



# The Obligation to Provide Healthcare: Perspectives from Religion, Law and Morality



# THE OBLIGATION TO PROVIDE HEALTHCARE

---

- **Case 1: Johnson Njoroge**
- **Case 2: Susan Cherono Lang'at**
- **Case 3: Mehrama**

---

Esther Muiruri, MA, LLB  
emmuiruri@yahoo.co.uk



# THE OBLIGATION TO PROVIDE HEALTHCARE

---

## The Safety of the People

- States accept responsibility for the Safety of the People – seen in provision of principal emergency services e.g. Fire, Police, Healthcare and Defence- (*John Harris*)
- The Social Contract
- Cost-effectiveness
- Standardisation



# THE OBLIGATION TO PROVIDE HEALTHCARE

---

## **The Safety of the People**

- Healthcare is a common good
- Utility (The Greatest Happiness Principle) holds that actions that increase happiness are right actions – John Stuart Mill
- There is an indissoluble association between one's own happiness and the happiness of others



# THE OBLIGATION TO PROVIDE HEALTHCARE

---

## Good and Evil

- Can occur through acts of omission or commission
- Beneficence- *An act done to benefit others*
- Non-Maleficence – *Do No Harm*
- Both Beneficence and Non-Maleficence require the weighing of harm and costs



# THE OBLIGATION TO PROVIDE HEALTHCARE

---

## The Way of the Law

- The Constitution of Kenya 2010-Article 43(1)(a) *‘Every person has a right to the highest attainable standard of health....’*
- The Health Bill
- The Cancer Prevention and Control Act 2012
- The Public Health Act



# THE OBLIGATION TO PROVIDE HEALTHCARE

---

## Reconciling Religion and Healthcare

### Stem Cells:

- Unspecialised cells capable of renewing themselves through cell division
- Under certain conditions can be induced to become tissue- or organ-specific cells with certain functions



# THE OBLIGATION TO PROVIDE HEALTHCARE

---

## Reconciling Religion and Healthcare

### Stem Cells:

- Further classified into **embryonic stem cells**- derived from embryos that develop from eggs fertilised *in vitro*
- **Adult stem cells** – Found among differentiated cells in a tissue or organ e.g. Brain, bone marrow, blood vessels, liver, etc.



# THE OBLIGATION TO PROVIDE HEALTHCARE

---

## Reconciling Religion and Healthcare

### Potential Uses of Stem Cells:

- Better understanding of genetic and molecular controls that could lead to therapies for cancers and birth defects
- Testing the efficacy of new drugs
- Generation and repair of cells and tissues (Potentially obviate the need for organ transplants, cure diseases like Alzheimer's and spinal cord injuries, etc).



# THE OBLIGATION TO PROVIDE HEALTHCARE

---

## Reconciling Religion and Healthcare

### *Catholic Perspective on Stem Cell Research*

- Opposed to embryonic stem cell research (considered destruction of innocent human life)
- Supports adult stem cell research



# THE OBLIGATION TO PROVIDE HEALTHCARE

---

## Reconciling Religion and Healthcare

### *Islamic Perspective on Stem Cell Research*

- Human beings cannot wilfully create ‘unless God, the Lord of all beings, wills.’ (81:29)
- Stem cell research (embryonic and adult) is permissible, as long as the cells’ sources are permissible.



# THE OBLIGATION TO PROVIDE HEALTHCARE

---

## Reconciling Religion and Healthcare

### *Jewish Perspective on Stem Cell Research*

- Traditionally holds that the embryo does not take on human characteristics until the fortieth day after conception
  - Use of embryonic stem cells could be seen as the ‘Mastery of Nature for the benefit of those suffering from vital organ failure’ (*Rabbi Moshe Dovid Tendler*)
- 

Esther Muiruri, MA, LLB  
emmuiruri@yahoo.co.uk



# THE OBLIGATION TO PROVIDE HEALTHCARE

---

## Reconciling Religion and Healthcare

### *Measures taken to Prolong Life*

- Generally, agreement among the three faiths that life, while a basic good, is not absolute
- Therefore, there are circumstances in which treatment does not have to be provided
- Euthanasia, however is prohibited



# THE OBLIGATION TO PROVIDE HEALTHCARE

---

## Conclusions

- In none of the three faiths discussed is there an edict to avoid treatment- in fact there is a *requirement* to seek treatment
  - Where there is agreement as to the necessity of certain kinds of treatment, the state has a *duty* to provide it
  - The duty to provide treatment is ongoing and progressive
  - Citizens have a duty to demand provision of healthcare
  - Each citizen also has a duty to be his brother's keeper
-