

4-1-2012

Reason, Happiness, and the Divine Spark: A Global Perspective on HIV and Bioethics

Anna K. Grindy

Trinity College, anna.grindy@trincoll.edu

Follow this and additional works at: <http://digitalrepository.trincoll.edu/theses>

Recommended Citation

Grindy, Anna K., "Reason, Happiness, and the Divine Spark: A Global Perspective on HIV and Bioethics". Senior Theses, Trinity College, Hartford, CT 2012.

Trinity College Digital Repository, <http://digitalrepository.trincoll.edu/theses/197>

Reason, Happiness, and the Divine Spark
A Global Perspective on HIV Prevention and Bioethics

Anna Grindy

Senior Philosophy Thesis

Trinity College

2011-2012

Advisor: Dan Lloyd

Second Reader: Maurice Wade

Academic Advisor: Drew Hyland

Acknowledgements

I wish to thank Professor Dan Lloyd for his guidance, support, and helpful criticism from the start to finish of this year-long project; Professor Maurice Wade for his expertise and suggestions in the areas of African philosophy and ethics and for agreeing to be my second reader; Lisa King for listening to me talk and helping me figure out what I was actually trying to say; my parents, Rosemarie and Robert Grindy, for their help editing countless drafts; Taína Figueroa for holding me accountable and making me just sit down and write; my fellow philosophy majors who provided thoughtful criticism and asked probing questions; the entire Philosophy Department at Trinity College; and Professor Drew Hyland for getting me hooked on philosophy in the first place. None of this would have been possible without you. Thank you.

Table of Contents

Introduction.....	1
Rational Nature, Universalizable Action, and the Ethics of Nondisclosure ..	6
Qualitative Hedonism, Consequentialism, and Selflessness	28
The Individual, the Family, HIV, and Virtuous Consequentialism.....	46
Conclusion: The Foundation of a Universal Ethic?.....	66
Works Cited	78

Introduction

The current HIV pandemic is arguably one of the most devastating global health crises in centuries, and as of yet, there is no cure for the disease. Developing countries, which often have limited access to health care resources and education, generally have the highest infection rates, and those in the sub-Saharan region of Africa in particular are among the hardest hit (UNAIDS). Consequently, there is a monumental international effort to stymie the spread of and develop a cure for HIV. Both prevention and treatment methods require extensive and intensive research to test their efficacy. Much, if not all, of this research begins at the molecular or microscopic levels in controlled laboratory settings; however in order to truly understand the effectiveness of a new drug or other product, researchers must enlist the help of people as test subjects. A substantial number of anti-retroviral (ART) treatment, vaccine, and other prevention trials occur in areas with high population infection rates, so the researchers have access to large sample sizes in relatively small geographic locations, allowing them to control for many factors that vary across regions, among cultures, or between urban, periurban, and rural environments.

As with all research involving human subjects, the HIV trials that take place in developing countries are subject to stringent ethical requirements regarding subject recruitment, risks involved, beneficence, confidentiality, respect for autonomy, and informed consent, just to name a few. All of these ethical principles guiding and structuring the research projects are rooted in prominent Western ethical systems, such as Kantianism and Utilitarianism, and most of these research projects are conducted by Western or Westernized institutions, typically universities. In a global culture that tends

to reject ethical cultural relativism, the international community regularly touts these Western ideals as universally acceptable and applicable; however, this attitude often comes dangerously close to being paternalistic, imposing Western values upon others because “that is what’s best for them.” While the institutions that have developed these guidelines and the researchers who follow them are fundamentally well-intentioned, and may even take steps to do what they believe respects the cultures of their research subjects, often the study set-up and procedures conflict with the values and ideals local to the area on some level.

The easiest and clearest way to understand this point is to consider it in the context of specific studies; consequently, we will ground our following discussions and analyses in two recent HIV-related studies, which took place near Harare, Zimbabwe, and Durban, and Johannesburg, South Africa, between 2003 and 2007 (Padian et al. 2; Sahin-Hodoglugil et al. 1548). The first study, known as the Methods for Improving Reproductive Health in Africa (MIRA) trial, conducted by Padian et al., investigated the possibility of using the contraceptive diaphragm as an alternative or supplement to condoms for HIV prevention. The research subjects were “sexually active women aged 18-49 years” randomly assigned to the control group (condom only) or experimental group (condom, diaphragm, and lubricant gel) (Padian et al. 2-3). All research subjects participated in follow-ups four times a year for an average of 18 months (4).

The second study, conducted by Sahin-Hodoglugil et al., was a follow-up to the first, and “examine[d] covert use of the diaphragm among women who ... used the product (with lubricant gel) in the MIRA trial” (1548). Through questionnaires, in-depth interviews (IDIs), and focus group discussions (FGDs), the researchers investigated the

extent of, reasons for, and predictors of the female trial participants not disclosing diaphragm and trial participation use to their male partners. Upon the consent of individual trial participants, the researchers invited the participants' male partners to take part in both in-depth interviews and focus group discussions.

These studies sought to provide women with a means for HIV prevention that required no male approval or collaboration and to identify the women most in need of such a method of prevention. The World Health Organization (WHO) found that in 2011, at least 60% of the HIV-infected women in Sub-Saharan Africa were women, and that women were more likely to have difficulty preventing HIV infection due to a fear of or actual violence from their partners and a lack of HIV prevention entirely in their control (World, "Gender").

A quick review of these studies reveals that – at least from a Western perspective – there are no glaring ethical violations in either; in both studies, the researchers made a visible and labored effort to respect the autonomy of their research subjects in accordance with the traditional Western conception of autonomy. In the MIRA trial, they took great pains to ensure that their subjects would not be more likely to contract HIV or other sexually transmitted infections (STIs) as a result of their participation in the study by explaining proper diaphragm use and providing HIV-prevention packets (Padian et al. 6,3). And in the follow-up study, the researchers conducted all interviews in local languages and invited the male partners to participate only upon the consent of individual female trial participants (Sahin-Hodoglugil et al. 1549). Additionally, both studies received ethical approval from all affiliated universities, hospitals, and institutions (Padian et al. 2; Sahin-Hodoglugil et al. 1549). However, these studies raise the question

of how values of personal autonomy, identity, and duty to oneself and others are different from traditional Western beliefs in many African cultures and whether these trials violated or impinged upon those ideals.

We must be careful, however, not to drift over to the other extreme, the opposite of universal ethics, which is relativist ethics. By demanding that the researchers consider the cultural and philosophical beliefs of the research subjects when developing and evaluating their research protocols, it is easy to begin down the path of cultural relativism, a slippery slope that leaves us with ethical uncertainty and no sense of a true right or wrong. Although there are strong arguments both for and against cultural relativism, I will demonstrate in the following chapters that a conscientious attention to and respect for non-Western cultures is compatible with the basic system of ethics widely used in medical research throughout the world and does not require a position of cultural relativism.

I will begin my investigation with a discussion of two prominent Western ethical frameworks. First, I will consider the rational ethical system of Immanuel Kant, as he explains it in *Groundwork of the Metaphysics of Morals*, describing in detail and critically analyzing the categorical imperative and kingdom of ends. I will attempt to develop a maxim and test its validity using the categorical imperative tests Kant provides and will also consider whether the researchers or the female trial participants ever treat the trial participants or their partners as only a means to another, desired end. Next, I will move to Utilitarianism as conceived by John Stuart Mill, explicating and critiquing the Greatest Happiness Principle. I will examine how this approach leads to an analysis of the risks and benefits inherent in the trial and how this analysis assists in qualifying and

quantifying the resulting pleasures and harms of the trials. Then I will consider the concept of *ubuntu* promoted across southern Africa and how interpretations in the literature have formulated an ethic consistent with the values and ideals traditionally associated with it. I will discuss how *ubuntu* and the aforementioned ethic allow for a dynamic set of values that are subject to interpretation. In each case, I will directly relate the ethical principles and values as they relate to the MIRA researchers and trial participants. In my conclusion, I will examine the implications of the three ethical analyses I have described above.

It is my goal that my analyses of these ethical “systems”¹ will provide insight into a possibility for reconciliation and compatibility not just between the cultures involved in the studies but among all global cultures. I hope to demonstrate that neither paternalism nor cultural relativism is necessary for ethical discourse on a global scale. Furthermore, I intend to provide some direction and guidance as to how medical researchers (who tend to be predominantly Western) can work harmoniously and effectively with non-Western subject populations without compromising the validity and integrity of their investigations or the values and integrity of their research subjects.

¹ Though Kantian and Utilitarian ethics are founded in firm philosophical foundations, the concept of *ubuntu* is much less concrete and more of a cultural ideal represented by various proverbs and sayings. Many African philosophers have developed their own systems of ethics founded upon the values espoused by *ubuntu*, and it is these systems to which I will be referring throughout the course of this project.

Rational Nature, Universalizable Action, and the Ethics of Nondisclosure

We will conduct our first ethical analysis of the MIRA and follow-up study in the context of Immanuel Kant's system of ethics, which he develops primarily in *Groundwork for the Metaphysics of Morals*. This system provides the philosophical basis for the principle of individual autonomy, which forms the foundation for most Western bioethical principles and standards, such as benevolence, risk-benefit, and informed consent. Kant provides a framework for making and critiquing ethical decisions, and we will apply his method to the conduct of both the MIRA trial researchers and the female trial participants themselves. The MIRA trial researchers investigated whether a diaphragm and lubricant gel in addition to condom use would be a viable, female-controlled method of HIV prevention.² In doing so, they not only allowed but also even suggested that the female trial participants not disclose their diaphragm use to their partners. The researchers seemingly made every effort to respect the autonomy of their trial participants by screening for diseases, providing counseling, and conducting all interviews, discussions, and communication in local languages. However, in their zealous attention to the autonomy of the female participants, the researchers ran the risk of compromising the autonomy of the subjects' male partners, who were likely to be uninformed of their partners' participation in the MIRA trial and follow-up study. Quickly, the difficulties of ethical research practices have become brilliantly clear.

Kant's ethical framework is rooted in the necessary autonomy of rational beings. He states: "*So act that you use humanity, whether in your own person or in the person of*

² For a more detailed account of both the MIRA and the follow-up studies, please consult the Introduction.

any other, always at the same time as an end, never merely as a means” (Groundwork 4:429). Kant believed that this is the “supreme practical principle” because it is true for every rational being that “*rational nature exists as an end in itself*” (4:429). Particularly, it is human being’s unique capacity for reason and rationality that grounds this notion of autonomy; that is, for Kant, what makes us distinctively human is our “*common human reason*,” which makes us self-directing and self-ruling in a manner that non-rational beings simply are not (4:405). Because we are rational beings, humans are equipped with what Kant refers to as “the will,” which “is thought of as a capacity to determine itself to acting in conformity with the *representation of certain laws*” (4:427). This will is extremely important to the Kantian ethical framework because “what serves the will as the objective ground of its self-determination is an end, and this, if it is given by reason alone, must hold equally for all rational beings” (4:427). In other words, all rational beings are necessarily ends-in-themselves precisely because of their capacity for reason. In fact, rational beings are the only ends that are not relative ends. Relative ends are those that “a rational being proposes at his discretion as *effects* of his actions” (4:427) and “are only the ground of hypothetical imperatives” (4:428). Hypothetical imperatives are not universal; they are not the same for every person in every situation. What is the same for every person in every situation is the capacity for reason, the basis of our ethical framework. Therefore, to honor the categorical imperative, we must always act so as to treat rational beings as ends in themselves and never merely as means to another end. In treating people as ends in themselves, we recognize their value as autonomous beings.

Because the goal of this moral theory is to be universal, in addition to always treating rational beings as ends, Kant requires us to act according to the categorical

imperative. In short, all humans have a duty to act only according to personal maxims that could “become universal law” (4:403). This concept may sound rather mystifying at first, but Kant uses a common and concrete example to explicate his point. He asks: “may I, when hard pressed, make a promise with the intention not to keep it?” (4:402). Would such behavior be in conformity with duty? Kant’s answer is a resounding “no.” He reasons that were he to will this maxim to be a universal law, “there would properly be no promises at all, since it would be futile to avow my will with regard to my future actions to others who would not believe this avowal or, if they rashly did so, would pay me back in like coin; and thus my maxim, as soon as it were made a universal law, would have to destroy itself” (4:403). In other words, if one were to universalize the maxim that a person could make false promises in times of dire need, “no one would believe what was promised him but would laugh at all such expressions as vain pretenses” (4:423). In order to do what is morally good, Kant says, we must only ask ourselves one question: “Can you also will that your maxim become a universal law? If not, then it is to be repudiated... because it cannot fit as a principle into a possible giving of universal law” (4:403). In short, we have a duty to act in such a way only that can be thought of as universalizable. This “concept of duty,” he argues, is drawn “from the common use of our practical reason” (4:406). All of our actions must be in conformity with this duty.

We can ask ourselves, then, whether withholding information is the same as lying. In the case of the MIRA trial participants, are they being deceptive when they choose not to disclose their use of the diaphragm to their partners? Whether we choose to define such behavior as deceptive is actually irrelevant in the Kantian framework because no action is inherently morally good or bad; rather, we must consider the maxim of

nondisclosure: If it is equivalent to deception, then, like the maxims of lying and making false promises, it will be non-universalizable, making it morally reprehensible. This realization makes our task a bit easier, or at least simpler, because we do not have to decide whether nondisclosure and deceit are in some way equivalent. Instead, our task is to develop a maxim that represents the actions of the female trial participants and test it against Kant's categorical imperative. As we have seen, if the maxim results in self-contradiction, we can conclude that nondisclosure is morally reprehensible; if it does not, then it is a morally acceptable action.

Before diving into a Kantian analysis of the female trial participants' behavior, however, we need to have a concrete and thorough understanding of exactly what our task is and how we must approach it. As we know, there are two steps to this process: develop a maxim, and test it. Kant makes both of these steps appear to be simple, straightforward, and almost intuitive, especially in his false promises example, when in fact, they require much more consideration and debate than one might initially believe.

Let us consider the first task: translating the female trial participants' behavior into a maxim. As we will see, this may be the most difficult part of the whole process because we do not want our maxim to be too vague or too specific. An appropriate maxim captures the important details of the situation but is still broad enough to be applicable to other, non-identical situations. Consider the maxim, "I may choose not to disclose information to my partner when that information may pertain to his or her health as well as my own." But this maxim does not seem to fully capture the situation in which these female trial participants find themselves. These women do not have information about the health status of their partner or even their own; they are not withholding

information about carrying HIV or another STI, for example. So does the above maxim really apply? Or should we develop another? The maxim, "I may withhold information about steps to prevent the spread of a disease from my partner to myself," seems more accurately to describe this scenario.

According to the maxim we just developed and analyzed, the nondisclosure of diaphragm use is morally equivalent to nondisclosure of a flu vaccination or some other new method to prevent catching influenza; both of these scenarios fit the criteria we established for our maxim. A decision not to disclose diaphragm use would have the same moral worth as a decision not to disclose getting a flu vaccination. Yet equating the two seems to be a stretch; because HIV is transmitted sexually and has such devastating effects, we tend to think of actions pertaining to it as inherently different and more significant than other, less terrible diseases. This concern is groundless in the Kantian ethical framework; Kant would argue that there is nothing particular to actions related to HIV that makes them inherently moral or immoral. We can, however, use Kant's categorical imperative to try to resolve this problem of apparent, yet seemingly absurd moral equality that arose out of our maxim. To do so, we must develop yet another maxim.

Quickly, the limitations and difficulties that arise when using the Kantian moral theory become evident. It can be extremely problematic and difficult to create a maxim that captures the important details of the situation or decision we are trying to analyze without being so specific that it excludes any other action. Kant himself does not provide much guidance at all for developing maxims; he merely gives us four examples of how his moral theory applies to different kinds of moral dilemmas, but the scenarios

he provides are not much use at all in daily moral decision-making. They demonstrate why it is immoral to commit suicide and make false promises, but they do not offer any instruction as to how we should develop maxims for different scenarios. Upon reading Kant's examples, one may have the misguided idea that maxims are easy to construct because Kant puts no stock into the actual task of formulating them; he seems to take it for granted that everyone will be capable of developing appropriate maxims in every situation. However, as we have seen, the contrary is true.

In fact, it is quite easy to develop a maxim that will always pass the test of universality because it is relevant only to one particular situation. This problem, sometimes known as "maxim-fiddling," has been the subject of much philosophical inquiry and debate in the last fifty years (Sneddon 67). There are several proposed methods for developing maxims. Fred Feldman suggests that, in developing maxims, we should first come up with a general description of the situation and then transform it into a universal statement (99). He proposes that we should first construct a principle of the form: "Whenever I am _____, I shall _____," and then universalize that principle into a maxim of the form: "Whenever anyone is _____, she will _____" (101). We could say something like: "Whenever I am taking steps to prevent the spread of disease between myself and my partner, I shall not tell my partner I am doing so," and universalize it to say: "Whenever anyone is taking steps to prevent the spread of disease between herself and her partner, she shall not tell her partner she is doing so." This construction is essentially the same that we used in our attempts to develop maxims above, and, as we saw, is still easily susceptible to maxim-fiddling; that is, it is not

difficult to develop a maxim of this form that cannot fail the test of the categorical imperative.

Another proposal for constructing maxims, developed by Barbara Herman, relies less on the form of the maxim and more on the justifications of the action. Rather than simply describing the scenario, Herman “takes the central interpretative task to be representing the way an agent wills” (Sneddon 81). Herman argues,

If in willing an action an agent proceeds as she judges her action and her purpose to be good, then the maxim of that action that represents her willing should contain *all* the aspects of the action and end that make them choice-worthy for her ... If the maxim is to represent the way an agent wills ... the maxim should include all aspects of both action and end that the agent would offer as justification for her acting as she intends to act.

(221)

This method for developing maxims is much more complicated and less straightforward than Feldman’s because it is not formulaic. It also contains potential problems; because “maxims express willings, content is determined by what an agent takes to be the good characteristics of her action and choice” (223). However, part of the reason why a person may think her action is good is because it is in line with her own wants or interests. Consequently, a person may only realize to which maxim she has been adhering after she recognizes a pattern in her behavior, and “there may be subjective elements at work,” that the person is not aware of, elements which may either be easily discovered reflectively or may only be revealed “through a kind of practical therapy” (223). As a result, the person may truly believe herself to be acting on one maxim when she is, in fact, acting upon

another; therefore, “maxim specification is a dynamic process that the agent will be drawn into as her actions *as she describes them* seem at once justified and in conflict with principles she accepts” (223).

While Herman does not provide us with a formula or a set of instructions for developing a maxim as Feldman does, she does provide some useful guidance for what should be included in the maxim. Now that we have this guidance, we can try to develop another maxim for our female trial participants that will appropriately represent their wills. To do so, we need to consider the justifications the women would use for not disclosing their use of the diaphragm to their partners. Luckily, we do not have to speculate or contrive these justifications because one of the aims of the Sahin-Hodoglugil study was to gain understanding about reasons for covert diaphragm use.

Although levels of covert use ranged from “Full disclosure” to “Completely covert,” it is appropriate to consider the reasoning and justifications at all levels that include any covert use at all (levels 2-4) (Sahin-Hodoglugil et al. 1553). Reasons for covert use varied widely among the trial participants, so we can classify them into different categories to better analyze the women’s decisions. We can consider one category of reasons to be for disease prevention; because the diaphragm is not approved for protection against HIV and other STIs, some of the trial participants did not disclose their use of the diaphragm so their partner would also use a condom. One woman from Durban said, “It is better maybe not to tell him that you’ve inserted the diaphragm so that he’ll always put on a condom when you have sex, unless they say that the diaphragm is approved” (Sahin-Hodoglugil 1553). Another reason some of the trial participants chose not to disclose their use of the diaphragm was for contraceptive purposes; one woman

from Harare was nervous that her partner would not want to use other contraception if she told him she was using the diaphragm, and a woman from Durban said, “I never told him at all because he did not want me to use contraceptives” (1553). Some women used their diaphragms covertly because they were too afraid to confront their partners about condom use or that their partners would refuse; a woman from Harare explained, “The diaphragm is good for us women especially some of us who do not have the power to tell our husbands to use a condom” (1553). Other women did not tell their partners about their diaphragm use because they knew it turned him off sexually; one male partner explained, “It injects [irritates] me when I see it being inserted but if it is inserted [without me seeing] I don’t feel it” (1553). Finally, some women refused to tell their partners about the diaphragm because they felt it was their own decision. One woman from Johannesburg said, “I still stick to the point that why should I ask him about how I should protect my private part? It’s for myself” (1553).

As we can see, there are a multitude of reasons and justifications for women to keep their use of the diaphragm a secret, and it becomes clear that if we are to use Herman’s method for developing a maxim, we will either need to develop a maxim that somehow encompasses all of these justifications or develop several maxims, one for each set of reasoning. Because we are attempting to analyze the behavior of all of the trial participants, developing one maxim that represents all of the expressed justifications should be adequate.

We can use both Feldman’s formula and Herman’s justification criteria to develop a coherent and suitable maxim, so we need to develop a maxim that accurately describes the justifications for covert use of all of the women in the trial. Based on what Sahin-

Hodoglugil et al. discovered about the women's reasons for nondisclosure, it sounds accurate to say: "Whenever I am using my diaphragm and I want to protect myself from STIs, want use contraception, am afraid to tell my partner to use a condom, my partner is turned off when he knows I am using my diaphragm, or I believe that I should make my own choices, I shall not tell my partner that I am using my diaphragm." To universalize this principle, making it available for the test of the categorical imperative, we change it to: "Whenever anyone is using her diaphragm and wants to protect herself from STIs, use contraception, is afraid to tell her partner to use a condom, her partner is turned off when she knows she is using her diaphragm, or believes that she should make her own choices, she shall not tell her partner that she is using her diaphragm." This maxim certainly seems to capture all of the justifications that Sahin-Hodoglugil et al. found in their study, but it also sounds dangerously specific and suspiciously like maxim-fiddling.

By now we are well aware of the difficulties with Kant's categorical imperative; before we can even begin to test an action, we reach roadblock after roadblock trying to develop a maxim that is neither too vague nor too specific. On the one hand, specific maxims like the Herman-model maxim above accurately represent the action because they capture the actions unique aspects and the justifications in acting that way, yet they are often too exclusive and do not apply to actions outside of a specific scenario and therefore always pass the categorical imperative tests. On the other hand, general maxims are more likely to be applicable to other situations and helpful in making future ethical choices by setting precedents; furthermore, all of the maxims Kant provides are very general, so general maxims are probably more in line with a true Kantian framework. However, broad maxims may be so inclusive that they never pass the

categorical imperative tests. What we really need is a maxim somewhere in between the two that we have developed here, which will be extremely difficult, if not impossible to develop. Consequently, we have discovered a major problem with putting Kant's categorical imperative in practice: it can be extremely difficult and nearly impossible to create a maxim that adequately represents the action in question.

We have come this far, however, so we might as well see what happens when we subject our maxims to the categorical imperative tests. To do so, we must ask, what would happen if these maxims were true, if every time a woman found herself in the situation described above, she did not tell her partner that she was using the diaphragm? Thankfully, Kant provides a little more guidance on how to test for universalizability than he does for developing maxims. In order to be deemed universalizable, a maxim must pass two tests. Paul Dietrichson explains this process with wonderful clarity: "The *primary* test is whether I can consistently think the idea that my maxim could *hold* as a permanent and universal natural law of voluntary action. The *secondary* test of universalizability is whether I can think the idea of myself as *wanting*, any time, the principle of my maxim to hold as such a universal law" (156). In other words, the first test of the categorical imperative is to determine whether it is even conceptually possible for the maxim in question to hold as a universal law of nature, and the second test is to determine whether the subject creating the maxim could conceptualize him or herself desiring the maxim to hold as a universal law of nature. Failure of either test requires the maxim to result in some kind of contradiction (Sneddon 68).

A maxim fails the primary test if it results in a "conceptual contradiction," meaning that "you cannot even think of your maxim as a universal law" (Sneddon 68).

Kant's example of a maxim that results in a conceptual contradiction is that of making false promises; he demonstrates that were that maxim to be universal, the entire concept of a promise would disintegrate (*Groundwork* 4:422). As Dietrichson explains:

A universal law of nature *modeled* on the principle of the maxim would be a *self-contradictory law*. Because the very principle of the law would contradict itself, the law in question would be no law at all ... A universal law of nature modeled on the principle of the maxim in question would be a law according to which everybody in a certain type of situation would have to *do the impossible*: make promises which he *intends* to be deceptive, when though he knows he cannot *intend* them to be deceptive, namely because he *knows* that his so-called promises are absolutely incapable of deceiving anybody. (157-8)

It is clear that our maxim does not result in a conceptual contradiction; it is certainly possible to conceive of a world in which no person discloses her use of a diaphragm or other disease or contraceptive measures to her partner. The universalization of such a maxim does not result in the ultimate self-destruction of the maxim itself; the very notion of nondisclosure is still intact, so our maxim passes the primary test of the categorical imperative.

But even if the maxim passes the primary test, it must also pass the secondary test for it to be morally acceptable. The second possible contradiction that would result in the maxim failing the categorical imperative test is a "practical contradiction," which means that "you can consistently think of your maxim as a general law of nature, but you could not will it to become such a law" (Sneddon 68). Kant's example of a practical law of

nature is that of charity; he demonstrates that if one were to will that no one ever give charity to another person, one could conceptually will this to be possible (it does not result in a conceptual contradiction as the false promises maxim does), but the person willing the maxim would ultimately rob himself of any hope for the assistance he or she needs (4:423). It is not immediately clear how this results in a practical contradiction, however. Although this maxim of “non-benevolence” may, on the surface, appear to be prudent or practical, its universalization does ultimately contradict itself.

To understand why a maxim of non-benevolence is self-contradictory, we must consider the importance of self-love in Kantian ethics. Dietrichson explains that our self-love allows us to be “morally obligated agents,” because “if individual persons were completely *self-sufficient* as far as a furtherance of their own happiness is concerned, it would be *impossible* for them to be *morally obligated* to one another. That they *are* morally obligated to one another, however, is according to Kant, a fact of pure practical reason” (160-1). Because a “morally obligated being,” or person, necessarily wants to be happy, and this happiness which he or she desires is at least in part contingent upon the benevolence of others, it is impossible for a person to “consistently want for there to be a universal law of nature modeled on the principle of non-benevolence” (161). Consequently, the desire for such a law “would be self-contradictory ... and hence no desire (or wish or volition) at all” (161). A maxim that fails the secondary test, then, would be self-contradictory in the sense that “the desire for a certain maxim to *hold* as a universal law of nature would at the same time be a desire for that very maxim *not* to hold as a universal law of nature” (161).

Would our maxims result in a practical contradiction? First, let us consider our specific, Herman-model maxim: If a person were to wish that no person ever disclosed her use of the diaphragm or other means of protection or contraception to her partner, would the result of this universalization ultimately contradict her own wish? The wish is to protect herself against STIs and unwanted pregnancies, and to promote her own autonomy; these wishes are founded upon the principle of self-love. Would a woman's happiness be ultimately thwarted, threatened, or reduced if every woman did not disclose her use of the diaphragm to her partner because of her nondisclosure? It is difficult to conceive of a scenario in which it would be, so it seems to be a morally acceptable action, which is not surprising because specific maxims generally pass the categorical imperative tests. Now let us consider the more general maxim: "Whenever anyone is taking steps to prevent the spread of disease between herself and her partner, she shall not tell her partner she is doing so." The maxim passes the primary test as it clearly does not result in a conceptual contradiction. Does it pass the second? To result in a practical contradiction, a woman willing this maxim to be true must find herself in a situation in which she wished it were not true because it is a universal law of nature. In other words, would a woman find herself wishing that she had to disclose her active disease prevention to her partner as a result of being forbidden from doing so? Probably not; a woman may certainly find herself in a position in which she wished she could disclose such information to her partner but not *because* a law of nature prohibited it. Therefore, the maxim passes the secondary categorical imperative test and is therefore moral according to Kantian standards.

Yet if we accept these maxims as a possible universal law of nature, we are likely to also accept a parallel maxim regarding male non-disclosure. If we were to test the maxim, “Whenever anyone wants to take an extra precaution against preventing pregnancy and thinks his partner will disagree or be upset, he will not tell his partner that he had a vasectomy,” we would come up with the same result as the female non-disclosure maxim. It would pass both the primary and secondary categorical imperative tests because it is neither conceptually contradictory nor practically contradictory, and the maxim is based on and promotes the self-love and happiness of the individual.

But now consider the maxim, “Whenever anyone wishes to prevent STIs or pregnancy and believes his or her partner will disagree, he or she will not disclose his or her use of any form of hidden protection to his or her partner.” This maxim captures justifications of both parties, as Herman insists is critical of any maxim. It passes the primary test of the categorical imperative. Does it pass the second? Anyone wishing to universalize this maxim does so on the basis of self-love; he or she believes it will benefit his or her happiness. But if this maxim were a universal law of nature, would a person willing it to be such a law find him or herself in a situation in which he or she wished it not to be true? It is possible that a woman who had previously not disclosed her use of the diaphragm as a means of preventing STIs decided she wanted children, so she stopped using her diaphragm; she does not know, however, that her partner had a vasectomy because he did not want children. Consequently, willing this maxim to be a universal law would ultimately result her unhappiness, but not necessarily her wishing it to not be a universal law. Regardless of whether the woman knows of her partner’s decision to prevent pregnancy (or vice versa), unhappiness is not an inevitable

consequence of such a universalization; it is possible that a woman or a man might find her or himself in such a position, but it is not a necessary result of this universal law of nature. In other words, it is not the case that, after willing such a universal law of nature, a person would necessarily find him or herself wishing it were not a law because of the implications of that law. Therefore, it passes both tests of Kant's categorical imperative, and, on that basis, it is morally acceptable for the woman in the MIRA trial (and others) to keep their use of the diaphragm a secret from their partners.

However, this Kantian analysis of the female trial participants' behavior is still lacking. Although we have shown their nondisclosure to be in line with the categorical imperative, we have not considered it in light of Kant's conception of autonomy or his kingdom of ends. Kant defines autonomy as "the property the will has of being a law to itself" (4:440). As we discussed at the beginning of this chapter, the entire Kantian ethical framework is founded upon the ability to reason. Our ethical system, Kant argues, must be founded upon reason, and must be universal. The categorical imperative tells us one way to use our reasoning to determine the moral worth of our actions. Precisely because we have this ability for rational thought, humans, as rational beings, have value as ends in themselves, which Kant believes is the "supreme practical principle": that "rational nature exists as an end in itself" (4:429). As Sarah Holtman explains, "It is the autonomous will itself that provides this non-contingent basis for morality's categorical demands" (106). Therefore, human beings, as rational beings, must always be treated as ends and never as a mere means.

This principle of autonomy, of rational beings as ends in themselves, explains why it is morally acceptable to use humans as research subjects and the importance of

informed consent of those research subjects (as well as all other patients) in modern Western medicine. First, Kantian ethics allows for the use of human research subjects because it does not completely condemn treating persons as means, so long as they are always at the same time regarded as ends. Consequently, we have developed extremely strict and stringent guidelines for the use of human research subjects, including the requirement of informed consent for all study participants. In requiring informed consent, we are asserting that the participants are not merely means to achieve the outcomes of the trial, but also ends in themselves. And as such, they have the right, because of their rational capacity, to decide for themselves whether they want to endure any particular study. When we fail to recognize research subjects as ends in themselves, tragic and horrifying things can happen, as we learned from the Tuskegee Syphilis Studies and the doctors at the Nazi Death Camps during World War II. The research subjects in these studies were not treated as ends in themselves, they were given no information, and were never asked to give consent; in other words, their autonomy was grossly violated, and as a result, thousands of people contracted diseases, were tortured, mutilated, and died (“Nuremberg” 70).

Through informed consent and other bioethical guidelines and standards, Western societies are taking steps towards Kant’s ideal ethical community. Kant envisions a “kingdom of ends” in which everyone lives under his categorical imperative and recognizes and treats each other as ends (4:433). This kingdom consists of “A systemic union of various rational beings through common laws ... [and] all rational beings stand under the *law* that each of them is to treat himself and all others *never merely as a means* but always *at the same time as ends in themselves*” (4:433). Holtman explains, “We must

... conceive of this community as one in which we are governed by laws of our own making that reflect our mutual status as ends. Our maxims and the actions based on them should reflect this understanding of ourselves and our fellows and of the community appropriate to us” (107). Within this kingdom of ends, we, as members, must “see rational agents in a certain way ... first, as a community of beings possessed of certain capacities and dispositions. Second, we must view each community member as possessed of particular ends, ends given significance by the mere fact that they are matters that rational agents value and that, in an important sense, make their lives worth living” (Holtman 107).

This kingdom provides the framework for the community that medical researchers have striven to build across the world, a community of researchers who value their research subjects first and foremost as autonomous individuals and secondly as a means to gather information and medical insight. In other words, researchers acknowledge that a study involving human subjects does use rational beings as a means to further its own goals, but realize that it must treat the participants as ends at the same time.

In light of this new requirement of moral actions (respect for autonomy through regarding rational beings as ends in themselves), we will continue our examination of the female trial participants’ covert use of the diaphragm, but we will also consider the role of the researchers in allowing and promoting this behavior. To do so, we must have a thorough understanding of a person’s responsibility within the kingdom of ends. Kant describes two different positions a rational being can have in the kingdom of ends: “A rational being belongs as a *member* to the kingdom of ends when he gives universal laws

in it but is also himself subject to these laws. He belongs to it *as sovereign* when, as lawgiving, he is not subject to the will of any other” (4:433). First, we must have a clear understanding of what we mean by the “kingdom of ends.” Is it a small, discrete community, such as the medical research community or the community of the two trials, or is it global? If we define our kingdom of ends as those involved in the studies or even the medical research community, we still have the question of whether the male partners are actually involved in the research study. But if we use a more generalized definition for the kingdom of ends, then we can include the male partners because no one is excluded; the kingdom encompasses everyone. In the second scenario, the medical research community would not be striving to create their own separate kingdom of ends; rather, they would be striving to transform the world into a kingdom of ends. The second definition of the kingdom of ends, that of the entire world, is the one we will use from here forward. This version, is in fact, the kingdom of ends that Kant has in mind; the kingdom of ends encompasses all rational beings.

As we have defined our community, both the female trial participants and the researchers fit the criteria Kant lays out for members of the kingdom of ends for they both act as lawmakers and are subject to the laws willed by others. Our next task is, therefore, to determine whether the female trial participants and the researchers regarded the male partners as ends in themselves or as means only. But what does it mean to regard someone as an end? To help us understand what he means when he asserts that human beings are ends in themselves, Kant distinguishes between price and dignity: “What has a price can be replaced by something else as its *equivalent*; what on the other had is raised above all price and therefore of no equivalent has a dignity” (4:434). What

differentiates something that is an end in itself and something that is not is a difference of worth: That which is related to human needs, has a “market price,” and that which is related to our wants and desires has a “fancy price,” whereas that which characterizes something as an end in itself, i.e. a rational will, “has not merely a relative worth, that is, a price, but an inner worth, that is *dignity*” (4:434-5). Regarding something as an end in itself, then, requires a kind of attentiveness to its dignity, and this attentiveness to dignity results in “an immediate respect” for what possesses dignity (4:435). As Holtman explains, “Dignity resides in the autonomous will and its dictates and is properly met with respect by every rational agent who encounters it” (109).

It seems both obvious and logical that attentiveness to a person’s dignity and the resulting respect for that person requires concern for his or her well-being. We can ask ourselves, then, did the female trial participants and the researchers have concern for the well-being of the male partners? This is actually a rather difficult question to answer because the actions of both the trial participants and the researchers was directly motivated by a concern for the health of the trial participants. Indeed, the motivation for instituting the study was to improve the health and well-being of women, and the women decided to participate because they were concerned for their own well-being, whether their own sexual health, fear of being beaten, or personal autonomy (Sahin-Hodoglugil et al. 1553). Yet we cannot necessarily conclude from this information that either the researchers or the women had no concern for the well-being of the male partners.

Although their primary concern may have been reducing their own risk of contracting HIV, in participating in the trial, the women were demonstrating a wish to reduce their partners’ risks for contracting HIV as well. If the women could successfully

prevent themselves from contracting HIV, they would also be preventing themselves from giving it to their partners or anyone else. Even if the women did not consciously consider the benefits of the trial to their partners, they were concerned for the well-being of the greater population by wishing to stymie the spread of HIV. Similarly, although the researchers' primary aims were to find a means to give women greater control over their own reproductive health, their ultimate goal was – and still is – to stop the spread of HIV to anyone. In doing so, they recognize the dignity of all persons who many come in contact with the female trial participants, including (and especially), the female trial participants' primary sexual partners. Consequently, we can conclude that both the female trial participants and the researchers did, in fact, regard the male partners as ends in themselves by exhibiting a somewhat implicit concern for their well-being.

This Kantian analysis of the two trials has been illuminating and helpful, both in unveiling the problems inherent in Kant's ethical system and in analyzing the actions of both the female trial participants and the researchers. On the one hand, Kant's categorical imperative is ultimately problematic and virtually useless; it is nearly impossible to develop a sufficient maxim and therefore impractical for any kind of regular decision-making. However, the basis of the categorical imperative, the assertion that all rational beings are ends in themselves and need to always be regarded as such is a useful tool for ethical critique in general and of both the researchers' and female trial participants' behavior and the treatment of the trial participants' male partners. Based on this analysis, we can conclude that, because the researchers and the female trial participants always treated themselves and those they interacted with as ends in themselves, the actions of both the researchers and test subjects are morally acceptable in

Kantian framework. As we know, however, Kant's is not the end-all be-all of ethical analysis. However, it is important to know that Kant developed his system with the assumption that all people think as he does, specifically that they regard all persons as rational beings. While the researchers who have been raised and trained on Western philosophical theories may think as Kant does, the female trial participants and their male partners do not necessarily also think that way. Their culture may have instilled them with different ideas and beliefs about identity, freedom, and duty, which is why we must also examine these studies from a non-Western perspective. Before we do that, however, we will discuss another prominent Western philosopher who provided us with another, very different, ethical system.

Qualitative Hedonism, Consequentialism, and Selflessness

We now move to a system of ethics whose fundamental premise is probably much more familiar to the general public than Kant's, that of John Stuart Mill. Mill's moral philosophy is a form of Consequentialism, meaning he believes that the moral worth of any action is determined only by that action's consequences; any other feature of the action is completely irrelevant to its morality. We shall consider whether the consequences of the MIRA researchers' and female trial participants' behavior, i.e. promoting and deciding to use the diaphragm covertly, fit the criteria for morally acceptable actions according to Mill's Utilitarian framework. Specifically, Mill measures the moral worth of actions in terms of happiness or utility. There are many variations of Utilitarianism, but for the sake of concision and clarity, we will only concern ourselves with Mill's model. He states: "Actions are right in proportion as they tend to promote happiness, wrong as they tend to produce the reverse of happiness. By happiness is intended pleasure, and the absence of pain; by unhappiness, pain, and the privation of pleasure" (Mill, *Utilitarianism* 56). Moral actions, then, are those that increase happiness and pleasure or decrease unhappiness and pain. Consequently, actions are neither inherently moral nor immoral, and their morality is subject to change based on the situation; an action that increases happiness in one situation may decrease happiness in another, so in the first situation it is a moral action and immoral in the second.

When judging the morality of an action, we must not only consider our own happiness, but the collective happiness or unhappiness that would result from the action. Such behavior, Mill asserts, will likely increase our own happiness, but even if it does not, the world as a whole will be happier because of it:

That standard [by which we are to measure our actions] is not the agent's own greatest happiness, but the greatest amount of happiness altogether; and if it may possibly be doubted whether a noble character is always the happier for its nobleness, there can be no doubt that it makes other people happier, and that the world in general is immensely a gainer by it. (59)

The moral theory Mill describes above is founded in the Greatest Happiness Principle, the goal of which “is an existence exempt as far as possible from pain, and as rich as possible in enjoyments, both in point of quantity and quality” (59). Such an existence, Mill declares, is the “standard of morality” (59). In other words, in deciding how to act, our goal should always be to increase the quality and quantity of pleasures of as many people as possible. When quantity and quality of pleasures are in conflict, Mill asserts that quality is more valuable than quantity. He explains: “It is quite compatible with the principle of utility to recognise the fact, that some *kinds* of pleasure are more desirable and more valuable than others. It would be absurd that while, in estimating all other things, quality is considered as well as quantity, the estimation of pleasures should be supposed to depend on quantity alone” (Mill, *Utilitarianism* 56). In other words, Mill endorses qualitative hedonism, a pursuit of the greatest quality of pleasure. Mill presents the famous dilemma of whether it is better to be a pig satisfied or Socrates dissatisfied. He concludes that the former is obviously preferable because the quality of experiences and pleasures Socrates will have, no matter how dissatisfied, will always outweigh those of a pig, or even those of a foolish human being (57). This moral theory is sometimes referred to colloquially as “the greatest good” theory because it can be summarized as

positing that an ethical act or decision is one that produces the greatest good for the greatest number of people or the least harm to the fewest.

Mill's Greatest Happiness Principle is strongly tied to his conception of autonomy, and he holds that autonomy and happiness are tightly intertwined. He maintains that individual autonomy is important and valuable both to the individual and to society as a whole and asserts that autonomy is both "one of the principle ingredients of human happiness, and quite the chief ingredient of individual and social progress" (*On* 65). According to Mill, individuals should be free to act as they wish so long as they do not disturb or harm others: "If he refrains from molesting others in what concerns them, and merely acts according to his own inclination and judgment in things which concern himself, the same reasons which show that opinion should be free, prove also that he should be allowed, without molestation, to carry out his opinions into practice at his own cost" (64-5). The imperfection and diversity of humanity is essential to a functioning society, and rather than being controlled by "traditions or customs of other people," men and women should be allowed to make their own decisions independently of others' influences (65). Because we human beings are imperfect, we will sometimes make choices that are bad for us, but we will be happier making bad choices for ourselves than having good choices imposed on us by others.

Mill considers a person's autonomy to be mostly in his or her own control. The un-autonomous person, rather than being used or mistreated by his neighbors, is one "who lets the world ... choose his plan of life for him" (*On* 67)³. Mill has harsh words

³ It is interesting to note, however, that Mill does believe a person's autonomy is his or her own for the taking insofar as that person is in a position to do so. In *The Subjection of Women*, which we will discuss later, Mill explains that women do not have the

for people who demonstrate such weakness of character, continuing to say that such a person “has no need of any other faculty than the ape-like one of imitation. [Whereas] He who chooses his plan for himself, employs all his faculties” (67). Mill argues, “If a person possesses any tolerable amount of common sense and experience, his own mode of laying out his existence is the best, not because it is the best in itself, but because it is his own mode” (77). If the pursuit and promotion of one’s own autonomy is a morally acceptable action, it must fulfill the Greatest Happiness Principle, so we can infer that which promotes the most autonomy for the most people is the moral action. Furthermore, Mill seems to rank the pleasure of autonomy among the higher-quality pleasures; as evidenced by his comparison of a happy pig and unhappy Socrates, autonomy results, at least, in part, from intellect and self-determination, which are among the most valuable pleasures (*Utilitarianism* 57). As we discussed above, the quality of Socrates’ diminished or non-existent happiness outweighs the quality of a pig or a fool’s abundant happiness.

On the surface at least, Mill’s Utilitarian model appears to offer a simpler and less laborious analysis than does Kant’s; there is no need to struggle with developing the perfect maxim, test its universalizability twice, or try to decide whether one is treating all persons as ends in themselves. Instead, we must only compare the quantity and quality of different pleasures. In fact, Mill lauds his system as one that can help people make decisions when other ethical frameworks do not provide a good answer:

There exists no moral system under which there do not arise unequivocal cases of conflicting obligation. These are the real difficulties, the knotty

opportunity to be autonomous because of the constrictions which society has placed upon them.

points both in the theory of ethics, and in the conscientious guidance of personal conduct . . . If utility is the ultimate source of moral obligation, utility may be invoked to decide between them when their demands are incompatible. Though the application of the standard may be difficult, it is better than none at all: while in other systems, the moral laws all claiming independent authority, there is no common umpire entitled to interfere between them their claims to precedence one over another rest on little better than sophistry, and unless determined, as they generally are, by the unacknowledged influence of considerations of utility, afford a free scope for the actions of personal desires and partialities. (*Utilitarianism* 71-2)

Here, and throughout Mill's work, the term *utility* refers to the both the "pursuit of happiness" and "the prevention or mitigation of unhappiness" (60). It is important to remember that, for Mill, happiness is not just an emotional state but a state of existence as free from pain and as rich as possible (59).

As we have already discussed, a simple increase in the quantity of happiness is not a sufficient criterion for an action to be moral; we must consider the quality of the happiness as well, and the quality of pleasures is more important than quantity.

But who is to be the judge of the quality of pleasures? How can we possibly assess an action that we have no experience with, no way of knowing the significance of the outcomes on a person's happiness? Mill asserts that when assessing the overall increase in happiness or unhappiness for a given experience, we must defer to those who have had that experience:

On a question which is the best worth having of two pleasures, or which of two modes of existence is the most grateful to the feelings, apart from its moral attributes and from its consequences, the judgment of those who are qualified by knowledge of both, or, if they differ, that of the majority among them, must be admitted as final. And there needs be the less hesitation to accept this judgment respecting the quality of pleasures, since there is no other tribunal to be referred to even on the question of quantity. What means are there of determining which is the acutest of two pains or the intensest of two pleasurable sensations, except the general suffrage of those who are familiar with both? Neither pains nor pleasures are homogenous, and pain is always heterogeneous with pleasure. What is there to decide whether a particular pleasure is worth purchasing at the cost of a particular pain, except the feelings and judgment of the experienced? When, therefore, those feelings and judgment declare the pleasures derived from the higher faculties to be preferable *in kind*, apart from the question of intensity, to those of which the animal nature, disjoined from their higher faculties, is susceptible, they are entitled on this subject to the same regard.

(Utilitarianism 59)

Immediately, several problems with this approach become evident. First, and most obviously, where are we to find those who have experience with the given situation? How are we to find them, and how are we to know what they tell us is accurate? Secondly, even if we were to find such a group of experts on the experience in question, what are we to do if they cannot reach a consensus? Relying on the testimony of other

people makes the valuing of happiness a subjective process; there is no objective or independent standard for judging the quality of an experience. Whereas measuring the quantity of happiness can, in theory, be objectified and systemized, the source of determining its quality will always reside in a subject, or in this case, multiple subjects. The fact that they agree does not make it objective; it merely makes it a common belief. This characteristic of Mill's Utilitarianism then conflicts with one of the fundamental reasons we develop ethical systems in the first place, which is to provide an objective and universal set of rules. While the rules that govern Mill's Utilitarianism may themselves be objective and universal, the means by which he instructs us to follow these rules are far from objective. He requires us to rely on the experiences of others to determine the value of certain pleasures and happiness, but such a valuation will always be subjective and therefore inappropriate for an ethical system.

The two trials we have been studying will further illuminate both the strengths and the shortcomings of Mill's Utilitarianism and provide insight into the consequences of the researchers' and trial participants' actions. In these cases, we are specifically concerned with the happiness of the female trial participants and their partners, but also with anyone else they may come in contact with, because we must always consider the greatest overall increase in happiness to be our goal. On the one hand, happiness for the woman can result from an increased sexual autonomy, prevention of the spread of HIV and other STIs, peace of mind from knowing that she is taking steps to protect herself, or the feelings of mutual respect, trust, and understanding of disclosing her diaphragm use to her partner. On the other hand, unhappiness can result from a fear of her partner discovering her nondisclosure, the consequences that would follow, and the worry that

her partner will try to prevent her from using her diaphragm if he knows. But Mill is adamant that the agent's own happiness is not the sole measure of utility and moral worth of an action. Instead, we must consider the increased happiness of the community, society, and the world. We must ask ourselves, what actions would result in the greatest overall increase in happiness? To answer this question, we must examine both the quantity and quality of happiness in the possible outcomes.

The MIRA trial studied whether the diaphragm was a viable means for protecting against HIV. If proven successful, it would give women more control over their own reproductive health compared to the condom-only means of protection, resulting in a tremendous amount of "happiness" for all of the women who successfully protected themselves against HIV, not only emotional relief but the freedom from illness and pain, which Mill includes in his definition of happiness. The male partners of these women, however, necessarily participate in the trial as well; though the researchers do not measure their infection rates, the male partners also receive any additional protection the diaphragms might provide. In both cases, there is a possibility of happiness resulting from added protection against HIV transmission. Furthermore, the women are able to exercise control over their own sexual lives, which, in turn, may result in greater overall and sexual health (Blanc 199 and Kathewera-Banda et al 3).

To effectively and accurately analyze the consequences of the female trial participants' nondisclosure of their diaphragm use, we must compare those consequences to the consequences of disclosure. Once we have established what would happen in both scenarios, we will be in a position to decide which scenario would result in a greater increase in happiness, decrease in unhappiness or a smaller decrease in happiness or

increase in unhappiness. Such a discussion of the happiness or unhappiness resulting disclosure or nondisclosure of diaphragm use involves an in-depth analysis of the risks and benefits associated with both actions. In order to be able to analyze each situation accurately, we must have a thorough and complete understanding of the risks involved, their severity, and the likelihood of their occurrence. Mill's Utilitarian model provides us with a good framework and basis for analyzing the risks and benefits related to a decision or situation.

In these two studies, there are two different kinds of risks that the participants or their partners undertake, health risks related to the trial itself (such as adverse reactions to the diaphragm or any other unforeseen side effects or outcomes) and risks related to their partners' reactions to disclosure or discovery of diaphragm use. The medical risks related to the diaphragm trial are relatively low. The participants in the control group received all of the approved HIV and STI prevention tools and counseling that the women in the diaphragm group received, so participating in the trial itself actually lowers the risk of contracting HIV no matter which group a subject is in (Padian 2-3). All participants received personal health screening, counseling, instruction on inserting their diaphragms, and were advised not to use the diaphragm and gel alone for HIV protection or contraception (5). The researchers do not list any risks inherent in their study; the most serious adverse effects would seem to be infection resulting from improperly cleaning the diaphragm or an allergic reaction to the latex material, both of which can be fairly easily and quickly treated despite their possible severity. From a purely medical standpoint, the risks of participating in the trial are miniscule compared to the benefits to the participants in both groups – a decreased risk of HIV or other STI infection and unwanted pregnancy.

The risks the women undertake which are related to their partners are much more complex and difficult to predict. Both disclosure and nondisclosure are potentially dangerous choices. First, let us consider disclosure; if the women were to disclose their use of the diaphragm to their partners, several things could happen: The partner might accept and encourage the woman to use it; he might tell her to use it but not to tell him when because it makes him uncomfortable; or he might forbid her from using it at all (Sahin-Hodoglugil 1553). Considering these possibilities, there are several possible benefits and harms to both the female trial participant and the male partner that could result. The male partner's happiness could increase as a result of his control over his own participation in the trial. Furthermore, many woman in the MIRA trial "preferred to inform their partners about the products that they were using, and partnerships that are more stable, meaningful, trusting, and communicative may be more conducive (sic) to open use of any method" (Sahin-Hodoglugil et al 1553). In fact, although there are no studies that explicitly analyze the relationship between spousal communication and reproductive health outside of contraception, there is a positive trend between communication and contraceptive use that may carry over to HIV and STI prevention, which would result in improved sexual health for both the women and men (Blanc 194). Open communication between the two partners is less likely to result in an abusive or violent relationship, giving the woman peace of mind and physical well-being (190, 195).

The possible harm of full disclosure is also multi-faceted. If the male partner prevents the woman from using her diaphragm through physical force or emotional manipulation, both people could be at an increased risk of contracting HIV with the possibility of either person passing that infection along to a future or other partner or the

female partner to a future child; the researchers found that almost 80% of women who did not disclose their diaphragm use believed they would find themselves in such a situation if they did disclose it to their partners. In those cases, the woman would find herself deprived of the happiness that would result from her ability to act in her own best interest sexually as well as the other health benefits that accompany sexual autonomy and open communication. She may also be putting herself at risk for violence or other abuse from her partner; the Sahin-Hodoglugil study and others have revealed that contraceptive use or discussion is often considered accusatory or indicative of infidelity (1550-1; Blanc 192). For some women, the risks of discovery were too high and prevented them from using the diaphragm covertly. One Harare woman said in a focus group discussion (FGD) “He will beat you if he does not know [and finds out] [He will say]: ‘You were doing it behind my back. There is another man that you are using them with.’ So I told him that would not have problems” (Sahin-Hodoglugil et al. 1553).

Similar risks are involved in non-disclosure. Most women who covertly used their diaphragms did so because they feared their partners would “disapprove or be upset,” but they also “emphasized that it would be risky and could create problems with their partners if they tried to use the products without telling them, especially if the partner discovered” (Sahin-Hodoglugil et al. 1550). The consequences of discovery could be dire; in fact, “many men indicated that if they found out that their partners had been using the products covertly, that would mean a lack of trust between them, and that several men would interpret it as a ‘definite’ indication of her ‘having outside sex’” (1550). Many women concurred with this sentiment, especially those from Zimbabwe, and “both men and women reported that other possible consequences of being caught

varied from being divorced to being beaten” (1550). However, Sahin-Hodoglugil et al. found that “most women believed that it would be very hard for their partners to accidentally discover covert use of the diaphragm and gel. This belief was verified with the finding that only a few men discovered covert use (either through feeling the device; catching their partners when she was inserting or removing the device; or learning from others that she was participating in the MIRA trial)” (1550). Discovery of a woman’s covert use of the diaphragm could result in grave and dangerous consequences; however, such discovery is proven to be highly unlikely.

Now we have a firm grasp of the possible outcomes of both disclosed and non-disclosed use of the diaphragm, but it is evident that a decision based on the action that produces the greatest good will be difficult to identify. Operating with a Utilitarian mindset, each woman, unaware of the situation in which others find themselves, will necessarily make her decision based on the happiness of herself, her partner, and those around them (such as their children, other sexual partners, and women and couples looking to them for an example). One woman with a controlling and violence-prone husband may conclude that both of them will be happier if she keeps her use of the diaphragm a secret; he will not be angry and she will be physically safe and mentally reassured. Another woman in a relationship with someone who values open communication may decide to be honest about her diaphragm knowing that their relationship will be stronger because of their mutual trust. Consequently, Mill’s Utilitarianism may seem to be an appropriate or at least useful method for making semi-complicated moral decisions. These women do not have to consider the situations of other women in the trial; they have no need to know or speculate what might happen to

them, so they can make their decisions based on the happiness and pleasure of themselves, their partners, and their communities.

But so far we have virtually neglected the researchers in charge of these trials. Should not they have a broader understanding of the consequences of their actions? The MIRA study researchers, in particular, who promoted covert diaphragm use, must have had some idea of the risks involved in nondisclosure. How did they determine that these risks were acceptable? Did they conduct an in-depth analysis as we did above? Did they concern themselves with the happiness of the individual women or with the effect on society and the human population as a whole?

This point emphasizes the necessity of looking at the big-picture happiness rather than focusing on the happiness of individual couples. Mill is adamant that the standard for determining an action's moral worth is not the greatest amount of happiness of the individual performing the action but the greatest amount of happiness overall (*Utilitarianism* 59). When each woman makes her decision whether to disclose her use of the diaphragm to her partner, she must consider her own happiness and the happiness of her partner but also, and more importantly, the happiness of society as a whole and the individual people within that society. When the researchers make their decision to promote the diaphragm as a possibly covert means of disease prevention, they must consider the happiness of the women in the trial, to be sure, but they must also consider the happiness of everyone else who might benefit from it. In a world in which women are still widely considered and treated as subordinate to men, how will the researchers' actions ultimately increase or decrease the happiness of the world's women? Of the world?

According to Mill, increased autonomy is increased happiness, and by his Greatest Happiness Principle, the autonomy of men should not be increased at the expense of women, or anyone for that matter. Mill asserts that one may pursue one's autonomy so long as he or she "refrains from molesting others in what concerns them" (*On* 64). Depriving another of his or her autonomy certainly falls into that category. Some might try to argue that women, and perhaps other categories of human beings, are less valuable than men; their happiness is more comparable to a fool's and a man's to Socrates'. But Mill would disagree with this claim; in *The Subjection of Women*, he calls for women's complete equality with men, replacing the principle of subordination with "a principle of perfect equality, admitting no power or privilege on the one side nor disability on the other" (133). He acknowledges that such a transformation will be extremely difficult, but argues that this historical societal framework is not rooted in any kind of logic or thoughtful and critical deliberation and is therefore invalid and devoid of any worth (137). He argues that we cannot know whether women will take or embrace their autonomy or even acknowledge their desire for it if they have no chance to do so (147).

The situation Mill describes in England is strikingly similar to the situation of the women in Africa. Certainly, not all women are oppressed or abused or subordinate to their husbands, but a great deal many are; as evidenced by the Sahin-Hodoglugil study, a significant number of women feel they do not have the authority or power to negotiate condoms or even tell their partner about their diaphragm use (1550). By seeking to provide women with a possible means for HIV protection that is entirely within their control, the researchers are helping the women assert their autonomy. Even if their

decision whether they will disclose their diaphragm use is motivated purely by fear, these women are still taking steps to exercise their autonomy; they are still taking their reproductive health into their own hands. This is the true duty of the researchers in a Millian Utilitarian world: to create opportunities for increased autonomy and happiness without sacrificing anyone else's.

Mill's Utilitarian system does provide us with some valuable tools for making and analyzing decisions. If we agree with his assertion that happiness (i.e. a pain-free existence) is the best possible existence for all people, we have a standard on which to base our actions. Our decision-making process becomes a calculation of the risks, benefits, and harms to others and ourselves that may result from our action or inaction. Whichever action produces the greatest amount of happiness, the greatest good for the largest number of people, is the moral action. One might argue that this deliberation could lead to a selfish, self-centered system of ethics, each individual seeking out what is in his or her own best interest and justifying them as producing the greatest good. However, such a personal moral code would be immoral according to Mill, for he is adamant that a person's own interest is not to be the deciding factor. Instead, the individual must act in whatever way benefits the most people the greatest, either by increasing the quality or quantity of happiness or both. The moral action, therefore, may be one that diminishes the agent's own happiness for the sake of the greater good. Mill's Utilitarianism, it turns out, is much more *self-less* than *self-centered*.

Mill also provides us with a justification for and explanation of personal autonomy, which is important in any Western ethical system, because it is from the concept of autonomy that the idea of personal rights is founded. Mill's sense of

autonomy is not something to be protected as if overbearing forces can somehow take it away; rather, it is something the individual him or herself must pursue. Whereas Kant argues that the rationality of human beings is what gives them the right to be autonomous, makes them ends in themselves and should be treated as such, Mill asserts that human beings must use their rational capacity to become autonomous individuals. A person who does not pursue his own pleasures and happiness (morally, of course) is no better than a pig, which has no capacity for such rational thought.

We come away from a study of Mill's Utilitarianism with two different senses of duties that we have the responsibility to fulfill. The first is a duty to the society and the world; we are responsible for acting only so that our actions produce a greater amount and/or quality of happiness or at least a lesser amount of pain than before we acted. The second is a duty to ourselves, to pursue our own autonomies using our capacity for rational thought. Both of these duties are dependent upon each other. We can only fulfill our duty to society through autonomous actions, and our autonomous actions are, if not dictated, at least constrained by our duty to society.

It is important, however, that we do not get carried away with the theoretical benefits and strengths of Mill's Utilitarianism. For, as we saw in our discussion in this chapter, Mill's system can be extremely difficult in practice. He requires us to both quantify and qualify the happiness that results from each action; relying on others who are experts in those particular experiences to do so. We know that there are two obvious problems with this requirement. First of all, for every decision we make, we must not only speculate all of the possible outcomes, but we must also find people who are experienced with those outcomes, and secondly, ask them their opinion on the quality and

quantity of happiness accompanying those outcomes, and hope they reach a consensus. Setting aside the difficulty of finding such experiential experts, we are relying on their opinions of resulting happiness and there is no guarantee that they will reach a consensus. What are we to do if that should happen? Mill does not even address the possibility. The standard for moral behavior then becomes contingent upon subjective opinions, which is hardly the universal moral code for which Western ethicists strive; even though Mill does not explicitly state this goal as Kant does, he is, in effect, attempting to create a system of ethics that is applicable to every and any moral decision. Finally, and most strikingly, although Mill does develop a version of autonomy and touts autonomy as extremely important for individual human beings, his philosophy does not explicitly include any reference to the intrinsic value of human beings. He does say that the quality of human life is greater than that of a pig, but there is no reference to any reason why we should value human beings as such; his argument lacks evidence and support.

Is Mill's Utilitarianism ultimately useless as a practical system? The answer is both yes and no. It seems apparent from our discussion and analysis in this chapter that for most decisions, it is much too cumbersome and complicated a process to use on a daily basis. However, it may be useful in making big moral decisions when one has the time to and must sit down and really think one's way through the possible consequences of one's actions. We found that it was a useful model for determining the risks and benefits associated with disclosure and nondisclosure of diaphragm use; furthermore, it was also valuable in establishing the morality of the researchers' decision to promote covert diaphragm use. We certainly do not want to rely solely on Mill's Utilitarian

framework for all of our ethical decisions, but it can certainly be both useful and valuable in coming to certain decisions.

For the women in our two studies and the researchers who designed those studies, neither Mill's Utilitarianism nor Kant's categorical imperative is sufficient for a comprehensive understanding and analysis of their decisions and behavior because both systems are glaringly Western in the values they promote. It would be unfair to judge the actions of these women and the consequences of the researchers' actions according to values that the women do not uphold. To truly understand the decisions of the trial participants and provide an accurate analysis of the researchers' behavior, we must consider both through the lens of the culture and philosophy of southern Africa. As we will see in the following chapters, however, this requirement does not result in the impossibility of a universal ethic. Some aspects of Western and non-Western (specifically *ubuntu*) ethics are compatible, and many of the fundamental values are ultimately the same, allowing for a mutually respectful and ethical relationship between people of Western and non-Western cultures.

The Individual, the Family, HIV, and Virtuous Consequentialism

Until now, we have limited our analyses of the MIRA researchers and participants to prominent Western ethical systems. However, a comprehensive and accurate critique of the morality of a scientific study involving human subjects in a non-Western culture requires a thorough understanding of the values and ethics of that culture. The Western concepts of individual autonomy that have guided our studies thus far and the resulting rights and duties of an individual are foreign to, and may even conflict with, the beliefs, values, and ideals of the subject population. Though both studies we have been discussing received ethical approval from all affiliated universities, organizations, and institutions, neither study made any mention of an effort to understand or act according to the cultural values of the research subjects. Such an approach is suspiciously paternalistic, and although we should be wary of promoting a position of cultural relativism, before beginning an ethical analysis of the studies themselves and the women who participated in them, we need to consider the culture of the area. Only then can we critique the study design, its aims, the researchers, and the trial participants.

Any claim to an all-encompassing African philosophy or culture would be superficial and naïve; however, there are many commonalities and trends among the diverse cultures of the sub-Saharan region. It is important to understand that “while there is substantial diversity among its traditional culture, there are also threads that many share. So while we discuss *an* (not *the*) African theory of morality, we are confident that many, if not most, other people below the Sahara would find it familiar and attractive” (Metz and Gaie 274). In this paper, we will focus on the concept of *ubuntu* (also known as *botho*) native to the southern region of the continent where the two studies took place.

Because there are many “values that are more often found across ... a certain wide array of space, from Ghana to South Africa,” when necessary for clarity and comprehension, we will also be referring to similar philosophical schools of thought not specific to South Africa but similar in structure and values they espouse (Metz, “Toward” 324).

There is not one correct or explicit definition of *ubuntu*, and as Magobo P. More points out, “Like most fundamental concepts, *ubuntu* defies a single definition of characterization. Consequently, it has been variously equated with African communalism or African humanism, and has been associated with values such as caring, sharing, hospitality, forgiveness, compassion, empathy, honesty, humility, or ‘brotherhood’” (156). To capture the nature of *ubuntu*, we will consider the sayings and proverbs that represent *ubuntu* as well as a few different interpretations and critiques of those interpretations. The differences between the interpretations are subtle, yet significant, but there is a common, united understanding among all of them. Kwasi Wiredu argues that “African conceptions of morals would seem generally to be of a humanistic orientation,” and we will see this trend among all understandings of *ubuntu* as well as the Akan philosophy that Wiredu takes to be a good model of common African philosophical beliefs (“moral” 287).

No matter which interpretation one looks to, *ubuntu* is always said to be, to some extent, founded in or an embodiment of the saying, “A person is a person through other persons,” or “I am because we are” (Metz and Gaie 274; More 157; Metz, “Toward” 323). There is a spectrum of beliefs about the meaning of this phrase; Metz and Gaie note that for “most international readers,” the sayings above “will bring to mind nothing prescriptive, and instead, will indicate merely some descriptive claims about the

dependence of human being, particularly a child, on other human beings for her survival or for the course her life takes” (275). This interpretation is not entirely false, they admit, for many Africans have metaphysical beliefs about the “interdependence of all beings in the universe,” but the phrase also means much more than that single interpretation:

The phrase also carries an important normative connotation. Personhood, identity and humanness in characteristic sub-Saharan language and thought are value-laden concepts. That is, one can be more or less of a person, self or human being, where the more one is, the better. One’s ultimate goal should be to become a *full* person, a *real* self, or a *genuine* human being. (275)

As such, this African ethic of *ubuntu* is similar to Aristotelian virtue ethics (275). Augustine Shutte explains, “Our deepest moral obligation is to become more fully human. And this means entering more and more deeply into community with others. So although the goal is personal fulfillment, selfishness is excluded” (qtd in Metz and Gaie 275). Clearly *ubuntu* involves a deep commitment to and involvement with one’s family, neighbors, and community; such commitment and involvement enable one to become personally fulfilled and a better, more complete person.

This relationship between individual and community is at the very heart of *ubuntu*, and there is some disagreement among philosophers as to what it means for moral human behavior (Metz, “Toward” 328). In his article, “Toward an African Moral Theory,” Thaddeus Metz explains and critiques the six interpretations of *ubuntu*. We need not examine each of the prominent positions in the literature on the first principle of

ubuntu to get a clear understanding of what is at the heart of an *ubuntu* ethic, so we will consider only the most prominent and widely-held positions. Several understandings of *ubuntu* denote human and communal well-being and quality of life as the function of morality. Kwame Gyekye supports a moderate version of the communalistic ethic; he explains:

While the communitarian structure would not have a fetishistic attitude to individual rights, it would certainly have one toward duties that individual members have or ought to have toward other – perhaps the least advantaged – members of the community. The communitarian theory will expectably give priority to duties rather than rights. Concerned, as it is, with the common good or the communal welfare, the welfare of each and every member of the community, communitarianism will, perhaps undoubtedly, consider duty as the moral tone, as the supreme principle of morality. By ‘duty’, I mean task, service, conduct, or function that a person feels morally obligated to perform in respect to another person or other persons. The duties, which some members of the community feel they owe others by reason of our common humanity and should demonstrate in practice, are such as the duty to help others in distress, the duty not to harm others, and so on. (309)

Gyekye and others, such as Kwasi Wiredu, see *ubuntu* as very much duty- and community-driven ways of life. The duty of the individual is to improve the well-being of the community by embodying various virtues and helping other people. As a good or complete person who embodies those virtues, an individual will be compelled to do what

is good for others; those others who are complete people will also be compelled to act in ways that benefit the community and those individuals who need help. As a result, the community as a whole and the individuals in it will all benefit.

Another approach to *ubuntu* is what Metz denotes as probably the “dominant interpretation of African ethics in the literature” (“Toward” 331). This interpretation calls for a definition of personhood that is dependent upon other persons. Metz summarizes: “*An action is right just insofar as it positively relates to others and thereby realizes oneself; an act is wrong to the extent that it does not perfect one’s valuable nature as a social being*” (331). Those familiar with Western philosophical history or ethics might find this *ubuntu* ethic to be strikingly similar to that of Aristotle: Both promote virtuous being, embodying certain cultural ideals and values, and both claim that by acting upon those virtues, individuals will necessarily act in ways that are morally good and right. However, whereas Aristotelian virtue ethics promotes virtuous being in order to benefit the well-being of others, an *ubuntu* ethic maintains that a person who embodies virtues becomes more of a person because of his/her commitment to the relationships of which he or she is a part. As Metz explains, “Instead of others’ welfare being the relevant good for a moral agent to promote, for *ubuntu* it is the realization of one’s distinctively human and valuable nature, specifically, one’s special ability to engage in communal relationships” (331).

Metz believes that neither of these definitions of a moral code based on *ubuntu* truly captures the full meaning and essence of *ubuntu*, so he turns to the Archbishop Desmond Tutu, who said: “Harmony, friendliness, community are great goods. Social harmony is for us the *summum bonum* – the greatest good. Anything that subverts or

undermines this sought-after good is to be avoided like the plague. Anger, resentment, lust for revenge, even success through aggressive competitiveness, are corrosive of this good” (qtd in Metz, “Toward” 334). This, Metz believes, is the best explication of *ubuntu* because “[as] opposed to well-being or self-realization, this account of *ubuntu* posits certain relationships as constitutive of the good that a moral agent ought to promote” (334). Metz clarifies this interpretation of *ubuntu* by reinterpreting and paraphrasing Tutu’s metaphorical language. He asserts: “*An action is right just insofar as it promotes shared identity among people grounded on good-will; an act is wrong to the extent that it fails to do so and tends to encourage the opposites of division and ill-will*” (338). Because this account of *ubuntu* captures everything that the others promote, i.e. the importance of virtuous being, the value of individuals, and their duty to the community, we will use it as the standard for our analysis in the rest of this paper.

Now we have a conception of an African ethic, which gives us ground for analyzing both the MIRA study and the actions of the women who participated in it. Normally, an ethical critique of a biomedical study would begin with an assessment of the risks and benefits and an evaluation of whether it respects the autonomies of the research subjects. But this kind of critique would be based upon Western values, specifically, the value of the individual’s rights and well-being as of utmost importance, and secondly, an increased benefit for society. While these values do not completely contrast with the values of *ubuntu* in southern Africa, the two sets of values⁴ do come in conflict.

⁴ While *ubuntu* does not consist of a concrete or specific set of values, the interpretations I have chosen to use for this paper do establish some values as representative of and essential to *ubuntu*.

We will begin our discussion with the conception of personhood, as this idea guides most of Western bioethics, and as we will see, *ubuntu* personhood and its implications are strikingly different from their Western counterparts. Most sub-Saharan cultures hold that there are three elements of personhood: the life element, the blood element, and the personality element (Wiredu, “Akan” 313). The life element comes from God; it is an actual piece of God, giving each person a divine spark. In that sense, all human beings are fundamentally equal because they all have the divine spark of God (313). The blood element comes from the mother, and it is the basis of the body, lineage, and family, which is why families and clans are matrilineal; an individual’s duty to her family is extremely important because her physical being comes from her mother. The personality element ultimately comes from the father; although physical characteristics come from both the father and the mother, “the father’s input is believed to give rise to a certain immanent characteristic of the individual ... the kind of personal presence that he or she has ... [the personality element] is not an entity; it is, rather, a manner of being” (313). Because of the divine spark, the life element, “all persons have an intrinsic value Associated with this value is a concept of human dignity, which implies that every human being is entitled in an equal measure to a certain basic respect” (313). The possession of this life element “is taken to link all human beings together in one universal family” (313). Consequently, the conception of a person in most African philosophies, and certainly in *ubuntu* is necessarily linked to the group. Therefore, we cannot consider the rights of the person as in any way separate from the well-being of the group; the two are inextricably intertwined.

An *ubuntu* philosophy holds that every person has a duty to the group. Indeed to be a complete person, one must fulfill one's responsibility and duty within the family and community. Metz and Gaie note that one characteristic difference between African morality and Aristotelian or other Western moral philosophy is in its "strictly communal" definition of positive relationship with others: "One is not to positively relate to others fundamentally by giving them what they deserve, respecting individual rights grounded on consent, participating in a political sphere or maximizing the general welfare ... Instead, the proper way to relate to others ... is to seek out community or to live in harmony with them" (276). This relationship with the community is not simply acting in accordance with that community's norms because they are norms; rather, "developing or respecting the community (harmony) is an objectively desirable kind of interaction that should instead guide what majorities want to which norms become dominant" (277).

We are now in a position to analyze and critique the MIRA trial itself and the trial participants. It appears that an *ubuntu* ethic will have conflicting views on whether the choice for some female trial participants not to disclose their use of the diaphragm to their male partners is a morally acceptable action. On the one hand, we might understand an *ubuntu* ethic to consider a woman's covert use of the diaphragm to be a form of neglect and disrespect toward her duty to her family and the community; in this view, because her decisions and her health affect the other members of her family, these family members should be a part of the decision to use a diaphragm (or not use it). Furthermore, cultures that follow *ubuntu* tend to place a great deal of emphasis on the importance and value of having children, so using the diaphragm would be an active rejection of the duty to have children. On the other hand, a woman's duty to her family and community may

be contingent upon her sexual health and the only way she can fully protect herself and her family, thereby fulfilling her duty to them, may be to keep her diaphragm use a secret. The explications of *ubuntu* in the literature provide some insight into the dilemma, though they still leave us with some uncertainty.

There is evidence to suggest that an ethic of *ubuntu* is strongly opposed to women's nondisclosure of their diaphragm use. For one thing, the woman has a responsibility and duty to her family and the community to include them in decisions regarding her health: "Because individuals are understood to have weighty duties to aid others, particularly family members, it is not merely up to the individual what she does with her body and mind" (Metz and Gaie 279). Failure to include her partner or other members of her family in such an important decision could be seen as a blatant act of disrespect towards the harmony of their relationship. Although one could argue that a woman's secretive use of the diaphragm will ultimately increase the harmony in her relationship with her husband and her family, Metz asserts that "respecting, not maximizing the relationships of identity and solidarity" is the goal of *ubuntu* ("African" 54). Consequently, "respect for a harmonious relationship would generally forbid using a very discordant means (involving division and ill-will) to realize a harmonious end. Being unfriendly so as to promote friendliness does not honour friendship" (54). The secretive nature of the women's behavior is in some ways divisive; it separates the female and male partners in the decision-making process, undermining the unity of family, community, and personal relationships that *ubuntu* holds as fundamental to morality. Metz explains that an *ubuntu* ethic

Prescribes respect for ‘sharing a way of life’ in the sense of relationships that are knowingly and willingly adopted and are central to people’s self-conception as members of a group. Part of what makes a friendly relationship an important value is the fact that two people have come together, and decided to stay together, of their own accord. One is hardly honouring the value of friendship, or ‘sharing’ a way of life in the relevant sense, if one conforms to another’s wishes merely because one fears her anger. Thinking of oneself as a ‘we’ and cooperating are compatible with a substantial degree of negotiation, bickering, compromise, and change. (55)

The female trial participants and their partners comprise the very relationship that Metz describes above; they are “sharing a way of life,” and therefore must include the other person in making their decisions. Although the women who covertly used their diaphragms were not actually acquiescing to their partners’ wishes, their decisions were often those of conflict-avoidance; they chose to appear to agree with their partners out of a fear of anger, distrust, or violence (Sahin-Hodoglugil 1550).

As we also noted above, one duty a couple has to its community and family is to have children (Wiredu, “Moral” 296). As Metz and Gaie explain, “if communal relationships are to be prized, then one has some moral obligation to make ones in which there is a robust sharing of life and caring for it” (279). Children are valuable because, as they mature into complete human beings, they add their virtues to the community and benefit its well-being; indeed, they are “so highly valued that procreation is considered the main purpose of marriage” (Tangwa 391). Consequently, a woman’s use of the

diaphragm or any other means of contraception could qualify as a refusal to fulfill her duty to procreate.

However, it would be insufficient to stop here and dismiss the women's actions as immoral. Based on the justifications Metz gives for group decision-making, we must decide whether the actions of the women were unfriendly in the sense that they "involved division and ill-will," and whether the threat or guarantee of violence and physical assault are legitimate justifications for withholding information from their partners.

Samuel Jegede acknowledges that "the boundary separating the individual as a member of society from his/her person as both relational and embodied being" is unclear (247). Where do the duty to the family end and the duty to oneself begin? Is there even a separable boundary or must one always consider one's own well-being as it relates to the group? Metz argues that *ubuntu* morality "is a relational account ... prescribing respect for harmonious relationships *qua* the combination of identity and solidarity" ("African" 53). If this is the case, then the needs of the individual are inextricably tied up with the needs of the community. What is best for the individual is what is best for the community, and vice versa. It seems that we are falling into a vicious cycle: If what is best for each is what is best for the other, how do we determine what is best for either?

It is uncontroversial to state that in this *ubuntu* ethic, "It is unethical to withhold or deny *botho/ubuntu* towards a member of the family, in the first place, and in the community at large. In other words, community begins at home" (Ramosé 329). While we have seen that we can use this principle to denounce the women's covert use of the diaphragm, we can also use it to critique the husbands and partners who would react negatively if their wives or partners tried to approach them about the subject. Just as the

woman owes respect and friendliness to him, the man owes respect and friendliness to his wife or sexual partner, and especially to her, because everyone has “particularly weighty duties to aid his family” (Metz and Gaie 278). By putting his partner in a position in which she does not feel comfortable to discuss disease prevention, the man is not respecting the harmony of their relationship; he is not embodying the values that *ubuntu* promotes and is certainly not acting with good will. Indeed, refusing to use condoms and other preventive devices can be contrary to an *ubuntu* ethic in that such a refusal is a betrayal of one’s duty to enhance and promote the well-being of one’s family and community.

As a result, a woman’s duties to her family come in conflict. She has a duty to involve her family in matters of her health and to have children, but she also has a duty to keep them healthy and be healthy herself, and there were women in the MIRA trial who clearly found themselves in situations in which they could not fulfill both duties. Some chose to disclose their diaphragm use out of fear, a decision that does not actually respect the harmony of their relationship and promote *ubuntu*, as Metz explains (“Western” 55). Others, whose fear also motivated them, made the opposite decision, which also does not respect the harmony of their relationships. In any situation, however, the ultimate factor motivating any women who chose to use the diaphragm, covertly or not, was the duty they felt (not necessarily explicitly) to protect themselves, their families, and their communities. A mother, for example, has a duty to raise her child to become a moral and complete human being, a complete person; she cannot do so if she is suffering or has died from AIDS. Therefore, she has a responsibility to protect herself from contracting HIV or spreading it to her partner; not only does she have a duty to keep her partner healthy,

but she also has a duty to help him fulfill his duty to any children they have. Although a person's "primary obligation" is to be virtuous and respect the harmony of one's own relationships, one also has a duty to promote the respect for the harmony of relationships between others (Metz, "African" 52). In deciding to use the diaphragm (covertly or not), the female trial participants were fulfilling both their primary and their secondary duties.

These primary and secondary duties depend on the role an individual inhabits within his or her family and community: "there is connection between the good of a person *qua* aunt, father, educator, provider, etc. and his/her good *qua* specific pattern of behavior and/or action of educating, providing, etc" (Coetzee 278). In other words, the morality of a person and the level of humanness that he or she attains are dependent upon how well that person fulfils his or her role-specific duties. If the role of the woman is to care for her family, then her humanness, the goodness of her character, is dictated by how well she cares for her family and the actions she takes to do so. Consequently, one can argue that the women who covertly used their diaphragms did so *so that* they could be good mothers, caregivers, partners, educators, etc. Furthermore, "persons inhabiting structured roles, which form the social foundation of their moral and material rights and obligations, are interpreters of the social meanings they inherit. Interpretation itself allows for disagreement and dissent, and this creates the critical space needed for debate about social meanings" (280). As inhabitants of structured roles, the women in the MIRA study are also interpreters of the meanings associated with these roles.

We can consider the women's decisions to use their diaphragms covertly as a new or different interpretation of communal values. Through their behavior, these women are promoting the health and well-being of themselves and their family members as

fundamental to the harmony of the community. Such a practice is not uncommon within many African cultures. As Pieter H. Coetzee explains, the values of many African cultures, despite having “historical depth,” are not fixed and rigid; rather they are dynamic and open to reinterpretation, subject to change as the community changes: “Open-endedness is a general feature of African traditions, so there is in principle no difficulty with reinterpreting the notion of “deeply held” to mean what is currently of greater importance or significance for a community (even if this conflicts with the commitments of a community’s ancestors)” (277). Coetzee explains how these interpretations and duties can change:

Since moral judgements [sic] are relative to lifestyles, the domain of custom admits a relativism of judgements rooted in a multiplicity of perspectives reflecting power differentials or status in the community. Such a relativism of judgements admits differing perspectives from which moral precepts may be interpreted or reinterpreted. For instance, in keeping with contemporary movements, Akan women view the world, as members of an oppressed sex, through the lenses of a traditional culture in which they are the unequal partner in a (marriage) relationship – unequal in the sense that their perspective has been defined for them by men. Attempts to define their own perspective requires a reconstruction of the social meaning of the marriage custom, with concomitant attitudinal changes toward birth control, abortion, sterilization, consensual sex, etc. Restructuring social meanings introduces new or modified rights, articulated within the framework of a form of moral reasoning which

accepts as a constant factor the idea of moral agency conceptualized as a structured role. This keeps moral agency within a definition of the good in terms of the harmonization of human interests, a notion driven by a community-centred focus in which no schism arises between the good of the individual and the good of the community, and no inconsistency arises between distributive patterns of social goods and social practices. (280)

In reinterpreting the duties of the roles that they inhabit, the women in the MIRA trial were taking the necessary steps toward changing the values of their community and their community's perspective on women.

Although a cultural relativist might argue that the women have no right to conceal their diaphragm use because it contradicts the values of their culture, Coetzee demonstrates that these values are not static. Because the values themselves can change, citing cultural relativism as a justification for the subordination of women or requiring them to obey their partner wishes is worthless and ungrounded. Because the good of the community and the good of the individuals are interdependent, when one is suffering because of something that is believed to be good for the other, the values determining those goods must change. In the context of the MIRA trial, the women often found themselves in positions which left them conflicted between their duties to share their health decisions with their family members, to reproduce, and to protect the well-being of their families. In their roles as mothers, wives, girlfriends, sisters, aunts, educators, etc., many women interpreted their primary duty to be that of promoting the well-being of their families, in particular, through covert diaphragm use, if necessary. As more women make this choice, the attitudes of the other members of the family will change, and

protection from and prevention of HIV will gradually become as valuable as communal decision-making and creating a family. As Coetzee notes, this change is neither instantaneous nor easy, but nevertheless it is not only possible, but necessary because an *ubuntu* ethic requires a harmony and respect for the dignity of all persons: “the natural membership of the individual person in a community cannot rob him/her of his/her dignity of worth, fundamental and inalienable attribute he/she possesses as a person” (Gyekye 307). Ultimately, therefore, by the standards and values of *ubuntu*, the women in the MIRA trial were behaving ethically.

So far, we have focused our discussion on the actions of the women who participated in the MIRA trial and their decision whether to disclose their use of the diaphragm and participation in the trial to their male partners. Our analysis would not be complete, however, if we failed to consider the researchers who developed and implemented the trial. Although it may seem intuitive for us to include the moral worth of the women’s behavior that the researchers are promoting as a central aspect of our analysis of the researchers’ behavior, any relationship of the researchers to the communities of their research subjects is secondary to the relationships they have with the subjects themselves. Thaddeus Metz explains the duties of medical researchers in light of an *ubuntu* ethic:

As for the families of the participants, the present African moral theory does not suggest that a researcher has a duty to aid them. The theory interprets the maxim of ‘family first’ to mean that an agent’s friendly relationships of which she is actually a part have a principle priority over both relationships that she is not yet a part of (but could be) and

relationships between others (that she is merely in a position to influence).

A researcher shares an identity with a participant in her trial, but not with the participant's family. ("African" 56)

Although the trial participant is inextricably tied and defined in relation to her family, the *ubuntu* sense of family is not limited to the nuclear or biological family; furthermore, she is also inextricably tied to the "family" relationship she creates with the researcher. Her parents, husband, children, brothers, and sisters, are not a part of her "study family," and the researcher is not a part of her biological or community families. Though the identity of the research subject is fused to both of these and all of her other relationships, the members of the different groups are not tied to groups of which they have no part because families and communities are defined through relationships, and the researcher has no relationship with the subject's family. Consequently, a central issue for the researchers themselves is their duty to respect the harmony of their relationships with the subjects.

In an *ubuntu* ethic, "the final end of medical treatment [is] ... a way to properly value certain relationships between people" (Metz, "African" 52). As such, the role of the researcher or any healthcare professional and his or her relationship with and duty to the subject or patient is much more complex and personal than traditionally found in Western medical practices:

Upon identifying with his patients, a researcher has established part of a morally significant relationship that demands respect and hence full-blown realization in the form of solidarity as well. That is, once a researcher and a participant have begun to think of themselves as 'we' engaged in the joint project of testing a vaccine, they share a way of life

that imposes special obligations to care for one another's quality of life that can go beyond those listed in a contract. (56)

Although Metz specifically refers to the relationship between a researcher and a research subject testing a new vaccine, the duties above apply to researcher-subject relationships in other scenarios, including the MIRA trial, in which the researcher and the subject tested the efficacy of the diaphragm as a means of HIV prevention.

Considering the fundamental nature of character development in an *ubuntu* ethic, it is no surprise that the additional duties of the researcher in his or her relationship with the research subject include helping her become a full person. In other words, "a healthcare worker ought to be aiming not only to make the patient better off in welfarist (utilitarian) terms, but also working to *overcome obstacles to developing her character*" (Metz, "African" 53). Because the *ubuntu* conception of character and personhood is dependent upon and bound up with one's duty to and relationship with one's family and community, "it follows that another, substantial part of the point of medical treatment is *enabling the patient to identify with others and exhibit solidarity with them*. That is, one proper aim of a healthcare worker is fighting those illnesses and injuries that substantially prevent a patient from both sharing a way of life with others and caring for others' quality of life" (54). The goal of the researchers in the MIRA trial was to try to prevent the spread of HIV by giving women a method of protection entirely within their control; therefore, not only were they concerned with the bodily and physical health of the subject, they also exhibited a concern for the subjects' relationships with others. HIV is, if anything, a disease that will most likely lead to a condition that "substantially prevent[s] a patient from both sharing a way of life with others and caring for others'

quality of life” (54). In promoting and protecting the trial participants’ health, the researchers were trying to ensure that these women were able to become full human beings, i.e. good people who fulfill their duties to their families and their communities, whatever those duties may be.

We have seen above that an *ubuntu* ethic provides a substantial and useful basis for analyzing both the personal decisions of the women who participated in the MIRA trial and the researchers who conducted it. In the discussion above, we have seen that, although a decision to use the diaphragm covertly may initially seem to be contradictory to the fundamental values of *ubuntu*, in truth, such a decision may be very much in accordance with and supportive of these values, particularly those of collective respect and harmonious relationships that benefit both the individuals and their communities. An ethic of *ubuntu* does not necessarily require women to be subordinate to their husbands, and it allows for changing values and ideals within the community. Essentially, “*Ubuntu* is a demand for respect for persons no matter what their circumstances may be ... It enjoins and makes for peace and social harmony by encouraging the practice of sharing in all forms of communal existence” (More 157). Ultimately, both the female trial participants and the researchers, at the very least, acted in a manner consistent with an *ubuntu* ethic; one could even argue that the trial participants truly embodied the values fundamental to *ubuntu*. In their efforts to prevent the spread of HIV the researchers demonstrated a respect for the research subjects and the subjects for the members of their families, thereby promoting the moral growth of research subjects, and the research subjects promoted the well being and respected the harmony of their communities. For either party, this adherence to an *ubuntu* ethic may have been intentional or a happy

accident. Although there is no way to be certain, because neither the MIRA nor the follow-up study mentioned an intentional attention to *ubuntu* or any other local philosophy, it seems very likely that the former is the case. This coincidence highlights the need for an active and purposeful consideration of local values and ethics in similar situations and demonstrates that, though they may not exactly coincide, Western ethics and non-Western ethics, particularly *ubuntu*, can have a harmonious and respectful relationship in the realm of medical research and outside of it.

Conclusion: The Foundation of a Universal Ethic?

The three previous analyses provide insight into the complex nature of the ethical issues surrounding research involving human subjects, highlight both the strengths and weaknesses of two prominent Western approaches to ethics, and demonstrate the need for and purpose of a consideration of local cultures and ethics of those research subjects. We have demonstrated that Kantian and Utilitarian ethics, though useful in some cases, are often cumbersome and impractical. We have discussed how an ethic derived from an *ubuntu* philosophy found throughout southern Africa interprets the behavior of the women in the trial and the actions of the researchers themselves. We are left, however, with a question of the implications of these analyses. What is the significance? What have we gained from our ethical investigations? Is it a mere coincidence that these three approaches ultimately agreed on the morality of the women's and researchers' actions? Is there a universal moral code, a set of rules, to which we can appeal, which encompasses all moral codes, or are we left floundering in cultural relativism, searching, at best, for coincidental commonalities among ethical systems and across cultures?

Though it is highly unlikely that there exists a universal ethic as most Westerners would conceive it – i.e. a systematic approach to questions of value, right and wrong, the good, etc. - we have demonstrated that Western and non-Western ethical systems are compatible and that it is possible to find similarities among what initially appear to be conflicting ethics and value systems. It would be an irrational and gross generalization to claim that simply from our three analyses we can conclude that an assumption of the intrinsic value of humanity represents a universal ethic present in and recognized by all cultures; however, our discovery of a common valuation of humanity in both Western

and non-Western cultures prompts us to consider that it may very well represent a trend across all global ethical systems. In theory, we could determine this empirically through surveying every culture on the globe and performing an analysis of their ethical systems similar to those in the previous chapters to determine whether a value of humanity is at the root of all of them, but this would be a very tedious, time-consuming, and perhaps impossible task. Given the evidence we have gleaned from our three analyses, we may, however, also be able logically to deduce whether the valuation of humanity is fundamental for and common to all cultures.

To truly understand the significance of our questions above and their possible answers, we should first consider why a universal ethic is preferable to cultural relativism. Knowing the consequences and implications of a culturally relativist system of ethics, we will then understand the motivation behind pursuing a universal ethic. Cultural relativism acknowledges different values and methods of thinking across cultures as equally valid and legitimate and does not posit one ethical system or set of values as better or more enlightened than any other. It consequently denounces the paternalistic approach Westerners have a habit of taking when considering the morality of other cultures' practices. While this approach attempts to respect all cultures and peoples, putting them on equal footing by refusing to use external or foreign standards for judging practices and behaviors, it ultimately alienates cultures and severely limits any discussion of morality and ethics across cultural divides. The framework of cultural relativism allows cultures to retreat into the safety of their own values, citing those values as a defense for any practice other cultures might find questionable. In an extreme example, one culture might have a tradition of human sacrifice, a practice that their moral

code holds not only as acceptable but also as praiseworthy. A position of cultural relativism asserts that that practice is ethical within the framework of that culture and that there are no grounds for criticism of it outside of that framework. A timely example of such a situation is the practice of female genital mutilation; for some cultures in 28 countries around the world, it is not only morally acceptable, but morally required to perform these invasive, painful, and dangerous procedures on girls and women (World, “Eliminating” 11; 29). A cultural relativist asserts that no one external to that culture has any basis or right to criticize that practice. Likewise, a culture that opposes any use of medicinal treatment or disease prevention would put its population at risk of early, painful, and unnecessary deaths from diseases much of the world vaccinates against and treats with simple antibiotics. Ultimately, a global standard of human rights or public health is impossible in a cultural relativist framework.

Consequently, it may initially appear that some version of paternalism is necessary for global human rights and public health. How else are we to establish a system of rights or health policies without deciding that one set of values is *the* standard by which we should judge all others? Asserting one standard means someone has to decide what that standard is and what privileges is, allowing it to stand out as better than all the others. Or so it may seem. Our analyses of the MIRA trial in the contexts of Kantianism, Utilitarianism and *ubuntu* provide heartening evidence for harmony and compatibility among Western and non-Western cultures without asserting one set of values or beliefs as better or more legitimate. If we take our discussion of these studies as a model, we can create the possibility of a new approach to global bioethics, which will, in turn, influence our approaches to human rights and public health.

In the previous chapters, we found that Kantianism, Utilitarianism, and *ubuntu* agreed upon the ethical status of both the researchers' and the female trial participants' behavior though the reasoning and methods we used to reach these conclusions differed significantly in each case. Although we found some difficulties putting the Kantian and Utilitarian rules into practice, all three ethical approaches ultimately led us to the conclusion that the actions of both the researchers and the women were morally acceptable and fit the criteria for ethical behavior. The agreement among these three ethics is more than a happy accident; rather, it signifies the presence of underlying, fundamental values. Ultimately, these three ethics serve to mold people into "good" human beings. In one way or another, explicitly or implicitly, Kantianism, Utilitarianism, and *ubuntu* hold that human beings have an intrinsic value; i.e., they are valuable because they are human beings. Furthermore, because of this intrinsic value, all human beings have duties to their fellow human beings. In other words, in all three cases, there is a fundamental valuation of humanity; how it manifests itself within a culture or school of thought changes to reflect other values and beliefs.

Kant explicitly states that we as human beings are a unique species because we have the capacity for rational thought (4:413). This rationality is what makes human beings intrinsically valuable and autonomous. In other words, human beings exist as ends in themselves. Consequently, he argues, we have a duty to respect and honor that capacity for rational thought both in ourselves and in others. The resulting ethical framework is founded upon rationality in two different ways. First, Kant argues that any legitimate ethical system must be universal and must be founded in rationality or reason; in other words, the categorical imperative is a universal, rational law. Second, because

human nature is uniquely rational and an end in itself, it must always be treated as such; no human being may treat another being as only a means to another end because to do so would be a gross violation of that other person's autonomy and intrinsic value as a rational being.

Although the source of the value is different, an *ubuntu* ethic also holds that all human beings have an intrinsic value. Because all human beings are conceived not only from the joining of the egg of their mothers and the sperm of their fathers but also from a divine spark from God, all human beings are, in one sense, equal (Wiredu, "Akan" 313). This piece of God, which constitutes the life force or the being of all human beings, gives persons intrinsic value. However, this value does not denote individuals as wholly autonomous and independent; rather, it unites them in the family of human existence. Consequently, all persons have duties to their communities and families to become complete persons through virtuous being in a manner that benefits the group. While the values of *ubuntu* promote communal welfare and duties rather than rights, insofar as every person deserves respect, care, and benevolence because of his or her intrinsic value, the idea of rights is, in some sense, derivable from and compatible with an *ubuntu* philosophy. However, the term "right" connotes a Westernized conception of independence and autonomy that is incompatible with the values of *ubuntu*, and therefore is not an appropriate term for discussing the valuation of humanity in relation to *ubuntu*. Rather, we must understand that, as members of their families, communities, and all other interpersonal relations, persons have intrinsic value that does not make them independent from others, but dependent upon and responsible to them.

John Stuart Mill is less explicit in his conceptualization of the value of human being, but he asserts it in his famous example of how it is better to be a Socrates dissatisfied than a pig satisfied (*Utilitarianism* 57). The quality of any human being's experiences is much greater than that of an animal; this difference in quality is due to something inherent in human existence that separates humans from animals. Mill hints that, to some extent, this discriminating factor may be the capacity for reason, as it was with Kant, for he asserts that an individual who uses his reason and intellect has a higher quality of pleasures and is a better, even more moral, person than someone who does not use those faculties. Consequently, similar to an *ubuntu* ethic, Mill's Utilitarian model holds that individuals must not simply live, but must live properly; for Mill, this means autonomously (using one's reason and intellect) and pursuing the greater good. Additionally, like *ubuntu*, because one has a duty to act in such a way that will result in an overall increase in happiness of the community, Mill's Utilitarianism ultimately asserts that one has a duty to oneself but primarily has a duty to others.

Despite these fundamental similarities, there are profound and striking differences we must not neglect to address. For both Kant and Mill, the value of humanity is rooted in the individual; collectively, groups of individuals comprise families and communities, but their value as human beings is not tied to those relationships. Rather, their value comes from their ability to reason. In effect, society, as Kant and Mill conceive it, is a sum of individuals. The *ubuntu* tradition, in contrast, holds individuals to be inherently social beings. Because it takes two people and a piece of God to create a new human being, all human beings are, from their conception, a part of a family or community. They are individuals but always also a part of a group, and they have a duty to act in

ways that will benefit the group. The extent to which a person's actions benefit the group determines the morality of that action.

For *ubuntu* the existence of a non-social person is impossible; even if an individual were to leave his or her family and community to live alone with no contact with another human being, that person would still be a social being because he or she is a human being. That person would be extremely immoral according to an *ubuntu* ethic, but always still an inherently social being. In contrast, Mill's Utilitarianism would find this hermitic lifestyle to be morally acceptable so long as it did not deprive anyone else of happiness. Kant, however, takes us down a different road, one closer to that of an *ubuntu* ethic. Willing a maxim that dictated everyone should live as a hermit into universal law would lead to a practical contradiction, as did Kant's anti-charity maxim. A person who willed such a law of solitary living would find him or herself wishing it did not exist because individuals, according to Kant, are not completely self-sufficient; if they were, they would have no obligation to other human beings. But, Kant argues, a person's moral obligation is a "fact of pure practical reason," so individuals are not self-sufficient and must rely on others (Dietrichson 161). Living in solitude, therefore, would be immoral because it fails the second test of the categorical imperative; it would result in a practical contradiction. These differences in the roles, duties, and identities of the individual and the group do not render these three ethical systems⁵ incompatible. As we have already discussed, Kantianism, Mill's Utilitarianism, and *ubuntu* all have the intrinsic and inherent value of human being as fundamental to their concepts of morality.

⁵ Though the Ubuntu beliefs are not systematic in the way that Kantian or Millian ethics are, I have drawn out what many argue are its central values. My analysis suggests that they may indeed be treated as a system of values and practices.

It might seem that we were lucky that the cultural values of the subject population and the ethic we developed based upon those values agreed with the categorical imperative and the Greatest Happiness Principle. What would happen if there were nothing in common whatsoever between Western values and the values of the research subjects? This is a difficult question to answer because we do not have a concrete example and therefore no way of knowing what such a scenario would entail. We can speculate, imagining a culture in which there is no weight put on the value of the individual and the welfare of the group is the sole concern, or perhaps one in which women are not considered human beings and do not have any rights or value. What should we do then?

Though at first this might seem to be an extremely bold, unfounded, and generalizing claim, I would argue that an utter and complete lack of compatibility or commonality between two cultures is impossible. All cultures have beliefs, values, political systems, and family structures that are rooted in an explanation of how and why the world and humanity came into being. Regardless of whether this explanation is a story of deities or science, the almost universal existence of such stories is indicative of a need to understand and explain human existence and its purpose on Earth. Consequently, each culture has its own conception of the purpose of human life and the duties and rights that accompany it. Though these duties and rights may vary vastly across the globe, they are representative of a fundamental value of human existence. Whether in the context of the balance of the universe, the will of the gods, the good of the community, or as an end in itself, of the valuation of humanity is common to all cultures and peoples; it is in some way significant. This significance may be buried deeply in or masked by some other,

more prominent and obvious value, such as pleasing the gods or helping one's family, but this valuation of humanity is ultimately the foundation of all of these values. It may take much digging, investigation, and interpretation to uncover it, but this similarity is present in all cultures, so ultimately, all cultures have some common ground.

This supposition points out very explicitly what medical researchers (and human rights activists and international organizations, etc.) must do. They must educate themselves about the cultures, philosophies, and ethics of the people with whom they will be working, and they will find a common ground. They must develop their protocols in accordance with their ethical systems and those of the research subjects, and they may need to modify their procedures accordingly among patient populations. They should also be prepared to explain to the research subjects and their communities how the projects are ethical and moral according to local ethical standards and are not "just what's good for them." This approach will avoid both paternalism and cultural relativism and will open up the possibility for a fundamental, global ethic.

Hard scientists might argue that such dynamic research protocols would damage the integrity of scientific investigation, but when that scientific investigation is into the health and lives of people, the real integrity we should be protecting is the people's. Even if the subject population and the researchers disagree on how the valuation of humanity should manifest itself – as a duty to the welfare of the community or as individual rights, for example – the researchers must ensure that their actions respect and honor this valuation of humanity both from the perspective of the research subjects' culture and their own.

The Western bioethical guidelines to which researchers must adhere are, for the most part, founded upon the values of Kantian and Utilitarian ethics: respect for autonomy and an increase in happiness. In developing and executing their studies, the researchers must behave in such a way that acknowledges and respects an individual's intrinsic value as a human being and have the likelihood of a beneficial outcome for that person and/or the population. How the researchers respect their subjects' intrinsic human value is dictated both by Kantian standards and the standards of the subjects' cultures. A researcher must find some common ground for that project to be ethical; there is no paternalistic attitude requiring the subjects to "do what's good for them," and there is no precarious system of culturally relative morals that no one outside the system has the authority to criticize.

Our analyses have not demonstrated the existence of a rights-based universal ethic, rather that the common valuation of humanity, because of its plasticity, requires Westerners to set aside their rights-based views and listen for the culturally-specific ways in which, in this case, African cultures value human life. In other words, this universal "ethic" that I have proposed is not an ethic in the sense that it sets forth a system of laws and guidelines for all citizens of the world to follow. Instead, it is more a universal value from which stem the ethical, value, and belief systems that exist around the globe. Rather than trying to articulate this value as a rights-based imperative (such a construct would be glaringly Western), we should instead consider it as a common ground for opening up discourse between conflicting or opposing ideals. It is not a set of rules for determining whose morals are fundamentally right; it is the starting point for thoughtful and well-informed discussions. It is both the judge of actions and the mediator of values. By

appealing to this universal value of human being, the empirical, rights-based cultures of the West, the communalistic cultures of sub-Saharan Africa, and all of the other cultures of the globe have the potential to interact harmoniously. Without imposing their values and ideals onto the subject populations, medical researchers can test new methods for preventing and curing HIV in cultures with drastically different conceptions of rights and duties, by conversing and cooperating with their test subjects.

This is by no means an easy fix or a simple task. Some people may interpret the medical researchers' push for discourse and communication as a paternalistic attempt to argue why their beliefs and methods are better, and it is imperative that these researchers approach their conversations in such a way that will minimize these kinds of negative interpretations. There may always be opposition, resistance, and even confrontation; as Kwame Anthony Appiah points out, intense conflicts can arise over "battles over the meaning of the *same* values" (81). However, recognition of and understanding the universal value of human being provides a promising space for a discourse on conflicting views and ideologies. Appiah asserts: "Conversations across boundaries of identity ... begin with the sort of imaginative engagement you get when you read a novel or watch a movie or attend to a work of art that speaks from some place other than your own. So I'm using the word "conversation" not only for literal talk but also as a metaphor for engagement with the experience and the ideas of others" (85). The discussions of ethics across cultural and other divides must not simply be recitations of beliefs and ideals but personal, intimate, and open communions of ideas, thoughts, and concerns; only then is there any hope of reaching a mutual agreement.

Recognizing this universal valuation of humanity will add an entirely new dimension to research involving human subjects, global bioethics, human rights, and public health. A new component of the research process will entail becoming informed about the subject population's cultures. Researchers will need to be able to be flexible with their research protocols, the design and development of which should be done only after gaining a thorough understanding of the population's values. Though there is no guarantee of agreement, this new approach to medical research and bioethics will create an atmosphere of respect across different cultures. As Appiah says, "Conversation doesn't have to lead to consensus about anything ... it's enough that it helps people get used to one another" (85). As people get more familiar with other cultures and practices, there is great possibility for change.

Works Cited

- Appiah, Kwame A. *Cosmopolitanism: Ethics in a World of Strangers*. New York: W. W. Norton & Company, 2006. Print.
- Blanc, Ann K. "The Effect of Power in Sexual Relationships on Sexual and Reproductive Health: An Examination of the Evidence." *Studies in Family Planning* 32.3 (2001): 189-213. Web. 26 Mar. 2012.
- Coetzee, P.H. and A.P.J. Roux, eds. *The African Philosophy Reader*. 2nd ed. New York: Routledge, 2003. Print.
- Coetzee, Pieter H. "Particularity in morality and its relation to community." Coetzee and Roux. 273-286.
- Dietrichson, Paul. "When Is A Maxim Fully Universalizable?" *Kant-Studien* 55.1-4 (1964): 143-70. Web. 29 Feb 2012.
- Feldman, Fred. *Introductory Ethics*. Englewood Cliffs, NJ: Prentice-Hall, 1978. Print.
- Gyekye, Kwame. "Person and community in African thought." Coetzee and Roux. 297-312.
- Herman, Barbara. *The Practice of Moral Judgment*. Cambridge, MA: Harvard UP, 1993. Print.
- Holtman, Sarah. "Autonomy and the Kingdom of Ends." *The Blackwell Guide to Kant's Ethics*. Ed. Thomas E. Hill. Chichester, U.K.: Wiley-Blackwell, 2009. 102-17. Print.
- Jegede, Samuel. "African Ethics, Health Care Research And Community and Individual Participation." *Journal of Asian and African Studies* 44.2 (2009): 239-53. SAGE Publications, 2009. Web. 29 Mar. 2012.

- Kathewera-Banda, Maggie, Flossie Gomile-Chidyaonga, Sarah Hendriks, Tinyade Kachika, Zunzo Mitole, and Seodi White. "Sexual Violence and Women's Vulnerability to HIV Transmission in Malawi: A Rights Issue." *International Social Science Journal* 57.186 (2005): 649-60. Web. 26 Mar. 2012.
- Kant, Immanuel. *Groundwork of the Metaphysics of Morals*. Ed. Mary J. Gregor. Cambridge, U.K.: Cambridge UP, 1998. Print.
- Metz, Thaddeus. "African And Western Moral Theories In A Bioethical Context." *Developing World Bioethics* 10.1 (2010): 49-58. Blackwell Publishing, 1 Nov. 2010. Web. 29 Mar. 2012.
- "Toward an African Moral Theory*." *Journal of Political Philosophy* 15.3 (2007): 321-341. Web. 29 Mar. 2012.
- and Joseph B.R. Gaie. "The African Ethic of Ubuntu/Botho: Implications for Research on Morality." *Journal of Moral Education* 39.3 (2010): 273-90. Routledge, 04 Aug. 2010. Web. 29 Mar. 2012.
- Mill, John S. "On Liberty." 1859. *On Liberty and the Subjection of Women*. London: Penguin Classics, 2006. 1-130. Print.
- "The Subjection of Women." 1869. *On Liberty and the Subjection of Women*. London: Penguin Classics, 2006. 131-249. Print.
- *Utilitarianism*. Ed. Roger Crisp. NY: Oxford UP, 1998. Print.
- More, Magobo P. "Philosophy in South Africa Under and After Apartheid." *Wiredu*. 149-60.
- "Nuremberg Medical Trial." Pence et al. 70-71.

- Padian, Nancy S et al. "Diaphragm and Lubricant Gel for Prevention of HIV Acquisition in Southern African Women: a Randomised Controlled Trial." *Lancet* 370.9583 (2007): 251–261. Web. 28 Sept. 2011.
- Pence, Gregory E. "The Tuskegee Study." Pence et al. 46-53.
- , Tom L. Beauchamp, LeRoy Walters, Jeffrey P. Kahn, and Anna C. Mastroianni, eds. *Contemporary Issues in Bioethics*. 7th ed. England: Wadsworth Co (CA), 2008. Print.
- Ramose, Mogobe B. "The ethics of *ubuntu*." Coetzee and Roux. 324-330.
- Sahin-Hodoglugil, Nuriye Nalan et al. "Degrees of Disclosure: A Study of Women's Covert Use of the Diaphragm in an HIV Prevention Trial in sub-Saharan Africa." *Social Science & Medicine* 69.10 (2009): 1547–1555. Web. 28 Sept. 2011.
- Sneddon, Andrew. "A New Kantian Response to Maxim-Fiddling." *Kantian Review* 16.01 (2011): 67-88. Web. 26 Feb. 2012.
- Tangwa, Godfrey B. "Reflections on Biomedical and Environmental Ethics." Wiredu. 387-94.
- UNAIDS Data Tables 2011*. Rep. UNAIDS, 04 Dec. 2011. Web. 2 Apr. 2012.
- Wiredu, Kwasi, ed. *A Companion to African Philosophy*. Malden, MA: Blackwell Pub, 2004. Print.
- "The moral foundations of an African culture." Coetzee and Roux. 287-96.
- "An Akan perspective on human rights." Coetzee and Roux. 13-23.
- World Health Organization, Department of Gender, Women, and Health. "Gender Inequalities and HIV." *World Health Organization*. World Health Organization. Web. 14 Mar. 2012.

--- Department of Reproductive Health and Research. "Eliminating Female Genital Mutilation: An Interagency Statement." *World Health Organization*. World Health Organization, 2008. Web. 17 Apr. 2012.

