrin’s criticism of ethnophilosophy “as the idea of trying to retrieve, glorify, or return to an inherently bad and backward African past” ignoring the caution by Bondurin that not everything from the past can be ignored (Ikuenobe, 2017, 559).

According to Ikuenobe, Matolino ignores that some African cultural traditions and ethnophilosophical ideas are plausible foundations for African philosophy. There are some good things within African tradition and ethnophilosophy that can be preserved without having to discount everything. Furthermore, not everything about African tradition has been destroyed or left in the past. There are some values such as communal values that were practiced in the past but are still practiced even in modern urban centers. For Ikuenobe, any change that comes with modernization should involve retaining what is good from African tradition and adapting them to the modern way of life. There could be something good about ethnophilosophical traditions that could be adapted to modern way of doing things. As such, not every aspect of ethnophilosophy should be perceived negatively and discounted (Ikuenobe, 2017).

In addition, Ikuenobe argues that Matolino's views suggest that Menkiti has presented a "factually true description of account of the ontology of community, personhood, and their relations in African traditions" (Ikuenobe, 2017, 560). However, he considers Matolino's view to be inaccurate because Menkiti only presents "a certain conception of a person as found in traditional African thought" (Ikuenobe, 2017, 560; Menkiti, 1984, 171). Thus, it is not the only authentic view of traditional African thought but one among the many. According to Ikuenobe, this leaves room for other non-communal views of personhood mentioned above. In other words, Menkiti has not presented an essentialist view of the person as found in Africa, what he has presented in just one conception among many (Ikuenobe, 2017). One way to understand the problem here is to consider Wiredu's idea of the third way (Oladipo, 2002). This suggests that there are other

alternative ways of thinking about traditional ideas in conversation with modernity and not just picking out that which is considered as traditional (Oladipo, 2002). The point being that if one speaks about a certain conception of personhood, it is important to critically examine the subject and not just adopt that which is traditional for the sake of keeping up with the tradition. There could be other ways in which one would conceive of personhood that captures other aspects that may be foreign to the traditional view, but with time have become part of the tradition. Developing a conception of personhood in this manner would mean something different from the traditional one. As such, it is important to acknowledge that there are many other conceptions of personhood.

Furthermore, Ikuenobe argues that Menkiti's view is "neither essentialist nor metaphysically ontological" and this position "is underscored by the distinctions made between (1) the *maximal* and *minimal* senses of personhood, and (2) the metaphysical ontological or "brute" biological (human) and normative senses of personhood" (Ikuenobe, 2017, 560). He argues that there is a,

> …distinction between an 'individual' or '*minimal* definition of the person' and an 'individual person' or '*maximal* definition of the person…'a normative statement makes an ontological commitment to the metaphysical-biological nature of an existent person (individual), and moral ontological commitments about the nature of morality and a moral person (individual person), which is dependent on a community. One can assume that morality or the moral essence of the person supervenes on a metaphysical-

> biological essence of the person, but the statement is not, primarily, about a metaphysical ontological essence of the person (Ikuenobe, 2017, 560).

Thus, there is a distinction between what Menkiti calls “what was biologically given” or a human being as a biological animal that is autonomous and rational (what is referred to as individual above); and what is referred to as individual person, one who has achieved personhood (Menkiti, 1984). The latter process, of becoming a person, makes use of the former attributes, rationality and autonomy in performance or undertaking of one’s obligations. Ikuenobe describes the former as the material condition for the latter. This view implies that Menkiti does not deny that there is a conception of personhood based on capacities as proposed by Gyekye and many other western scholars (Wiredu and Gyekye, 1992; Molefe, 2018). Rather, Menkiti seems to suggest that when the African uses the word person to talk about one’s character and excellence and distinguish it from another person, there is something more going on. It speaks to personhood as an achievement a view that cannot do away with capacities. Under personhood as an achievement, one cannot talk of personhood based on capacities, because the capacities here serve a different function. As a means or as material conditions (as Ikuenobe puts it) for a personhood as an achievement.

Therefore, Ikuenobe responses have suggested that Matolino’s criticism was developed out of misunderstanding or misinterpretation of Menkiti’s views. But Menkiti is not the only radical communitarian Matolino cited, perhaps the critique he posits towards radical communitarianism would be applicable to other scholars such as Tempels and Mbiti. But I will not go for such an argument. For now, it is enough to argue that there is a

plausible view that communitarianism is dominant among African traditions. Furthermore, one cannot doubt that there is a conception of personhood as an achievement. There are a number of scholars who seem to support this conception of personhood (Gyekye, 1997; Wiredu, 2009; Behrens, 2013; Metz, 2007; Molefe, 2018). In any case, there are some who still think this view of personhood is problematic such as Matolino and Gyekye. In what follows, I will look at Gyekyes view.

#### 1.2.2.2. Gyekye's Objection: Moderate Communitarian View of Community

There are different scholars who have written on moderate communitarianism. In this section, I will only use Gyekye's version of moderate communitarianism. His proposed moderate communitarianism is presented as a critique of Menkiti's views outlined above. The main issue he finds with Menkiti is that he exaggerates the role of community according to which the community has ontological primacy to the individual and where the individual is wholly defined by his or her community (Wiredu and Gyekye, 1992). Instead, Gyekye argues that the community has no ontological primacy. The community is a result of individuals who come together to form it. Furthermore, the community does not define the individual. The individual has certain features such as rationality that are not defined by the community, but are only discovered and nurtured. As such, the community only partially defines the individual. After critiquing Menkiti, Gyekye then links his view to a discussion on human rights and duties (Wiredu and Gyekye, 1992). In what follows, I will present Gyekye's argument for his view.

As stated, and like most objections to radical communitarianism, is the view that in radical communitarianism, the community wholly defines the individual. Part of how this was explored above is the centrality of the community in the ontological progression of an individual towards the attainment of personhood. I will start with how Gyekye objects to this view and zero in into the alternatives he provides. To show that personhood is not something achieved and conferred by the community, Gyekye responds to Menkiti's view that one is born a person and not that personhood is acquired (Wiredu and Gyekye, 1992). He argues against Menkiti's view that newborn babies are not persons. As outlined above, Menkiti had argued that new born babies are not persons. Menkiti supported the view by discussing the absence of communally conferred names which indicate a lack of incorporation and lack of moral standing for children whom he described as an "it" (Menkiti, 1984). Menkiti also argued that this is evidence by the lack of elaborate burial (Menkiti, 1984). Gyekye objects to this claim by arguing that the kind of burial or rituals that follow depends on other factors or beliefs and not the fact that they are not persons. For instance, some of these factors are associated with the kind of burial a human being gets include: the kind of respect the person had in the community, what the person has achieved in his or her life and what the person contributed to the community. In addition, the kind of burial given to newborn babies has nothing to do with them being persons or not, rather it is about beliefs people hold concerning them the infertility of the mother due to excessive grief (Wiredu and Gyekye, 1992). For instance, in some communities in Malawi, it is believed that a mother who has excessively grieved tends to have a premature menopause.

For Gyekye, newborns are persons. This view is connected to what Gyekye argues are the defining features of personhood such as rationality and autonomy (Wiredu and Gyekye, 1992). I will come back to a discussion of these capacities later. For now, it is important to note that taking newborns and adults to be persons is to dismiss the view that personhood is acquired. According to Gyekye, personhood is not acquired and the community never confers personhood on an individual. Nonetheless, personhood finds its full realization in the community. Part of the community's role under Gyekye's view is to nurture facets or features that define an individual as a person. Thus, the community offers the space for individuals to use their rationality and autonomy. I will later link this view to rights to be discussed below. Nonetheless, what people acquire are things such as social status, habits and character traits (Wiredu and Gyekye, 1992). Gyekye argues that in the community, individuals strive to gain social status. Social status is acquired after an individual has fulfilled certain social norms such as developing one's intellectual, physical and moral qualities; as well as having a family and raising children. An individual who has failed to acquire social status does not lose one's personhood. For Gyekye, a human being is a person because of what he or she is and not because of what is acquired (Wiredu and Gyekye, 1992). That is, what individuals strive for in the community is social status and "the strivings are in fact part of individual's self-expression, an exercise of a capacity *he* has a person" (Wiredu and Gyekye, 1992, 111).[10]

[10] I prefer using "he/she" or just an "individual."

It should be clear that Gyekye and Menkiti have different views on personhood. Of course, there is much to be said about Gyekye's view of personhood. The best way to start the discussion is to explore how both authors would respond to statements such as "X is a person" or "X is not a person." Menkiti's view can be seen as offering a normative response to such a statement. That is, X is not a person because X failed at personhood. Under this conception, the word person and personhood point to the same view of "failing to demonstrate certain moral virtues required by one's community" and I gave examples of these virtues above. Gyekye does a similar job and his approach also distinguishes the kinds of judgements made when people utter such statements. Thus, he acknowledges that there are expressions in the Akan language like "X is not a person," but this does not mean in the literal sense. What this means is that the person has failed to express or conduct oneself in conformity with the ideals of personhood such as benevolence, respect for others, kindness, compassion and generosity (Wiredu and Gyekye, 1992, 109). According to Gyekye, the judgement that someone "is or is not a person" is not descriptive but normative. Thus, it is not a description of *the individual person qua person* (under his view) but a normative judgement that such an individual has failed to express certain relevant moral virtues (Wiredu and Gyekye, 1992).

The response Gyekye provides is similar to that of Menkiti. But what underlies the view that such a statement is a figure of speech, for Gyekye, and that, it is a direct normative statement for Menkiti? One explanation that could be given is that Gyekye and Menkiti hold distinct meanings of what the word "person" in the expression "X is not a person."

For Gyekye, “person” is a descriptive concept which when used (figuratively) in an expression like the one stated above carries a normative implication.[11] On the other hand, for Menkiti, person is both descriptive and normative. The meaning is depended on the speaker who utters the expression based on the context. Under minimal context it would be a descriptive answer similar to Gyekye and what most western scholars hold. But in the maximal context, it becomes normative, which Menkiti argues is common among African traditional communities (Menkiti, 1984). In what follows I will provide the descriptive view of personhood and how it relates to rights for Gyekye.

According to Gyekye, “a person is defined in terms of moral qualities or capacities…a human person is one who has a moral sense and capable of making moral judgement” (Wiredu and Gyekye, 1992, 110). These include rationality, autonomy and will. In short, individual human beings are born with certain psychological properties as listed above. It is these properties that give individuals moral status as persons. Regarding children or babies, they are also born with these capacities. But since they have not developed these capacities, they are respected as persons for having them.[12] It is their ability to

[11] The descriptive or what may be referred to as a metaphysical view of personhood for Gyekye is not just about the psychological characteristics such as autonomy and rationality. Of course, these are taken as the grounds for moral worth for individual persons. But his views seem to also talk about other characteristics such as the Okra. The Okra constitutes the innermost self, the essence, of the individual person and comes from the Supreme Being. Like the psychological properties, the Okra also is taken to have moral implications. That is, by virtue of having the okra, there is a sense of equal moral worth among human beings possessing the Okra. It is the ground for the Akan proverb, “All men are the children of God; no one is the child of the earth (see Gyekye 1987, 85; Wingo, 2006). For brevity, I have limited my discussion to psychological properties and how they relate to personhood.

[12] The kind of respect referred to here is akin to Stephen Darwalls recognition respect. According to Darwall, “there is a kind of respect which can have any of a number of different sorts of things as its object and which consists, most generally, in a disposition to weigh appropriately in one's deliberations some feature of the thing in question and to act accordingly…Since this kind of respect consists in giving appropriate consideration or recognition to some feature of its object in deliberating about what to do, I shall call it recognition respect” (see Darwall, 1977, 38).

use these capacities that is just a potential at their age. They are potentially capable of making moral judgment or having a moral sense. This capacity is something a person is born with and not conferred by the community, therefore the community cannot be said to define a person. The community only offers a space to exercise one's capacity as one grows older. It is in the context of the community that these capacities are realized (Wiredu and Gyekye, 1992). The community nurtures them by respecting and promoting them.

One idea echoed in the above view is that there is some role the community plays. Mainly, the realization of individual capacities that define personhood. This is different from saying that personhood is conferred by the community. Under Gyekye's view, one is born a person (may be with the exception of permanently cognitively disabled),[13] and it is up to the community to respect that through realization of capacities definitive of personhood. Thus, Gyekye does not dismiss the importance of community. He acknowledges that individuals are defined "socially" by their community. He argues that individuals are born in a community of other beings. In such a community, individuals are able to share values and practices with others. It is by sharing with others that the individual is able to actualize his or her potential. Gyekye adds that even though by nature an individual may be said to be social, that individual is other things as well. By "other things", he refers to features mentioned above such as rationality and autonomy. Failure to recognize this fact about individuals may lead to an exaggeration of the

[13] The permanently cognitively disabled possess a challenge for both accounts of personhood. Both Menkiti and Gyekye's accounts exclude such people. Menkiti's view excludes them because it relies on rationality and autonomy as conditions for agency (to perform certain duties) in pursing personhood.

communal nature of persons. Nonetheless, rationality and autonomy empower individuals to evaluate or refine values and practices they share with others. This means that individuals are not robotic machines who follow everything the community says. It is this form of “individuality” that presupposes that the community does not wholly define the individual; an individual is only partially defined by their community (Wiredu and Gyekye, 1992).

By rejecting Menkiti’s views, Gyekye has provided his own account, which seeks to mediate the relationship between community and the individual. He argues that “restricted communitarianism offers a more appropriate and adequate account of the self…as autonomous, self-determining, self-assertive being with capacity for evaluation and choice” (Wiredu and Gyekye, 1992, 113). He adds that his account, which he calls restricted or moderate account, has a place for individual rights and this makes it preferable. According to Famakinwa, Gyekye sees “rights as necessary, because no society is absolutely communal and absolutely individualistic” (Famankiwa, 2010, 68). This appeals to Gyekye’s aim of finding a common ground for individuality and communalism. However, Gyekye argues that in times of a clash, between individual rights and communal duties, the individual duties to the community comes first. Thus, he takes rights to occupy a lesser status than individual duties to the community. For Gyekye, rights are in service of the community. Rights empower the individual to assess communal values for the benefit of the community. This appeals to what was pointed out above that the individual can exercise his or her autonomy not to follow blindly

norms that will destroy the community but rather they can assess them and contribute to positive changes of these values (Wiredu and Gyekye, 1992).

I will speak more about rights in later chapters. But for now, it is important to recognize the relationship between the individual and the community. Under Gyekye's account, it seems Gyekye seeks to find the place of the individual, where the individual can express his or her individuality within the context of a community. He takes this to be the fundamental difference with Menkiti's view, which he is critiquing for exaggerating the role of the community. But as one reads his account on rights, he seems to promote a form of individualism, which seems to be undermined by his move of subjecting rights as secondary to duties (one's obligations to the community). He endorses the view that community duties come first and rights are for the benefit of the community. But whether this is the real problem for his account and critique to Menkiti, will be seen below.

#### 1.2.2.2.1. Objections to Moderate communitarian view

Not everyone agrees with Gyekye's views of moderate communitarianism. For instance, Famakinwa asks whether Gyekye's moderate communitarianism is not the same as radical communitarianism. He argues that Gyekye's moderate communitarianism is not as moderate as it is supposed to be because there is but a minor difference between Gyekye's account and the version he seems to reject, unrestricted communitarianism. The critique is based on Gyekye's version manifesting features of unrestricted communitarianism and these include: "the communal constitution of the individual," "fluidity of rights in a community that it is governed by love and shared values", and the "moral supremacy of the community over the individual" (Famakinwa, 2010, 66).

Famakinwa takes issue with Gyekye's account because it is characteristic of these three features which are peculiar to unrestricted communitarianism (Famakinwa, 2010). In this section, I will only discuss the last two, fluidity of rights and moral supremacy of the community, which I think are closely related to my research.

As earlier pointed out, Gyekye avoids the over exaggeration of community over the individual by seeking a happy medium between the two. He introduces the notion of rights, where rights are acting as a constraint on the actions of the community towards the individual as well as empowering individuals to evaluate and refine values of the community. The reason for this evaluation is to promote the development of the community (Famakinwa, 2010, 68). I think it is intuitive that a community needs to evaluate itself over time to adapt to changing values (adopting the good ones) in order to deal with new challenges that may be a threat to its existence.[14] Part of this process is that individuals should be given rights to empower them to reassess the values of the community. in any case, promotion of individuality through rights for Gyekye, comes from a deeper understanding that "no society is absolutely communal or absolutely individualistic" (Wiredua and Gyekye 1992; Gyekye, 1997, 41). It is out of this understanding that moderate communitarianism tries to balance individual rights and community responsibilities. However, Famakinwa argues that Gyekye fails to strike this balance because in the end he takes the community to be primary to the individual. This is based on the argument Gyekye makes that when there is a clash between social

[14] One of the important issues here relates to this research. There are certain communities in the modern era that have taken up the issue of human rights such that most vulnerable people like women and children, who have been protected from abuse. I see Oppression of such vulnerable group as a threat to existence of the community which may fail at uniting all its members because of discriminating some.

duties to the community and individual human rights; duties to the community will be prioritized. This is because Gyekye takes the good of the community as above the good of the individual in times of a clash (Famakinwa, 2010, 69).

Famakinwa and others like Bernard Matolino have argued that Gyekye account is not sufficiently distinct from radical communitarianism if it takes the community to be primary by giving rights a secondary status. Famakinwa argues that Gyekye's account and Menkiti's radical communitarianism are not very different in that they both recognize rights, but such rights do not occupy a special role (Famakinwa, 2010; Menkiti, 1984, 180). In Menkiti's words,

> African societies tend to be organized around the requirements of duty while Western societies tend to be organized around the postulation of individual rights. In the African understanding, priority is given to the duties which individuals owe to the collectivity, and their rights, whatever these may be, are seen as secondary to their exercise of their duties (Menkiti, 1984, 180).

A similar objection to the one above comes from Matolino. Matolino raised a number of objections; among which is the view that moderate communitarianism, provided by Gyekye is not sufficiently different from radical communitarianism by Menkiti. Matolino follows up on one of Gyekye's claims that moderate communitarianism will not be obsessed with rights, because it prizes the values and good of the collective (community) (Gyekye, 1997, 65; Matolino, 2009, 168). Matolino, while querying the

obsession (2009,168), seemingly alludes to the individual social obligations or duties to one's community (Gyekye, 1992). In times of a dilemma, or clash between duties to the community and rights, Gyekye seems to suggest that individual rights can be trumped (Gyekye, 1997).[15] Furthermore, Matolino takes issue with the lack of specificity over what rights are going to be trumped (Matolino, 2009). This worry is grounded on the assumption that if all rights, including the inalienable ones like right to life are to be trumped, moderate communitarianism is no better than radical communitarianism.

Another objection Famakinwa raises is that a radical communitarian society is governed by love and shared values, and this makes the notion of rights fluid. He argues that radical communitarian societies take love as the primary value (Famakinwa, 2010). A plausible reason for this would be that such societies prize communal relationships and maintaining these relationships requires love. Famakinwa claims that by appealing to love and shared values, Gyekye's account fails to distinguish itself from the radical account. He argues that Gyekye takes love as primary over justice and this move undermines the view that individuals and community should be treated with equal respect (Gyekye, 1997; Famakinwa, 2010).[16] Regarding love, Famakinwa argues that radical communitarianism did not force people to love the same person or marry the same spouse, eat from the same plate, and share the same clothes (Famakinwa, 2010, 75). His point is that there was recognition of individual rights or freedoms, for instance, by giving people freedom to choose for themselves whom they marry, even in a radical

[15] Because of this, a number of scholars have argued that rights are not taken seriously, a move Molefe questions about what it means to take rights seriously (for a discussion see Molefe 2017).

[16] I do not understand the logical move here; from prioritizing love and equal respect. There could be certain assumptions being made which I think Famakinwa would do well to provide if he hopes to make his case stronger.

communitarian setting. He then concludes that recognition of rights is not new for communitarian societies only that they are not necessary. It follows then that Gyekye has failed to show how his moderate account is different from the radical account based on the idea that they both recognize rights and take them to be secondary (Famakinwa, 2010).

Nonetheless, I do find the notion of love as presented by Famakinwa to be vague. I am not sure what idea of love he is working with here. This is because the word “love” from the Greek perspective comes with four distinct meanings. For instance, in Greek the word “love” may be expressed as *agape* (the God kind of love), *éros* (sexual passion), *philia* (friendship) and *storgē* (parents versus child love). Each kind may be applied in different contexts, as such it would have helped if Famakinwa had delineate which meaning of love he is working with and how that meaning relates to rights and freedom as well as justice.

Furthermore, there are other objections that Matolino raises apart from the one presented above, which I think are important to consider. Gyekye had earlier argued that moderate communitarianism does recognize individual talents, whereas radical communitarianism does not. Matolino finds Gyekye’s claim problematic because he has not indicated what features about radical communitarianism that are problematic to recognition of individual talents. The point being that the same worry about radical communitarianism regarding features that will lead to recognition of individual talents

applies to moderate communitarianism (Matolino, 2009).[17] The problem here is that based on what Menkiti presented, one may wonder what is it about radical communitarianism that makes it incapable of recognizing individual talents. The only response is that the objection by Gyekye assumes an authoritarian community where there is no freedom to express individual talents. This is misleading because there is no reason why a radical communitarian society would not allow its members to pursue their talents to the betterment of the community.

Just like I presented a response to the objection against radical communitarianism, it would be helpful to also offer a response to the objections against moderate communitarianism. The response I discuss now comes from Motsamai Molefe's attempts to defend Gyekye by arguing that the common criticism of collapsing moderate communitarianism into radical in terms of rights is not tenable (Molefe, 2017, 182).[18] Molefe argues that Gyekye's work should not be taken as the last word; rather it should be taken as a call for scholars to embrace a culture of rights. Molefe's main objection is directed towards Famakinwa and Matolino. From the stand point of Menkiti, Molefe argues that Gyekye has criticized a strawman because Menkiti was not a radical communitarian. If he was (as other scholars have presupposed), the reasons for motivating that position are weak (Molefe, 2017). According to Molefe, it would be misleading to take Menkiti as a radical communitarian because he never "totally" dismissed the idea of rights. Thus, Molefe takes radical communitarianism as a position

[17] African communities tend to recognize people's talents and what they have achieved and this would apply in both radical and moderate (for an argument on recognition of deeds, see Etieyibo, 2018b).
[18] Molefe responds to criticism by Matolino, but in a way defending both Gyekye and Menkiti.

that would reject rights (Molefe, 2017, 196). As an alternative, according to Molefe, Menkiti can be read as putting forward a “partial” or “limited” communitarian position. Menkiti only argues that rights are secondary to duties in a communitarian society but this does not amount to a rejection of the notion of rights as being present in the African contexts (Molefe, 2017). Nonetheless, even if one endorses the differences in terminologies such as partial, moderate or radical, it does not undermine what scholars have pointed out about the views of Menkiti and Gyekye not being very different. Therefore, a proper response would be something that shows whether there is a wider distinction between Menkiti and Gyekye.

According to Molefe’s views, there seems to be a difference between Menkiti and Gyekye (Molefe, 2017). According to Molefe, Gyekye has provided an ontological picture of a person while Menkiti has provided a normative one, a view similar to the one Ikuenobe made above. The ontological conception defines a person based on some feature of the individual such as autonomy or rationality whereas the normative one defines a person based on one’s achievement (Molefe, 2017). Molefe relates these two conceptions, to two kinds of respect provided by Stephen Darwall. Darwall makes a distinction between recognition respect and appraisal respect. I cited the former (recognition respect) in a footnote (fn.11). By contrast, the latter (appraisal respect) is a kind of respect based on positive appraisal of the qualities of a person, usually excellences (or character) (Darwall, 1977, 39). One might argue that the different conceptions of a person (normative or ontological) accord different kinds of respect to a person. The normative one (agent centered one) accords some kind of appraisal

respect (as Molefe puts it) and the non-normative one, personhood as moral status (or patient centered) accords recognition respect (Molefe, 2017; also see Behrens, 2013).

In terms of rights, Molefe argues that the normative view of personhood holds no relations to rights (Molefe, 2017). This is probably because of unhappy implications it would generate. Thus, since personhood, on the normative conception is such a thing a person may achieve or fail at, one may wonder whether an individual who has failed at personhood would have the same rights (or have rights at all) as the one who has achieved personhood. The notion of achievement also admits of degrees, one would then wonder whether personhood would also admit of degrees. This begs the question of how it would affect rights. On the other hand, Molefe argues that the ontological notion provided by Gyekye is connected to rights. It has been central to the justification of rights in the West, called the natural justification of rights. The natural justification grounds its claims on some feature of human nature, such as rationality or autonomy. Therefore, the argument that Menkiti's view of personhood does not take rights seriously becomes misleading since it ignores the fact that Menkiti's view of personhood cannot be said to have any relations to rights (Molefe, 2017).

### 1.3. The Crossroads

At this point, the picture of the nature of the debate seems to emerge much more clearly. The debate between radical and moderate is (in general) about the relationship an individual has with the larger community. This debate, with reference to Gyekye and

all who came after him, seems to have been narrowed down to a discussion about individual rights and duties. But such a move shows that the debate has taken issues in different direction. The debate should have just been about personhood without relating it to rights. If the relationship is something necessary it would have helped to provide a conception of rights they are working with. Instead they have been arguing on different conceptions of personhood and various implications on rights, yet on a conception of rights that is not clear. My understanding is that they have assumed a conception of rights in the African context and in the Western perspective to be the same, and the assumption being that they are all talking about the same conception. But whether the conception they are working with is different is not a simple question since none of the scholars involved in the debate seem to have indicated a particular conception. However, this means that they are ignoring that the worldviews in African and Western societies are different and a particular worldview influences how one understands human rights.[19] I will come back to this point in my next section.

Furthermore, as alluded to before, the debate's focus on rights is misleading since no one rejects rights and they both (Menkiti and Gyekye) take rights as secondary. Nonetheless, something interesting about the debate are some points worth noting. That is, how the community defines the individual, whether completely or partially, and the resulting implication on rights. By implication here, I do not mean in the sense of rejecting or accepting rights, but on a conception of rights that follows from the kind of relationship established between individual and community. Part of my research is how

[19] The African one is to a large extent communitarian and the western is individualistic.

to think about a conception of rights that logically follows from the picture of individual and community relationship shown in the debate. A relationship that takes the community to be primary over the individual without comprising rights and duties.

Additionally, the debate is also grounded on the competing claims between rights and duties. Thus, it relies on the assumption that one of the two, rights and duties, has to take precedence over the other. So, either the society takes rights as prior to duties or duties as prior to rights. In any case, in developing my argument about how to think about rights, I will rely on such an assumption to establish that most societies, especially in the African context, tend to be oriented towards duties. One argument I will provide is by appealing to the notion of needs. I will argue for a conception of rights that takes rights as needs, mainly within the Afro-communitarian context. The argument will be made with reference to some of the pitfalls of the Western conception of rights, mainly the one that takes rights as entitlements. I will not point out the pitfalls here, because such a discussion is for the next section.

Central to the debate in section one, is the main argument that this research advances, an argument taken up in second section. But just to briefly point this main argument out, the research argues that rights are implicit with the language of duties. What people see in the daily life of members of the community is that such a life tends to be centered more on the fulfillment of duties than on rights. The main premise being that in most Afro-communitarian societies, duties take precedence over rights. Nonetheless, I will argue that to understand the implicit nature of rights in afro-communitarian societies, it is important to think of these rights as needs. I will argue for a connection between

needs and duties but the idea of thinking about rights as needs captures the different senses in which the word right is used in different African languages. This is also based on the fact that some languages do not have the language word for right. It is out of the vagueness of the word that I propose a different way of thinking about rights that matches up to the prioritization of duties in African societies. In any case, this is the main argument of this work to be discussed in the next section, although understood as developed from the points highlighted in the personhood debate discussed in this section.

## 1.4. Conclusion

In this section, I have presented a debate between radical communitarianism and moderate communitarianism. I have shown how radical communitarians and moderate communitarians understand individual relationship to the community. I presented objections and responses, which show that there is a minor difference between the radicals and moderates. The debate was narrowed down to a discussion about implications on human rights. I pointed out that the relationship an individual has with his or her community implies duties and rights that individuals have to each other as well as to the community as a whole. I have argued that the personhood debate being narrowed down to rights only shows that scholars have been talking past each other because not one of the scholars is denying recognition of rights. As shown central to their various arguments about rights, rights are taken as secondary to duties.

Furthermore, I briefly introduced my argument which is taken up in the next section. Rights in the African sense and in the Western sense may be understood differently considering that the traditions are different. But if they are different, there is need to provide an understanding of rights in the African sense. I argue that rights in the Afro-communitarian sense are implicit within duties but to understand their implicit nature, rights ought to be thought of as needs.

## SECTION TWO

### 2.1. Rights and Duties

In this section, I take up some of the claims that I highlighted from section one, a section more focused on the personhood debate. The debate looked at the relationship between an individual human being and a community and its implications on rights and duties. Regarding rights and duties, the point highlighted was about prioritization of duties to one's community over individual rights. this was grounded in one of the claims about primacy of the community over the individual. Secondly, following the first point, I also alluded to the plausibility of an African conception of rights that is different from the traditional Western conception of rights as entitlements and its presupposition of individualism. This was grounded in the view that the debate should have been more focused on highlighting a certain conception of rights scholars in the debate seek to work with if there has to be a proper connection between personhood and rights. This second point is what leads to the main claim of the research, which is about a conception of rights from the Afro-communitarian perspective.

This section deals with how to think about rights in the Afro-communitarian societies from the stand-point of duties. What this means is that I take duties to be primary over rights and this idea plays an important role if one is to understand rights in the Afro-

communitarian context. Since I take rights to be implicit within the language of duty around which community life is organized, there is a way to understand the implicit nature of rights. I argue that such an understanding depends on having a different conception of rights, one different from the traditional Western (or what may be understood as the modern conception of rights). The traditional Western conception of rights that I am working with is the one that takes rights as entitlements. The reason for a different conception is that the concept “right” in some African languages, does not just express entitlements, it also expresses freedom as well as privilege. In addition, some African languages do not have an equivalent word for rights. in any case, my understanding is that various duties including those that are grounded in the other concepts expressing that of “right” as mentioned above (privilege and freedom) can be explained by appealing to the notion of needs. As such, I will argue for a conception of rights as needs. Furthermore, I argue that fulfillment of rights (as needs) in the African society is important for living a decent life in a society. This point expresses the significance of rights or why a political community whose goal is to create a decent life for its members ought to take the notion of rights seriously.

Since this section is about arguing for the main claim as outlined above, the parts (structure) of this section are about the different moves I am making in arguing for that claim. I start by showing that there could be a different conception of rights in the African context, one different from the Western one that is mainly individualistic. The discussion concerning an African conception of rights points to a conception that

captures the communal ethic, something presumably common to African communities.[20] Following this, the next part discusses a common feature of communitarian societies in relation to rights and duties. This is the idea that communitarian societies are centered on the performance of duties than rights, therefore, duties are primary and rights are secondary. This will be followed by the last part of the section where I propose how to think about these rights in relation to duties. This is where I will argue that rights are implicit within duties (which are prioritized) and I will discuss why rights feature as needs.

### 2.2. The search for an African conception of human rights

Following the above outline of this section, the first step now is to engage with some of the views that seek to show that there is a conception of human rights within the African context. One common view of all these conceptions seem to argue for something different from the Western conception. But before discussing the various African conceptions of human rights, it would be helpful to understand what is meant by "a conception of rights." Anthony Oyowe, defines a conception of human rights as a "theory proposing a philosophical foundation typically a conception of human nature and/or dignity in virtue of which human rights are grounded" (Oyowe, 2014, 332). Oyowe's definition is mostly limited to natural grounds or justification for human rights. The reason being that it is about the kind of work his paper is engaging with, that is, African conceptions that seek to provide a natural justification of human rights by

[20] I am targeting limited and moderate communities, and not the ones that practice radical communitarianism (whatever these are). The assumption is that radical communitarians are the ones that reject rights altogether and so they may not be helpful in my discussion of rights (for a discussion of these concepts, see Molefe, 2017).

appealing to concepts such as human nature and dignity. In any case, since my research looks at a general sketch of different conceptions of human rights, natural and non-natural, Oyowe's definition may be modified as stating *a theory proposing a philosophical foundation in virtue of which human rights are grounded*. Similarly, on could also have another view of the conception of human rights from Thaddeus Mertz's definition of a conception of dignity. Metz defines dignity as "a comprehensive and basic principle that purports to entail that, and explain in virtue of what, things either have dignity or lack it" (Metz, 2012, 20). With regard to human rights, it would be understood as *a comprehensive and basic principle that purports to entail that, and explain in virtue of what, things either have human rights or lack them*.

Central to all definitions is the necessity of a justification for human rights. This implies that to argue for an "African conception of human rights" is to argue for reasons for having human rights or in virtue of what human rights are grounded, more importantly, with reference to the African context. For most scholars, the reasons are presumably different from the Western ones. Attempts to come up with different African conceptions of human rights have been made. Part of the task has been to establish an African understanding of dignity (Metz, 2012; Cobbah, 1987). This is grounded on the view that human rights are grounded in dignity. But what makes such a conception of rights African is that an understanding of dignity thrown into the picture is different from the Western one, whatever that may be (Metz, 2012, Ikuenobe, 2016). I will come back to this view later. Nevertheless, some scholars argue that the Western worldview is predominantly individualistic, and so is the presupposition that comes with rights. On the

other hand, the African one is communalistic, as such, an understanding of rights from the African perspective has to pay attention to the communal nature of African communities (Cobbah, 1987; Ake, 1987; Peter and Schwab, 1979). Furthermore, some projects accept the view that an individual has rights in virtue of being human (of course this may be linked to dignity). But they challenge what it means to be human and the kind of answer (that appeals to different metaphysical conceptions of a human being) produces different ways of articulating rights (Wiredu, 1996). Furthermore, others do seem to accept the traditional conception of human rights but the reason for a different one is more in terms of application. That is, they argue that Western notions of human rights lack concreteness in the African context, in the sense that they apply to individuals who are poor and do not have the resources to exercise their rights (Ake, 1987).

However, there are doubts about the reason for a different conception of rights that still protects individual rights and whether the reasons are different from those already given under a Western conception of rights (Oyowe, 2014). Similarly, others doubt whether the idea of rights is linked to natural grounds as given by other scholars. Instead, they propose that rights exist out of recognition. This means that if rights are not recognized they cannot be said to exist (Allisobrook, 2018).

In any case, the idea is that thinking about human rights in the African context ought to capture some of the values found among different African traditional communities as well as paying attention to the language used to articulate them (rights). In this case,

there would be a conception of rights that speaks to the African as well as picks out what Africans value. If the conception that one ends up with is different from the Western one, then dialogue to find a common ground for the sake of universality and common understanding among different communities would be a better approach. In what follows, I will discuss some of the African conceptions of human rights that appeal to the pointers made above and some objections to them.

### 2.2.1. African conceptions of Human rights

Several philosophers have attempted to come up with an African conception of human rights. The first view to be discussed comes from Wiredu. Wiredu provides an African view of human rights based on the Akan. He defines human rights as "'claims' people are 'entitled' to make on one another or society at large by virtue of their status as human beings" (Wiredu, 1996, 313). He draws mainly on the descriptive views of the person from the Akan. For Wiredu, the Akan conception of the person has the following elements; *Okra* (life principle), *Sunsum* (personality principle), and *Mogya* (blood principle), *Mtolo* (plays a role in forming personality) and *Nipadua* (physical body). According to Wiredu, the *Okra* comes directly from the Supreme Being. It grounds the intrinsic value of human beings. The *Mogya* comes from the mother's side. It is the basis for lineage and clan identity within Akan society. The *Sunsum* comes indirectly from the father. It is a result of the father's *Ntolo* (sperm) uniting with the mother's blood. It is the defining character of an individual's personality. Lastly, the *Nipadua* or physical body, is where all these elements are housed (Wiredu, 1983).

All these three features are an indication that a person is placed within a network of relations, in which according to Wiredu, the individual comes to see oneself as the center of rights and obligations (Wiredu, 2009). In short, it can be said that the *Mogya* (for kinship group) and *Sunsum* (for patrilineal group) show how one is connected to others in the society and the *Okra* is the ground for dignity from which an argument about respect for humanity may be based (Wiredu, 1996). Furthermore, with regard to rights and duties, Wiredu claims that,

> The resulting scope of obligations can be large, but so can the scope of the corresponding rights. It is good to bear in mind that we are dealing with a system of reciprocities. It then becomes easy to see that the kind of social formation under discussion when looked at from one standpoint is a regime of obligations, but from another, is a dispensation of rights. Obligations seem to be what come first...The scope of the interplay of rights and obligations allows of easy extension to neighborhood, town, region, nation, and so on. The sorts of things round which the obligations and rights revolve are all the different kinds of needs that arise in human existence and interaction (Wiredu, 2009, 333).

The above view shows that the talk about rights according to Wiredu is not new among the Akan. This view can be considered as a response to what others say about the idea of rights being a Western concept (Polis and Schwab, 1979). Nonetheless, rights and obligation are centered on “needs that arise in human existence and interaction”

(Wiredu, 2009, 333). Thus, the needs invoke certain rights as well as obligation that are met through human interaction. This idea is reflected in some of the rights Wiredu discusses. He provides examples of the right to land, right to be nursed and freedom of expression. I will only discuss these three rights to provide a picture of what Wiredu has in mind.

The right to be nursed according to Wiredu is considered to be the first right one has. This begs the question about the right to life as being the first right than the right to be nursed (Wiredu, 1996). This is because nursing depends on the fact that one is alive and if one's right to life was violated nursing would be implausible. Nonetheless, for the sake of argument, I will take the right to be nursed be the first right one has, and so there has to be an explanation how this is related to needs as Wiredu suggest. One response would be that it comes from dependency and weakness of person in the state of a child. The child's life is mostly centered on physical needs without the ability to meet them without help (Menkiti, 1984). Child's needs coupled with the view that they cannot sufficiently take care of themselves, engenders duties upon the parents to provide for the child. The same may also apply to parents. Parents also grow old and there is now an obligation on the child to take care of one's parents. Even though the parents might have known that they will need to be cared for, taking care of the child may not only be explained by the reciprocity of future responsibilities of the child to his or her the parents. The duty to care for one's child is performed even if the parents do not know the future of the child (Famikinwa, 2010).

Furthermore, the right to be nursed tends to invoke duties not just to parents but to the whole community, especially in some African communities. In some African cultures there is a belief that it takes a village to raise a child (Chewa, Igbo, Yoruba etc.). each parent treats every child like one's own. In general, this means that the duty to fulfill a certain right may not just apply to one individual who stands in a direct relationship but it is also a communal duty. There a sense of "shared responsibility" that goes along with harmonious living and interdependence among members. Regarding the child and the right to be nursed, there is a whole community that is responsible for inculcating values and principle to produce a citizen who is an embodiment of the values required by that community (this view is echoed in Menkiti, 1984; Mbiti, 1970; Molefe, 2018). Therefore, one may argue that it is through such communal interaction that the child comes to learn of oneself as part of the community and not just belonging to a particular family. This understanding of seeing oneself as belonging to a larger group beyond one's immediate relations is important in the way one asserts one's rights and perform duties. For instance, one's right to X, X being an object of the right, does not just speak to a person's benefit of X but how it also impacts on the larger community. The right to be nursed, is not just about an individual being nursed but what nursing means in the context of a larger community.

Another right Wiredu discusses is the right to land. Regarding land, such a right is earned by being a member of a certain clan (through *Mogya*). The reason for owning land through membership to a clan is that land in the traditional set-up is owed by a clan (Wiredu, 1996). This is different from the modern post-colonial societies in which land is

owed by individuals like in most liberal or Western societies. In the traditional set-up, land was given to individuals by the chief. However, since the system of ownership did not involve a title deed, it implies that it would be difficult for an individual to claim complete ownership of land and show proof. The practice of communal ownership as practiced in most traditional African societies, seems to be problematic for most contemporary societies that tend to emphasize so much on individual interests above that of the community (Du Plessis, 2011). According to WJ Du Plessis,

> African indigenous law in property was more concerned with people's obligations towards one another in respect of property than with the rights of people in property. The relationships between people were more important than an individual's ability to assert his or her interest in property against the world. Entitlements to property were more in the form of obligations resulting from family relationships than a means to exclude people from the use of certain property. Property in pre-colonial Africa can thus be said to have been "embedded" in social relationships rather than giving rise to an individual's exclusive claim over it as private property (Du Plessis, 2011, 49).

The above view not only reflects a picture of ownership in some African traditional communities, but also raises interesting questions about the community forfeiting one’s right to land for the good of the community. But such a question is raised in the context where one believes in private property and exclusive ownership of land as in the

modern context. It is not so much an issue in most African traditional communities in which communal values and interests were prioritized than individual interests. Nonetheless, it is undeniable that most colonial governments modified most system of ownership of land by focusing more on private property, because most their “mother land ethic” was individualistic- emphasizing on individual interests. This has impacted on modern practices where an individual uses the language of rights to claim ownership against the community or state. The change in ownership of land creates a tension between the right to land (that Wiredu points to), which seems to presuppose communal ownership of land, and how one can thinks about this presupposition in the modern context of right to land which presupposes private property. I will not attempt to answer all questions that may be raised here, but the discussion is enough to show how the right to land asserted in the modern context ignores or is inconsistent with customary practices for some communities.

Furthermore, Wiredu also discusses the right to political participation and free expression. He argues that the Akan system did not forbid people to practice other religions. For instance, with the coming of Christianity, people were free to practice their beliefs as well as adopt Christian ones. People were free to practice their religion and others as long as they were obedient to the laws of the land (customary law) (Wiredu, 1996).

Similarly, with regard to political participation, the Akan people played an important role in governance. They were free to express their opinions on governance. This is mainly through the system of consensus that the Akan practiced (Wiredu, 1996, 2001; Gyekye and Wiredu, 1992). In the Akan system, the elders of the council (these were representatives of the clan) or the chief would not make a decision on their own, they hard to seek popular opinion on issues they were discussing. It ensured that the minorities' voices were heard. Nonetheless, just like the issue of land, the right to political participation raises interesting questions about the extent to which minorities in modern majoritarian systems (where decisions are made based on the majority) enjoy their rights. Wiredu for instance sees the modern majoritarian democracies as the reason for some of political problems in Africa, and he proposed consensus democracy modelled on the Akan (Wiredu, 2001). Nevertheless, the point here is that the right to political participation is also not foreign to the Akan and probably some other traditional systems of governance that are a system similar to the Akan.

Wiredu's view about human rights in the Akan context can be seen as culturally relativistic insofar as one look at the grounds for such rights. Thus, if the appeal is to the descriptive concepts of the person, then it becomes culturally relative because, in the African world view, there are different concepts that vary from culture to culture. Even among the Akan, there are disagreements on the descriptive or metaphysical features of a person. For instance, Wiredu and Gyekye seem not to agree on the conception of *Okra*. Wiredu considers *Okra* as "that whose presence in the body means life and whose absence means death and which also received the individual's destiny from God"

(Wiredu 1983, 119). Thus, it is the life principle and the bearer of destiny. The normative implication of this as pointed out above is that it is the ground for dignity, a ground for "basic irreducible human rights" (Wingo, 2006).

On the other hand, for Gyekye, the *Okra* can be rendered as soul, and as noted in the previous footnote (fn 10), it is the essence of the individual person and comes from the Supreme Being. Wiredu takes the *Okra* as quasi-physical based on the view that medicine men interact with it during healing process (Wiredu, 1983). Gyekye on the other hand, takes the *Okra* as soul, something purely spiritual. He argues that if it is a quasi-physical feature, everyone would see it, and that the events Wiredu refers to do not take place in the physical realm (Gyekye, 1987). I will not go into details about these views, but the point is that human rights for Wiredu, seem to be based on something scholars seem not to agree about its nature.

Another attempt to come up with an African conception of human rights has been born out of the dissatisfaction with the Western conception of a person because it does not take into account cultural differences, and more importantly, how to understand the idea of dignity with cultural lenses. They argue that such a Western conception only looks at abstract and atomistic individuals (Cobbah, 1987). The idea of abstraction and atomism comes from some assumptions in the writings of Western liberal thinkers such as Thomas Hobbes and John Locke. These scholars presented a picture of a human being in a state of nature separated from his or her community. Associated with this view is the idea of natural rights which been used to ground human rights. The idea of natural

rights postulates equality of all human beings, alienable rights and individualism (Pollis and Schwab, 1979). My aim here is not to explain these concepts. For the sake of argument, I will assume that these three are part of the traditional conception of human rights, and therefore, it is against this background that Josiah Cobbah seeks to provide an African view of dignity. For Cobbah, the Western justification of human rights based on natural rights "ignores culture in a very fundamental sense" (Cobbah, 1987, 310). It seems for Cobbah, what it means to be a human being includes everything about the human being and not just an individual abstracted from all contingent factors like culture, a view assumed when a human being is seen from the position of the state of nature.

Cobbah argues that African culture is communal in nature, and it is this feature that would be significant in thinking about human dignity and human rights. This view is also shared by Claude Ake. According to Ake, the values implicit in a Western conception of human rights are foreign to traditional societies. He argues that human rights presuppose a society "which is atomized and individualistic, a society endemic of conflict" (Ake, 1987, 5). Relatedly, Ikuenobe argues that human rights in individualistic societies place more emphasis on entitlements that belong to the atomic individual and less emphasis on communal responsibilities. Hence, he argues, there is less or lack of emphasis on "accountability and responsibility regarding how one uses one's capacity to enhance harmonious relationships, solidarity and good communal living. This has a tendency to enhance moral and social pathologies" (Ikuenobe, 2017, 442). However, Cobbah acknowledges that taking the community into consideration would mean

treating each community differently, a move that risks comprising on the equality of humans in nature. In any case, it is clear that taking the communal nature of the African world view into consideration means that a conception of human rights and of dignity will be different from the Western one which is individualistic (Cobbah, 1987). My arguments about dignity in relation to community will appeal to Metz and Ikuenobe's views on dignity (Metz, 2012; Ikuenobe, 2016). For now, I will only present a picture of rights and duties as provided by Cobbah that takes African culture into consideration.

In his discussion of rights and duties grounded in the communal nature of African world view, Cobbah appeals to the basic unit of an African communal society, the family. He argues that the African view of family is different from the Western one. The African society emphasizes on kinship relations and is grounded in extended family relations, different from nuclear family common in Western countries (Cobbah, 1987). According to Cobbah, within an extended family, each member has a role that makes it possible for the family to operate as a "reproductive, economic and socialization unit" (Cobbah, 1987, 320). These roles include father, mother, son, uncle and cousin, just to mention a few. The way these roles are shaped is different from the Western one. For instance, he argues that the role of "aunt" among the Akan has no equivalent word, and the role is played by both older and young mothers. Similarly, the word "cousin" just refers to a brother or sister (Cobbah, 1987). What this means is that the expression "this is my brother," does not presuppose having the same immediate mother and father as in the nuclear family model. On the contrary, in an African world view, it would mean "this is

my cousin." Interchangeability of terms representing roles means that the individual stands in different relations at the same time, and plays different roles.

Furthermore, these roles portray certain "ideals and expected behavioral patterns and norms that govern family members" (Cobbah, 1987, 320-321). Thus, as a father, one is expected to behave as a father, carry out duties as a father and enjoy benefits as a father. Cobbah also argues that "these roles are essentially rights which each kinship member customarily possesses and duties which each kinship member has toward his kin" (Cobbah, 1987, 321). Thus, there are entitlements, privileges as well as obligations accorded to each individual by virtue of occupying certain roles. However, one would argue that the challenge for considering rights and duties in this manner is that one cannot talk about equality of rights. This is because the roles are different and there are different entitlements associated with each role. At the same time, it is not clear to me where one would draw a line with regard to the rights one has (that is, specificity of rights). Thus, if some individuals have more than four roles and others just three, it is clear that the rights they have are different and one can specify the rights they have. But it is not so clear what rights apply in particular contexts. For instance, it is not that a person takes on this role and leaves the other, but he or she simultaneously holds four roles at the same time. Yet the person may be entitled to certain things as a father and not as an uncle in one context, and the opposite would happen even within the same context. This not only presents problems with specifying the rights one has, but also means that it would depend on what role others are recognizing for them to fulfil certain obligations towards someone.

A more problematic view is the arbitrary claims of violation individuals would make. Thus, a person may be violated as a father and not violated as an uncle. Yet individuals who were supposed to perform their duties only recognized a particular role over the other. The explanation being that it seems implausible that individuals would fulfill all obligations in relation to all the roles one occupies considering that some of the entitlements and corresponding obligation to different roles one occupies may crush. Furthermore, it is not clear how such a view translates to rights of minorities. That is, are the roles Cobbah refers to, only those to do with family or beyond? If one is living with disabilities, is their protection based on disability or a certain role they occupy within the extended family model? The idea here is that certain rights of minorities that protect them from abuse tend to be justified by the view that the individual in question is a minority and so there might be additional privileges. In any case, Cobbah explores certain principles within which rights and duties operate (Cobbah, 1987). These principles could probably be helpful in addressing some of these worries.

The principles Cobbah discusses in relation to rights and duties include; respect, restraint, responsibility and reciprocity. I will not go into details about them. Instead I will just provide the major thought in relation to each principle. To start with the first, the idea of respect here presupposes seniority. A kind of respect grounded in eldership, that is, where the young respect elders by virtue of them being elders (Cobbah, 1987). It is different from respect given to an individual by virtue of being a human being. Respect based on seniority suggests that those who are seniors deserve to be treated differently by the young (Cobbah, 1987). This conception of respect is directed upward, from

young to adults. However, he does not state under what grounds young members of the family would be respected. Secondly, he looks at the principle of restraint. This presupposes a limitation on one's freedom. Thus, one has rights but the exercise of such rights is not devoid of the contexts, that is, taking into consideration the interests of the community or other members (Cobbah, 1987). The third principle is that of responsibility. This principle explains obligations one has towards other members. I think this would explain the protection and obligation one may have towards minorities. The idea of having an obligation to protect those who cannot protect themselves. The last principle is that of reciprocity. According to Cobbah, "reciprocity of generosity is expected in African society. It is assumed that acts of generosity among kinsfolk will be reciprocated in the short or long run. Sometimes, obligations of one generation can be carried over to the next generation" (Cobbah, 1987, 322). Reciprocity may underlie interdependence as promotion of harmonious living among members of the community. It may require acts of goodwill against another member of the community (Metz, 2007).

Given the above picture of rights and duties from Wiredu and Cobbah, one may wonder how an African conception of dignity that may or may not be linked to human rights look like. For this view, I turn to Thaddeus Met's conception of dignity. His approach was due to the dissatisfaction of Kant's conception of dignity based on autonomy and rationality because it does not represent some of the salient values of people of the sub-Saharan Africa. Instead, Metz proposes a different conception of dignity that he believes captures some of the African values. Upon this view, dignity is based on two features, vitality and the capacity for community (Mets, 2012). The idea of vitality also called life

force or vital energy. Metz expresses vitality in terms of liveness or creative power.[21] Human beings have a dignity by virtue of them having liveness and creative power. Metz does not dismiss such properties as autonomy and rationality, but they are what make a human being more special than non-human animals, plants and inanimate objects, which on African understanding, also have life force (Metz, 2012, Behrens, 2014, Shutte, 2009; Bujo, 1998). In any case, under this conception, violation of one's dignity is violation of this capacity (vitality).

However, he abandons the vitality view because it fails to show the kind of violation that occurs. He discusses few examples of human rights which include; free movement, interracial marriage, political participation, informed consent and criminal justice (Metz, 2012). I will not go into details about Metz's view on how violation of any of these human rights fails to show a violation of dignity in term of vitality. But the general point is that, for example, if one was barred from marrying a person from another race, it is not clear how this is a violation of vitality (Metz, 2012). However, one would argue that Metz might have been too quick here because there might be other rights that might capture this view. For instance, right to life and freedom from torture, violation of these rights might be a threat to one's health, where health is an indication of vitality (Bujo, 1998; Behrens, 2014).

[21] What this means "being able to exhibit a superlative degree of health, strength, growth, reproduction, creativity, vibrancy, activity, self-motion, courage and confidence, with a lack of life force being constituted by the presence of disease, weakness, decay, barrenness, destruction, lethargy, passivity, submission, insecurity and depression" (see Metz, 2012, 25).

Failure of the vitality view makes Metz to opt for the community view of dignity. He defines community based on shared identity and solidarity or good will (Metz, 2007). For Metz, shared identity refers to a sense of "we" where the individual identifies oneself as part of the group and the group sees that individual as part of them. It also includes shared goals and working together to achieve them. On the other hand, solidarity refers to caring for one another and mutual support. It also includes being sympathetic to others. This means that dignity for Metz is the capacity for community, where community is shared identity and solidarity (Metz, 2012). He argues that this view would explain the violation that occurs if any of the human rights are violated. For example, restrictions to free movement would degrade "individuals' capacity to share a way of life with others" (Metz, 2012, 33).

Furthermore, by grounding dignity on capacity, Metz captures the traditional understanding of dignity as an inherent value.[22] Since he appeals to inherent or intrinsic value, Metz argues that dignity is not about being in actual relationships, something that might appeal to extrinsic value. His view is different from those who place value in actual relationships or use of capacity (Ikuenobe, 2016; Behrens, 2014). I will discuss this view in terms of an objection below. Nonetheless, for Metz, it is this view of dignity as capacity for community that he connects to human rights (Metz, 2012).

Inherent value here points to where value is, that is, it is a value found within human nature and not outside it, different from how something is valued, a view captured in means-ends distinction (see Korsgaard, 1983)

### 2.2.2. Objections to African Conceptions of Dignity and Human Rights

The above discussion portrays that there are alternative views to the Western conception of human rights and dignity. These views can have a positive impact on the current conception of human rights. However, not everyone would agree with reasons given for having a new conception of rights. Part of the move is to question whether the reasons given are sufficient to ground a different conception of human rights and dignity (Oyowe, 2014; Allsobrook, 2018). Some question whether it is representative of the African way of life (Oyowe, 2014, Ikuenobe, 2016). For instance, Oyowe, argues against some of the reasons offered as justification for African conceptions of human rights (Oyowe, 2014). He presents some of the challenges that take a conception of human rights to be culturally relative. He analyses three examples of theories presented as African conceptions of human rights. Most of the ideas he objects to, appeal to the theories I just discussed above. I will not respond to all the objections, instead I will only focus on the ones that are relevant to my research.

One of the arguments that Oyowe presents as a challenge to African conceptions of human rights deals with the view that African societies prioritize the collective over the individual. He deals with views to do with human nature that derives from the collective. The implication of such a view is that duties to the collective have precedence over individual rights (Menkiti; 1984, 2004; Gyekye, 2010; Wiredu; 2008). In any case, one of the assumptions grounding this view, which Oyowe challenges, is that the individual is a product of the community. Not only this, but also that his existence is dependent on the community (Mbiti, 1970). As pointed out in section one, this appeals to claims made by

Menkiti as well as Mbiti about the community being ontologically prior to the individual (Menkiti, 1984). Similarly, speaking in normative terms, the community is also responsible for conferring personhood (Menkiti, 1984, 2004; Wingo, 2006, Etieyibo, 2018b).

However, Oyowe rejects the idea that individuals derive ontologically from the community. He argues that it does not follow, logically (not valid), nor can it be shown that the individual human being is an ontological product of the community (community as a natural formation) (Oyowe, 2014). His argument relates to the views provided by Didier Kaphagawani. Kaphagawani made an analogy of Mbiti's famous dictum, "I am because we are, we are, therefore I am," to Rene Descartes' "I think therefore, I exists." According to Kaphagawani, there is a hidden premise in Descartes statement, "whatever thinks exists," but the same cannot be said about Mbiti's statement. Thus, it is not clear what the hidden premise is (Kaphagawani 2006; Oyowe, 2014).

It appears to me that such an objection arises out of the view that authors from different sides of the debate have different underlying assumptions grounding their views. Thus, the view that the community is ontologically and epistemically prior to the community is grounded on the view that has a different metaphysical conception of a person (Menkiti, 1984, 2004; Mbiti, 1970; Molefe, 2018). The metaphysical idea here is in relation to personal identity (I discussed this view in section one), that the identity of the individual

is molded by one's community.[23] For instance, when Mbiti states the dictum cited above, it would make more sense to take the meaning as "my identity, X, is only possible because of my environing community, Y, such that without Y, X would not be possible." A similar idea is echoed in Menkiti, when he argues that the individual can know oneself within the context of community (Menkiti, 1984). This means that in describing one's identity, the individual picks out features from the community that have penetrated his or her identity (Neal and Paris, 1990; Molefe 2018). The community is an essential feature in one's identity. On the other hand, the objection that seeks to separate one's identity from the community is based on the different assumption on how individuals assert their identity, a view that appeals to liberalism. In this context, individual's identity is separate from the community, an identity one would assert before coming into a community and after the community, no matter how strong community's influence was on the individual. Thus, the community is not necessary to one's self-identity (Neal and Paris, 1990).

Another challenge from Oyowe is the implication that placing emphasis on the duties to the collective will always trump individual rights. For Oyowe, this casts doubts about whether rights are of value and whether they are capable of protecting human dignity

[23] Given that the discussion attributed to Mbiti and Menkiti is about personal identity, rather than an actual biological fact about the community giving birth to an individual; a better way to understand Mbiti's view is to take it as a Modus Pones (MP). In this case, the question of hidden premise would become irrelevant. Take "we are" to represent a larger community's identity and "I exist" to represent existence of individual identity. Given the community to be necessary for individual identity, it means that as long as there is a community, there is an individual identity formed from that community;
So, for Mbiti's statement as MP: We are (W), I exist (I). This can be symbolized as 1. W→ I
2. W
C. I

(Oyowe, 2014). I am not so sure about the assumptions surrounding this objection. My reading of Oyowe seems to be that rights are the only available feature for protecting human dignity, and that rights are absolute. With regard to the former, I think before talking about dignity, one should not take it for granted that there is one conception of dignity that everyone has accepted. It is important to specify what conception of dignity one is working with and how that relates to rights. The different conceptions of dignity and doubts people casts on dignity should show that such a conception should not be accepted as self-evident and its connection to rights has to be shown (Ikuenobe, 2016).

Furthermore, with regard to the latter about rights as trumps, it is commonly accepted by some scholars that rights constitute what it means to have a just society and that they trump social and moral considerations (Sumner, 2000; Molefe, 2017). Oyowe takes issues with the idea that trumping individual rights shows rights are of less value (Oyowe, 2014). However, rights are only relatively absolute especially in Western societies where there is a balance between individual rights and duties. In these societies, the individual's interests take precedence over communal interests. However, there are times when the communal interests are crucial and the individual is compensated for forfeiting his or her rights. I am not so sure whether the same idea about compensation can be said for a society that prioritizes the community. In such a society, duties are primary and rights are secondary. But it does not mean that the society just goes around violating individual rights. It would have been helpful for Oyowe to show why a communitarian society should prioritize individual rights, something I take

his objection to be point to. The problem here being that prioritizing individual rights appeals to societies that are predominantly individualistic.

Another objection Oyowe provides that is worth considering is one relating to Metz's conception of dignity mentioned above. According to Oyowe, Metz's conception of dignity as based on the capacity for community presupposes two things, first is the intrinsic nature of rights (or value) because it points to something within the individual than external (extrinsic). Secondly, it also presupposes that human nature is communal, based on emphasis on the capacity for community (Oyowe, 2014). Oyowe argues that there are various problems associated with Metz's conception of dignity. The first is that Metz's intention of presenting dignity as the capacity of community as representative of the people of the Sub-Saharan communities fails. This is based on what other scholars have written, in that they consider dignity not just to be based on capacity, but emphasis is placed on exercising the capacity, that is, being in actual relationships (Gbadegesin, 1991; Mokgoro, 1998; Gyekye, 2004; Iroegbu, 2005, all cited in Oyowe, 2014). As Oyowe suggests, the conception that Metz provides is incompatible with what other scholars have written about people of sub-Saharan communities that they focus on promoting social harmony (Tutu, 1999; Oyowe, 2014). Even Metz himself seems to have shared the view about promoting harmony in his work on Ubuntu (Metz, 2007). For Metz, right actions are those that promote harmony and wrong ones are those that undermine harmony (Metz. 2007).

Central to Metz's view is the emphasis on capacity, the capacity for community. Such emphasis places value within the individual than outside the individual (Metz, 2007, 2012; Koorsgard, 1983). By doing so, it means the individual qua individual has intrinsic value within the context of a larger society. This may not be new considering that in arguing for a theory of Ubuntu, Metz had earlier on argued for a requirement of what he called a "deontological restriction" which was meant to protect the individual from communal abuse at the expense of communal harmony (Metz, 2007, 338). However, not everyone saw Metz's move to be representative of the communitarian values. For instance, Anthony Oyowe saw such a theory as trying to put together incompatible values of other regarding value and self-regarding value (Oyowe, 2013b). Thus, it seeks to combine conflicting interests between individual interests and communal interests. A move that begs the question about which one is basic (Oyowe, 2013a, 2014).

Furthermore, Etieyibo argues that Metz's views show that he is a Western Universalist who favors liberal views that takes the individual as more important than the community. Thus, Metz presents a theory of Ubuntu but modifies it to agree with the liberal values. For Etieyibo, such ways of doing African philosophy are culturally imperialistic (Etieyibo, 2016). In any case, the point here is not that Metz's African conception of dignity can be said to be paradigmatic of these pitfalls. But there is a similar move I see going on in his conception of dignity that makes him abandon the "use" of dignity, for merely having the capacity. A move that seeks to show the value of the individual qua individual within the context of a larger community. something different if value was placed outside the individual, such as in actual relationships that individuals make. This latter part would

mean less emphasis on the individual and more on relationships. Furthermore, Metz idea of merely having capacity worries other scholars such as Ikuenobe who sees the African conception of dignity not just in having the capacity but also in its use. Ikuenobe sets out to provide what he considers as a plausible African conception of dignity, but in doing so, he responds to Metz conception of dignity. According to Ikuenobe, dignity is grounded in both the capacity for communal harmonious living and a person's actions through proper use of the mentioned capacity. Ikuenobe's conception has an additional feature to Metz's conception, that of "active use of the capacity" (Ikuenobe, 2016, 454). Thus, Ikuenobe's view combines features of those who argued for actual use of capacities (for scholars such as Tutu, 1990) and merely having the capacity (Metz, 2012). I will not go into details about Ikuenobe's argument. But the point is that capacities do not have inherent worth, but are only instrumentally good.

Thus, he abandons the intrinsic and extrinsic divide for means and ends distinction. In this regard, capacities are instrumentally good for promotion of harmonious communal living, love, friendship, positive identity and solidarity (Ikuenobe, 2016). He argues that his conception fits well with Ubuntu ethical theory than Metz's conception of dignity. The idea here is that Ubuntu being both consequentialist and deontological, Metz's conception of dignity ignores the consequentialist part of Ubuntu in promoting harmonious relationship. This means that Metz's conception of dignity is inconsistent with Ubuntu theory he seemed to have been working with (Metz, 2007; 2012). Nonetheless, this is enough to show that there are things that could be picked out from the different views of scholars. The idea that dignity seems to be a vague concept and

that it seems that how one conceives it is context dependent. The communitarians tend to account for dignity in communitarian terms and individualists account for dignity in individualistic terms.[24] This means that if one is to ground rights on dignity, it is important to take note of these conceptions that come with different views of dignity.

### 2.3. Rights implicit within duties

In the above section, I have shown that there are different ways of thinking about rights and dignity in the African context. More importantly, I aimed at showing that it is possible to think of rights in a way that appeals to the communitarian values. I discussed a number of arguments from scholars who have shown that the Western conception of rights is different from the African conception. In what follows, I seek to continue on this path by proposing another way of thinking about rights in afro-communitarian societies. I will argue that afro-communitarian societies think of rights as needs and these rights are implicit within the language of duty. I take the notion of duty to be very important because most Afro-communitarian societies place more emphasis on duties than rights. Thus, it is the notion of duties that often feature within Afro-communitarian thought than that of rights. The reason is not that rights are not important or that one will not find African communities talking about rights, but that they are already implicit within the notion of duty which is primary. My idea is that it should not just be accepted as given that rights are primary, but if there are communities that place

[24] It has to be noted that Ikuenobe does not relate his conception to rights. He talks about respecting other people's dignity and one's own through duties that do not derive from rights, but from an understanding that by promoting the well-being of the community, one also promotes one's own. This is because one's on well-being depends on that of the community (see Ikuenobe, 2016, 452).

rights as secondary to duties and yet continue to talk about rights, it is important to look at how they think about them.

The way I structure my discussion going forward is that I will start by arguing for primacy of duties. This will be followed by an argument for implicitness of rights. However, I will take these rights as needs and show how that they feature within the language of duty.

### 2.3.1. Primacy of duties over rights

As shown above, there are problems with the Western conception of human rights that scholars have argued is mute to African values. That is, a conception that pays no regard to communitarian values because of its presupposition of individualism. This means that a proper grounding of human rights in the African tradition is the one that pays regard to African communitarian values. One central feature of Afro-communitarianism in relation to rights and duties is that it takes duties as primary over rights. this seems to be a different view from those scholars who may take rights as primary. To understand this view, it would be helpful to appeal to different scholars who have argued for the same view.

Gyekye defines a duty as “service, conduct or function that a person feels morally obligated to perform in respect of another or other persons” (Wiredu and Gyekye, 1992, 117). Thus, it is an obligation that one has towards another person or one’s community. There are different grounds for performance of obligations to others or community. But the different grounds can lead to different conceptions of obligations. For instance, according to Gyekye, the understanding that people have duties or obligations towards

each other such as helping those in need or distress arises from a common humanity (Wiredu and Gyekye, 1992). This relates to his view of humanism. Humanism is the "doctrine that takes human welfare, interests, and needs as fundamental" (Gyekye, 2010). Central to this idea is that the good of all (the community) depends on the good of the individual. This means that the needs of others are as good as my own needs. Therefore, such an understanding engenders duties to promote the good of all through promotion of other people's interests and needs. Part of this view is that duties do not just come from the view that other people have rights, but duties may also be grounded in something beyond rights, such as common humanity or promotion of the common good. By undermining the distinction between duties that result from rights and those from common humanity is that supererogatory acts are now seen not as optional but something worth doing. Supererogatory acts are those that are beyond the call of duty. They are considered to be morally praiseworthy or good but not strictly required. This is different from those acts resulting from rights that place a demand or restriction to meet them (by action or omission). According to Gyekye, "no act that is morally good in itself or that will conduce to the wellbeing of some individual or group of individuals should be considered morally optional, to be morally shrugged off or unconscionably set aside, if we understand morality to be something that serves (or, should) serve human needs" (Gyekye, 2010). In societies where there is a choice to perform supererogatory acts, it would not be morally wrong not to perform them (Gyekye, 2010).

In any case, what to take from the above view is the centrality of promotion of human welfare, interests and needs that explains emphasis on duties. Thus, as pointed out,

duties are emphasized not because other people have rights, but because they are necessary to the promotion of human welfare, interests and needs. The above thought on humanism is echoed in Wiredu's welfarism. Welfarism refers to the "the claim that wellbeing is the only value which an ethical theory needs to take seriously, ultimately and for its own sake" (Wiredu, 1996, 3). Writing about the Akan, Wiredu argues that most of the Akan maxims talk about "harmonization of interests" as a means to securing the wellbeing of all (Wiredu, 1996, 65). But what is important to Wiredu's discussion (about welfarism) for me is the idea about sympathetic impartiality. This idea takes sympathy as the "root of all moral virtue," where one puts oneself in the shoes of others, and impartiality which requires that there be equal duties to all interest bearers (Wiredu, 1996). Thus, duties to promotion of well-being are grounded in some deep notion of care, where one is sympathetic to others and sees them as all important just like oneself. At the same time, one does not perform duties to those one just knows or immediate members of one's family but to all members of one's community. In general, performance of duties reflects the idea that people care for common needs and interests that belong to individual members of the community and that all such interests are equally important.

The idea that duties relate to fulfillment of needs and interests of the community, does little to show priority of duties in such a community. I now turn explaining this latter part. One such view is found in Menkiti's view of personhood. Menkiti had argued that

> In the African understanding, priority is given to the duties which individuals owe to the collectivity, and their rights, whatever these may be, are seen as secondary to their exercise of their duties. In the West, on the other hand, we find a construal of things in which certain specified rights of individuals are seen as antecedent to the organization of society; with the function of government viewed, consequently, as being the protection and defense of these individual rights (Menkiti, 1984; 180).

For Menkiti, individual human beings are considered as owing duties to the collective. However, much of the duties Menkiti talked about related to his discussion of personhood. Thus, for the community to consider an individual human being as a person, one has to perform certain duties or meet certain obligation set by one's community. My understanding is that duties individuals have towards each other do not just come from the view that other people have rights (as seen from his discussion of Rawls' conception of justice), but they are part of the requirement of the community towards achievement of personhood. Nonetheless, in relation to rights, Menkiti sees rights as secondary to duties to the collective. Part of the reason is the community interests are prioritized above those of the individual, a view that prioritizes duties to the collective than the individual (Menkiti, 1984, 2004). In Menkiti's view, the individual understands his or her existence (or wellbeing) as dependent on the community (Menkiti, 1984; Mbiti, 1970). If rights are primary, it would imply prioritization of individual interests above those of the community. The implication here is that rights presuppose promotion of individual interests than the community's interests.

Furthermore, Gyekye reveals this more clearly when he argues that when there is a clash between rights and duties, duties to the community come first. That is, duties can trump individual rights. Gyekye only accepts rights with qualification. The qualification being that rights exist to the benefit of the community. Just as pointed out before, rights empower individuals to assess the values of their community, for the benefit of the community (Wiredu and Gyekye, 1992). Even if rights seem to serve this function, Gyekye sees rights as more oriented towards the individual and duties more towards the community (Wiredu and Gyekye, 1992). This explains why clashes between the rights and duties to the collective, makes Gyekye choose duties because the community is more important. Underlying this idea is the notion of common good. That is, by pursuing the good of all, the individual also pursues one's good. There is no tension between the two. This is because the "common good is not a surrogate for the sum of the various individual goods. It does not consist of, or derive from, the goods and preferences of particular individuals. It is that which is essentially good for human beings as such, embracing the needs that are *basic* to the enjoyment and fulfillment of the life of each individual" (Gyekye, 2010). Thus, it is the basic human good where its fulfillment means each individual benefit.

Like Menkiti and Gyekye, Wiredu shares a similar idea about duties taking priority over individual rights (Menkiti, 1984; Wiredu and Gyekye, 1992; Wiredu, 2009). As shown in section one, Wiredu's idea of rights and duties is organized around interests and needs. But what is crucial to me is that duties for Wiredu are important in the sense that they are at the center of morality and communal belonging. Wiredu distinguishes between a

minimal concept of morality and a rich one. A minimal conception involves one observance of rules and adjustment of one's interests to those of the community. Adding to this is a rich one, which involves conformity to the society's rules and interests but inspired by a "sense of duty" (Wiredu and Gyekye, 1992, 193). This latter view relates to Wiredu's idea of sympathetic impartiality, which involves undermining selfishness. Thus, the individual can forfeit his or her interests for that of the community. However, as noted in my previous discussion, a morality that takes community as more important is one that is other regarding and it is centered more on duties than rights. Some reasons for the centrality of community for Wiredu, is his idea of a person. He takes a person to be naturally social. Part of this view comes from an ontology of person shown above in which the *Okra* places the individual in oneness of humanity. The *Mogya* places the individual in one's clan (maternal) and *Mtolo* to paternal grouping. I will not go into details about Wiredu's view but it should be clear now that in the Afro-communitarian societies, duties are primary to rights.

Given the view that duties are primary and rights are secondary, I argue that one way of thinking about the state of rights even as secondary is to take them as implicit with the language of duty. Thus, by understanding the notion of duty and how it operates within the Afro-communitarian society, one is able to understand the nature of rights. My argument is not anthropological, in the sense that I study how people conduct duties, rather my approach is descriptive. From various literature, I look at what scholars have said about duties and rights and from this I develop my own argument on how to think about rights in the Afro-communitarian perspective. In what follows, I will look at the

implicitness of rights within the duties. In particular, I will be arguing for implicitness of rights in the sense in which rights can be taken as needs within the Afro-communitarian society.

### 2.3.2. Rights as needs

Most philosophers agree that African ethics or morality revolves around the idea of needs. For instance, Gyekye claims that “the attitude to, or performance of, duties is induced by a consciousness of needs rather than of rights” (Gyekye, 2010). In his arguments about humanism, he argues that African ethics takes the idea of wellbeing, needs and interest as important. In describing the common good, Gyekye talks about the basic human goods, which can be understood as basic needs. Similarly, Wiredu’s idea of welfarism also considers needs to be part of normative theory. As pointed in section one, he argues that “the sorts of things round which the obligations and rights revolve are all the different kinds of needs that arise in human existence and interaction” (Wiredu, 2009, 333). Nonetheless, central to both scholars is the view that needs tend to feature in their articulation of rights and duties. I will return to this view later, about relationship between rights and needs. For now, it is important to note that the notion of needs as presupposed in Wiredu and Gyekye’s views is central to the very idea of the community. That is, people may come together to form a community for different reasons, but more importantly to help each other meet their needs. But in doing so, as Wiredu pointed out, they forfeit some of their interests and adjust them to the interests of the collective.

Thus, consider for example how this is reflected in Plato's construction of a first city through the character of Socrates in book II of the *Republic* (371d4). In constructing the city, Socrates was more concerned with how needs are going to be met (the first city was characterized with fulfillment of necessary needs). This was based on the view that an individual human being is not "self-sufficient" (369b-c). Thus, an individual has needs that he or she cannot meet all by himself or herself. As a result, people come together to form a community a city (community). One feature that is paramount in the city is how people will organize themselves to ensure they produce goods (effectively and efficiently) in relation to their needs in a way that everyone benefits (369c6). Socrates identified several needs such as food, shelter, clothes just to mention a few. He pointed out that it will require someone to provide these needs. That is, to meet the basic need for food, there will be need for farmers, builders for shelter, and weavers for clothes and so on. He also added shoemakers and others (doctors) "to take care of bodily needs" (369d9-10). The organization of the city in fulfilling the needs was based on the idea of specialization. Each person has to specialized in something and contribute to the city. Thus, natural abilities or talents here play a central role in identifying one's specific duty to the collective.

The presentation above is clear with regard to individuals coming together to help each other meet their needs because of their insufficiency as individuals. But there is more that can be said in connection to the arguments raised in this research. The idea here is that meeting each other's needs engenders duties towards those needs. Thus, there is a strong connection between needs and duties. For instance, the need for food means

that there has to be someone to provide for food and so on. By someone here I mean the individual in need or someone (including the community) with the capacity to do so. In Plato's case, duties towards provision of needs was a community effort. Thus, while an individual would provide for what one is good at, the individual would also rely on others for what they produce as well. A farmer can provide food for oneself, but will require a plough or a hoe. This means that he or she has to rely on someone who makes them. But a question remains as to how this relate to an Afro-communitarian society. In relation to an Afro-communitarian society, I argue that such a society does not just organize itself around basic needs (as Plato's city) but also non-basic needs. Even though as Gyekye pointed out, one would relate basic needs to basic goods, something common to all (Gyekye, 2010). Nonetheless, my classification of needs here is adopted from Abraham Maslow's hierarchy of needs. But while Maslow's theory (of motivation) is psychological, in the sense that it looks at needs as motivators or drives for behavior, I take a normative approach to it. Thus, I have only adopted his classification but the way I understand needs is normative. I will explain these views below.

Maslow came up with a hierarchy of needs to explain his motivation theory. For brevity, I will not go into details about his theory. He identified several needs and placed them in a hierarchy. At the bottom of the hierarchy are the basic needs, referred to as the physiological needs, such as food, air, sex, water etc. (Maslow, 1943). This was followed by safety needs which Socrates expressed as the need for "shelter," such as housing, clothes and so on (369d3; Maslow, 1943). Most of the common goods or basic

goods would fall under these two. Thirdly, there are needs to do with social belonging (friendship, intimacy and family) (Maslow, 1943). In section one, Famakinwa expressed this view that people were not forced to love, but were free to love whom they wanted (Famakinwa, 2010). Furthermore, Menkiti's idea of incorporation which offers the child community as a space to be with family and friends can be said to relate to this category (Menkiti, 1984). Following the third category are esteem needs (status, recognition etc.) (Maslow, 1943). Here one would appeal to different social statuses people gain in a society. This view is echoed in Gyekye, when he argued against personhood as an achievement. Gyekye argued that people perform certain duties or obligations not to gain personhood but social status (Wiredu and Gyekye, 1992, Maslow, 1943). Last is self-actualization (realization of one's potential) (Maslow, 1943). This is associated with utilizing one's abilities, talents and pursuing a goal. I think this can be linked to personhood as an achievement, or what Molefe calls "moral self-perfection" (Molefe, 2016). Related to self-actualisation needs are transcendence needs which are associated with giving oneself to something beyond the self, manifested in altruism or spirituality (Maslow, 1971).

As outlined above, I am applying the classification of needs to this research normatively. What this means is that needs are here not taken as drives or motivations for behavior but "needs in normative theory are justified priorities based on a 'relational formula': Person A needs object X (or an equivalent 'satisfier') in order (reason Y) to do or attain goal G which is a high priority in the relevant political community" (Gasper, 2004, 2). Given the formula, this research understands needs to presuppose both basic and non-

basic needs. Thus, the satisfier for me is what may be classified as basic needs (including common goods) as well as non-basic. The goal for satisfying the various needs is that it is necessary for living a decent life within the community.[25] For the sake of brevity, much of what I will be referring to appeals to basic needs even if the arguments may be extended to non-basic needs, and this will be shown by certain examples that go beyond basic needs. Thus, satisfaction of at least basic needs is necessary for living a decent life. I will not define what this decent life is, but will leave it for anyone to define for themselves what counts at decent. In my view, a minimum conception of decent life (whatever that is) requires that basic needs be met. Furthermore, the satisfier of needs is the community through the provision of common goods. I will explain some of these concepts within the dissertation.

Given the foregoing discussion, what I see as central is the performance of certain obligations or duties to the community as well as the community to its individuals to ensure that its members have their needs satisfied. Here the community is also central because it offers the structure for meeting different needs. I will use an example to explain the arguments I am putting forward. Consider a subject, *S*, who believes that a decent life in a community is not only fulfilment of basic needs but also enjoying privileges in a community. But such privileges are accorded to those who have achieved personhood. In this context, personhood becomes one of the needs to be met for living a decent life. The community is obligated to ensure that while *S* is a child, *S* is

[25] For the sake of argument, I will assume that this is the goal of political community. Thus, if one argues that harmony is the goal, for me I take harmony to be instrumental for individuals to live a decent life. A life where part of the requirement is a peaceful or harmonious society.

incorporated into the community and there are certain norms set (that one can meet) for achievement of personhood. At the same time, the community is also obligated to provide certain goods (freedoms) for *S* which are important in the journey towards personhood. Thus, if part of the requirement is the marriage rite of passage, the community should give *S* the freedom to marry a partner his or her choice. When *S* accomplishes everything, *S* achieves personhood and is given privileges that enables *S* to live a decent life. But if the community is oppressive and denies *S* even the chance to achieve personhood, it is hard to think of how S will live such a decent life.

Part of the argument to be made from the above example is that the various duties in Afro-communitarian societies reveal what sort of needs are being met. For instance, implicit in duties in relation to personhood is the need to achieve personhood. But it does little to show how it relates to rights. One sort of confusion that might come up is failing to distinguish “rights as needs” and “rights are needs.” The former is the position I am taking in this research where I am proposing that rights are to be understood as portraying the various needs in a society, even though they are limited (as I will show below). One way of approaching this view is by appealing to Amartya Sen who argues that political rights are important for not only the promotion and defense of need fulfilment, but for the processes of specifying needs (Sen, 1999). Thus, from this view, it is easy to infer that most rights are needs (basic and non-basic). But whether most needs are rights is a different question which now brings me to the latter.

The latter is a mistake one would make by thinking all rights are needs and all needs are rights. But it is clear that individual human beings have more needs than rights and rights only point to few needs people recognized as important.[26] In any case, not all needs correspond to rights, and not all rights correspond to needs (Galtung, 1994). Thus, while one would argue that most basic needs correspond to most basic rights; for instance, the need for food and water, may be expressed as a right to access to sufficient food and water.[27] This becomes questionable for some other basic needs (under Maslow theory) whether the need for sex may be said to have a corresponding right or expressed as a right.

Similarly, the idea of basic needs also raises questions with regard to non-basic needs. That is, as I seem to suggest that rights correspond to basic needs, but what happens if the needs are not basic anymore? This is a reality question about the desires of successful skilled workers get challenged by the attitudes of the unskilled and unsuccessful in the sharing of the commonwealth. One way of responding to this question is to acknowledge that there is nothing wrong with growing appetites within a community environment if the satisfaction of such appetites is not posing challenges to living a decent life for other unsuccessful people. That is, if one successful person requires that he or she eats meat, but forces (in any way) the poor to provide for him to the detriment of their welfare, then this becomes big problem for that community. such a

[26] This view supports the view that the kind of rights people have are just out of convention. Chris Allsobrook argues for recognition theory in which he proposes that rights exist as a result of convention. People have rights because such rights are recognized. This means that if there is no state to recognize them, then there are no rights (see Allsobrook, chapter 12 in Etieyibo, 2018a; Nussbaum, 1997).

[27] Refer to article 27, Chapter 2, Bill of rights- South African constitution.

community suggests that only few individuals are to enjoy a decent life and ignore the rest of the population. It is in this view that the sharing of goods for the fulfilment of needs of the community should at the basic level be of benefit to the rest of the population so that every individual has decent life. It is the duty of those left to govern to ensure that the sharing of the common wealth at the most basic level fulfills the basic needs of the population even when there are growing appetites.

Furthermore, the problematic view in accounting the relationship between needs and rights is in the very meaning of the concepts. Thus, while both may appeal to individual human beings, a right (under the traditional Western conception) is usually expressed as an entitlement, whereas a need is not. Thus, most rights engender duties to the other person in relation to that which the person is entitled to whereas needs do not invoke duties in that strict sense of the term. The plausible explanation for me is that the kind of form rights have taken (as entitlements), and with regard to whatever function they save in modern community is just a result of convention. Thus, the various countries' bill of rights that tend to reaffirm the United Nations Declarations for Human Rights (UNDHR, 1948), rights although taken as universal are expressed as entitlements but that is just out of convention (Peter and Schwab, 1979). The reason here is that the word right in most African languages seems to be vague. Thus, the word "right" among different languages means different things. For instance, in Chewa and Nyanja languages spoken in Malawi and Zambia respectively, the word "right" has the same meaning as "freedom," translated as *"ufulu."* This make one to question the role of rights as "entitlements" in such languages, and all what rights as entitlements imply in relation to

duties. Similarly, in Zulu, the word “right” (as entitlement) is translated *“ilungelo”* and it is the same word for privilege (something given). Nonetheless, things take a different turn in Xhosa, where there are words for the three concepts, right, freedom and privilege. In Xhosa the word for “right” is translated *“kunene,”* privilege is *“ilungelo”* and freedom is *“inkululeko.”* Thus, it is clear that in some languages, a right is beyond just an entitlement, it could be what is given (privilege) or it would just mean mere freedom.

The discussion above leads me to a conclusion that I take to be significant to this research. The idea that there has to be a way to capture the different use or senses of the word right in relation to various duties that come with it. This means that if individual members of a community are performing various duties in relation to privileges, freedom and rights, these three concepts point to something fundamental about that society that is captured by these concepts. I do not argue that there could only be these three concepts. Probably there are others that show how the word right is used. If such concepts are there it would be helpful in exploring ways in which to start thinking about rights. Nonetheless, my view for now is based on these three that I find to be common in some African languages. Therefore, a term that I take to capture these three is that of “need.” Thus, implicit to the notion of duty are needs, but these needs tend to invoke what may be regarded as entitlements, privileges and freedoms. It might seem as if I have arrived at a different conclusion but the point seems to be the same because I am working with how the word right is used. The view I started with was that rights are implicit with the notion of duty which is primary in traditional Afro-communitarian societies. But these rights are not merely expressed as entitlements (something

common to modern societies), but they are also seen as privileges and freedoms. However, these different concepts are captured within the idea of needs which is implicit within the various duties which are taken to be primary in the Afro-communitarian societies.

It is this view that I have been arguing for and I take it to share some of the common view that African ethics is an ethics of duty rather than of rights, and these duties are grounded on various needs of individuals (Gyekye, 2010, Wiredu, 2009). This implies that implicit within these duties are needs which those duties seek to fulfill. In my view, what has been considered as rights associated with these duties are just the various needs. I propose seeing rights as needs because “need” is a better notion that accommodates various other uses of the word “right” in most African language as privilege and freedom. I take fulfillment of basic needs (rights, freedoms, privileges) as necessary for leading a decent life. The notion of rights as needs can also be expressed in terms of burdens and benefits. One would consider performance of various duties as a burden on others whereas having one’s needs fulfilled as a benefit to the individual. It is a burden upon both those left to govern the state as well as other individuals of the community. A burden whose goal is to promote decent lives for each member of a society. Within afro-communitarian societies, one understands that promoting the life of one is the promotion of the life of all, as such it becomes a burden for each and every member of that community. As the burden is placed on every member of the community, so are benefits to be enjoyed by every member of that community.

## 2.4. Conclusion

This section has discussed some of the African conceptions of Human rights. I have shown that there is a disagreement among scholars on whether the Western conception of human rights is applicable in the African context. The major issue is that the Western conception of human rights seems to ignore some of the values found within the African context. This is because the Western conception of human rights is individualistic hence does not capture values that are communitarian. I presented views from scholars who have attempted to provide an African conception of human rights and dignity that captures aspects of African culture. I presented arguments from Wiredu, who argues for the Akan conception of human rights from a descriptive view of the person as found among the Akan, and Cobbah's view of human rights that appeals to kinship roles grounded in the extend family model. With regard to dignity, I presented concepts from Metz who argues for capacity for community, and Ikuenobe who argues for capacity for community and proper use of capacity.

Furthermore, I proposed what I consider to be another plausible account of thinking about human rights in the Afro-communitarian context, which was the central argument of my research. The main claim was that rights are implicit with the language of duty. The implicit nature of rights rests on conceiving rights as needs. This is because the notion of needs captures different senses in which the word right is used. That is not just as entitlements, but also privileges and freedoms.

## SECTION THREE

### 3.0. Objections and Responses

Given the argument advanced in this dissertation about implicitness of rights within duties, it is important to consider some objections that might come up in relation to the argument. The two objections I consider come from the proposition I made on understanding rights as needs.

I argued that the notion of needs is important because it captures different uses in which the word “right” is used as privilege, freedom and entitlement. Thus, I argued that implicit within duties are rights as needs, and by needs I capture entitlements, privileges and freedoms. However, there are reasons one might be suspicious of this view.

One might also argue that proposing that rights are to be understood as needs does little to explain which needs the community meets because individuals have a lot of needs than rights. Secondly, one might also argue that it does little to explain changing needs and how it relates to rights, which are seen as being objective. In what follows, I will respond to these views.

### 3.1. Multiplicity of Needs

In the previous argument, I pointed out that rights specify what needs are important and recognized as a group. However, there are a lot of needs that individuals have than the rights that have been enshrined in the bill of rights or any human right document. The idea of specifying different needs through the language of rights helps to clarify what obligations are owed to others by individuals or the state. However, if rights expressed as privileges, entitlements, and freedoms are seen as needs (without using the language of rights because it is vague), how does a community specify important needs (among multiplicity of needs individuals have) that invoke obligations individuals owe to each other or owed by the community as a whole?

There is no simple way to respond to the above view about what needs are more important for a society. One way is to argue that the various common goods within society show the various needs that are important to that society. This is because the various needs captured through the notion of common good appeal to all individual members of the society. But this again raises the question, “how does the society determine the various goods?” The only way to respond to this question is to take the various goods as a convention. Thus, a society agrees (through consensus) what needs are to be recognized as a group. This also defines what norms and obligations are to be met for fulfillment of the needs. For instance, one would argue that a society may decide that to meet the need for food in a way that benefits all, they will practice *letsema* (group farming). At the same time, it also captures what rights (as needs) are recognized in terms of privileges, freedoms and entitlements for each society concerned.

### 3.2. Changing Needs

The second worry is with regard to changing needs. That is, if rights are to be understood as needs, it has to account for why needs are seen as more subjective, in a way that they tend to change whereas rights tend to be seen as more objective. The idea of objectivity of rights is supported by the different rights expressed in the UNDHR on top of being supported legally. This cannot be said of needs (such as sex, warmth etc.), except for the ones captured through rights. Much of what has been seen as changes in rights has been the recognition of other groups of individuals (minority groups) that were not captured in the previously existing legal documents or whose rights were not reinforced. For instance, while some rights were not recognized such as those to do with lesbian, gay, bisexual, and transgender (LGBT), most modern countries have started to recognize them but operate on the same principles already found in the declaration such as non-discrimination and freedom of expression. But whether the same can be said for changing needs is a different question the objection seeks to unveil. In other words, there are ways to explain changes in rights as seen by the above explanation, but what can be said about changing needs?

One way to respond to the changing needs objection is to say that there is no problem with changing needs. The goal of each political community should be to respond to the demands of people at a particular time. If needs change, then the political community should come together and decide how it will respond to those needs. But more importantly, it is not so true that needs change and rights remain the same. Thus, just like basic rights, basic needs will always remain the same. The only distinction is that

when needs change; mostly it is because what was a need before has been met and people have now decided to focus on something different that has not been met. Furthermore, changing needs should be distinguished from desires. Thus, what mostly changes seems to be desires more than needs. Part of the idea here is that needs tend to remain constant, whereas desires easily change regardless of one's needs. For instance, the need for food as a necessary need will always be there as necessary. on the contrary, desires frequently change. One might desire to have a nice car after desiring to have a nice house despite having the need for food. In this case, the individual has changed his desires but needs remain the same. But if the need for food is met, the individual may seek other needs. The general point here is that what frequently changes are desires than needs. Furthermore, needs tend to be expressed in general terms and might apply universally whereas desires tend to be specific. Thus, every society will have the need for food but they might differ with regard to particular foods based on their desires.

## CONCLUSION

This work was divided into three sections. In section one, I presented a debate between radical communitarianism and moderate communitarianism by focusing on Menkiti and Gyekye. I showed how radical communitarians and moderate communitarians understand individual relationship to the community. I presented objections and responses from different scholars. I showed that there is a minor difference between the radicals and moderates. The debate was narrowed down to a discussion about implications on human rights. I pointed out that the relationship an individual has with his or her community implies duties and rights that individuals have to each other as well as to the community as a whole. I argued that the debate being narrowed down to rights only shows that scholars have been talking past each other because most of the scholars do not deny plausibility of rights in the African context, but relegate them to a secondary position. I then proposed that a proper direction of the debate was to argue for a conception of rights in the African context.

Following the first section, the second section was aimed at arguing for a conception of rights in the African context. I showed that there is a disagreement among scholars on

whether the Western conception of human rights is applicable in the African context. The major issue being that the Western conception of human rights seems to ignore some of the values found within the African context. This is because the Western conception of human rights is individualistic hence does not capture values that are communitarian. I presented views from scholars who have attempted to provide an African conception of human rights and dignity that captures aspects of African culture. I presented arguments from Wiredu, who argues for Akan conception of human rights from a descriptive view of the person as found among the Akan, and Cobbah's view of human rights that appeals to kinship roles grounded in the extend family model. With regard to dignity, I presented concepts from Metz who argues for capacity for community, and Ikuenobe who argues for capacity for community and the proper use of capacity. Following their views, I proposed what I considered to be another plausible account of thinking about human rights in the Afro-communitarian context, which was the central argument of my dissertation. The main claim was that rights are implicit within the language of duty. The implicit nature of rights rests on conceiving rights as needs. This is because the notion of needs captures different senses in which the word right is used in various African languages-as entitlements, privileges and freedoms.

Lastly, in section three, I presented two objections to my proposal made in section two. The objections are about the problem of specifying needs as well as how to deal with changing needs. I also provided my responses to these objections that what needs are important in a particular community can be specified by that community through

consensual process, and that changing needs is just a convention of time but most of the times needs do not change and that what changes are desires.

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