

**MOVING KENYA TOWARDS BLOOD SUFFICIENCY: RE- INTERPRETATION OF
'NON-REMUNERATED DONORS' AS PROVIDED IN SECTION 85 OF THE HEALTH
ACT.**

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Declaration

I, MICHELLE MALONZA, do hereby declare that this research is my original work and that to the best of my knowledge and belief, it has not been previously, in its entirety or in part, been submitted to any other university for a degree or diploma. Other works cited or referred to are accordingly acknowledged.

Signed:

Date:

This dissertation has been submitted for examination with my approval as University Supervisor.

Signed:.....

Humphrey Sipalla

Abstract

In August 2019, the chairman of the Committee of Blood Donation and Transfusion Stakeholders (CBDTS) stated that Kenya had only two weeks supply of blood bags for collection and transfusion of blood in the stores of the Kenya National Blood Transfusion Service (KNBTS). The huge blood demand- supply gap is a major challenge faced by blood services worldwide and this is partly due to a lack of voluntary blood donors. In many African countries, there is heavy reliance on family donors, which is often done out of a duty towards a relative or friend and rarely as an altruistic act to a stranger. In Kenya specifically, eligible blood donors only give blood in time of crisis or disaster leaving the country at shortfall outside these circumstances. By a discussion of the African view of the person and human rights, this paper presents a non-cash incentives framework as an effective means to motivate blood donors and therefore move Kenya closer towards blood sufficiency. With this framework, the offering of non-cash incentives to blood donors effectively remains within the description of voluntary non-remunerated blood donors.

List of Abbreviations

WHO – World Health Organisation

KNBTS- Kenya National Blood Transfusion Service

CBDTS- Committee of Blood Donation and Transfusion Stakeholder

VNRBD- Voluntary non-remunerated blood donation

List of Legal Instruments

Constitution of Kenya (2010)

Health Act, No. 21 of 2017

CHAPTER ONE: INTRODUCTION

1.1 Introduction

Kenya's blood supply is wedded in policy that blood can only be procured through voluntary blood donations with no material incentives provided to induce supply.¹ For this reason, the demand for blood from family and friends (also known as replacement donors) is high in both conventional and non-conventional media.²

A cross-sectional study carried out in Nigeria involving about 400 students revealed that seventy one percent of respondents would donate blood voluntarily if they had adequate information about blood donation and were aware that a unit of blood would save a life. Similarly, roughly thirty percent of the respondents would be motivated to donate blood if they were given some gift items. It was also found in another study in Lagos, that forty one percent of the respondents preferred a certificate as an incentive to donate blood. Both studies therefore indicate that incentives can be used in enhancing the effectiveness of blood donation campaigns.³ A study in Mwanza, Tanzania also noted that despite the positive attitude towards voluntary blood donation, majority of the people would only donate for an incentive.⁴ In Nigeria however, the study found that the donor incentives were considered more as motivational as opposed to rewards.⁵

1.2 Background

According to the World Health Organisation's (WHO) recommendations, national blood banks should collect a unit of blood from at least one per cent of the population every year to be considered blood-sufficient.⁶ Kenya should therefore collect around 500,000 units of blood per year, estimating a population of 50million.⁷ Last year however, the Kenya National Blood

¹ Section 85, *Health Act* (No. 10 of 2017).

² Kwame Owino, 'Positive markets effect can solve Kenya's blood deficit', 22 February 2019.

³ Salaudeen A and Odeh E, 'Knowledge and behavior towards voluntary blood donation' 14 *Nigerian Journal of Clinical Practice* 3, 2011, 306.

⁴ Jacob B and Berege Z, 'Attitudes and beliefs about blood donations among adults in Mwanza region, Tanzania' *East Africa Medical Journal* 72, 1995, 345-348.

⁵ Salaudeen A and Odeh E, 'Knowledge and behavior towards voluntary blood donation', 307.

⁶ WHO report, *WHO experts consultation on estimation of blood calculation requirements*, 3-5 February 2010, 8.

⁷ Muthoni Waweru, 'Ministry of Health launches blood donation drive amid concerns over shortage', 12 September 2019.

Transfusion Service (KNBTS) set a target of 182,000 units, about sixty per cent of the norm, which it was unable to reach, and therefore the country is not considered blood sufficient.⁸ This year, reports of blood crisis continue as stated by Joseph Wagendo, the chairman of the Committee of Blood Donation and Transfusion Stakeholder (CBDTS), this August, ‘Kenya has only two weeks supply of blood bags for collection and transfusion of blood in the stores of the KNBTS’.⁹ More recently, KNBTS released a press statement concerning the drying blood banks, ‘the country is in dire need of blood as most of the regional centres across the country have run out of supply...leaving more than 16,000 Kenyans likely to die in the next one year due to lack of blood and blood products’.¹⁰

Kenya’s heavy reliance on replacement blood donors is a major contributory factor. According to research done, such donors account for about 20,000 blood units received and collected annually by public hospitals.¹¹ According to WHO, family donation is a source of more than half of the blood supply in seventy-one countries, Kenya being one of them. This group of blood donors is however the least safe as the prevalence of blood borne infections is prevalent among this group.¹² In addition, this group of donors is often coerced into giving blood for friends and family, which therefore leads to a system of hidden payment. It has been reported severally in the press that the demand for blood is so high with inadequate corresponding supply by KNBTS¹³ and therefore an informal market supply has arisen. This supply channel involves persons willing to actively donate to patients in exchange for cash. This compensation ranges from two thousand Kenya Shillings.¹⁴ The family donation system is therefore unable to ensure safe, sufficient and stable blood supply.¹⁵ This, coupled with the culture of blood donation in the country only in

⁸ Aggrey Omboki, ‘Running low: The story of Kenya’s blood bank’, 12 June 2018.

⁹ Patrick Mwangi, ‘Crisis looms as Kenya blood banks run dry’, 19 August 2019.

¹⁰ Wachira Mwangi, ‘Drying blood banks put lives of 16,000 Kenyans at risk’, 2 December 2019.

¹¹ Aggrey Omboki, ‘Running low: The story of Kenya’s blood bank’, 12 June 2018

¹² WHO, *Blood safety and availability*, 9 December 2018.

¹³ Rachel Ombaka, ‘Kenya faces acute blood shortage’, 13 June 2014; Sarah Ooko, ‘Low blood donation culture risks lives of critically ill patients’, 12 June 2018; Mercy Kahenda, ‘Hospitals risk blood shortage for lack of bags’, 10 October 2019; and Wachira Mwangi, ‘Drying blood banks put lives of 16,000 Kenyans at risk’, 2 December 2019.

¹⁴ Kwame Owino, ‘Positive markets effect can solve Kenya’s blood deficit’, 22 February 2019.

¹⁵ WHO report, *WHO experts consensus statement on achieving self – sufficiency in blood and blood products, based on voluntary non- remunerated blood donation (VNRBD)*, June 2012, 5.

time of crisis, contributes to our blood insufficiency.¹⁶ Moreover, it has even been stated that during such times of crisis the inadequacy of the country's blood reserves becomes prominent.¹⁷

1.3 Problem statement

As demonstrated in the discussion above, the reliance on not only voluntary non- remunerated blood donors, as stipulated by law, but also replacement donors has been unsuccessful in getting Kenya towards even half of its blood sufficiency requirement.¹⁸ This reliance on especially the former is a global stance accepted even by WHO as the cornerstone of safe and sufficient blood supply.¹⁹ Nationally, Section 85 of the Health Act provides that KNBTS should provide voluntary non-remunerated blood donations²⁰ to guarantee availability of adequate and safe blood.

1.4 Hypothesis

The inadequacy of voluntary non-remunerated blood donations and over-reliance on replacement donors requires donors motivated by non-cash incentives to move Kenya closer towards blood sufficiency.

1.5 Research objectives

1. To propose the use of non-cash incentives.
2. To assess the potential impact of non-cash incentives in moving Kenya towards blood sufficiency and reducing reliance on replacement donors.

¹⁶ Aggrey Omboki, 'Running low: The story of Kenya's blood bank', 12 June 2018. Joseph Kamotho, a national blood donor recruiter and Public Communications Officer at KNBTS, remarks that the Kenyan public focuses on the needs of accident and disaster victims, because there is continued news coverage and requests for blood donation for the victims.

¹⁷ Kwame Owino, 'Positive markets effect can solve Kenya's blood deficit', 22 February 2019.

¹⁸ Aggrey Omboki, 'Running low: The story of Kenya's blood bank', 12 June 2018.

¹⁹ WHO Global status report, *Towards self- sufficiency in safe blood and blood products based on voluntary non-remunerated blood donors*, 2013, 8.

²⁰ This means that a person gives blood, plasma or cellular components of his/her own free will and receives no payment for it, either in the form of cash, or in kind which could be considered a substitute for money.

3. To investigate the broadening of the term ‘voluntary non-remunerated blood donors’ to include donors given non-cash incentives.

1.6 Research questions

1. Whether the use of incentives can be justified?
2. Whether non-cash incentives solve the problem of blood insufficiency in Kenya?
3. Can the interpretation of ‘voluntary non-remunerated blood donors’ be interpreted to include donors driven to give blood by non-cash incentives?

1.7 Justification of the study

Richard Titmuss’ work in ‘The Gift Relationship’ established the clash of an economic framework for blood donation with paid donors versus a solidary system of altruistic unpaid donors.²¹ Ever since, in a bid to achieve blood sufficiency, the discussion of raising the number of blood donors using payment as an incentive has followed.²² The repugnance of transactions in the human body parts, organs or tissues²³ has led to a dearth of knowledge with regard to this topic in Kenya. In a bid to achieve the highest attainable standard of healthcare²⁴ in the country and save lives in the process, this paper stresses the need for a donation policy framework that ensures adequate and safe blood supply. This can be achieved by the legalisation of non-cash incentives to motivate blood donors.

1.8 Literature Review

Commodification may be construed in two ways: narrowly to describe the actual or legally permitted buying and selling of something and broadly to include not only the former but also

²¹ Richard Titmuss, *The gift relationship: From human blood to social policy*, 2 ed, New Press, New York, 1997.

²² Transfusion Medicine and Hemotherapy, *Blood donation, payment and non-cash incentives: Classical questions drawing renewed interest*, September 2009.

²³ Alvin Roth, ‘Repugnance as a constraint on markets’ 21 *Journal of Economic Perspectives* 3, 2007, 45.

²⁴ Article 43 (1), *Constitution of Kenya* (2010).

market rhetoric, the practice of thinking about interactions as if they were sale transactions, and market methodology.²⁵

Thinkers that opposed market rhetoric often postulated that such rhetoric made us see the person as a self-maximiser in all respects.²⁶ More liberal theorists such as Alvin Roth put forward the argument that the aversion toward individuals engaging in certain transactions that involve a benefit is usually due to moral considerations (repugnance) and should not be so.²⁷ The discussion on market inalienability therefore comes in to argue whether property considered as personal should be 'commodifiable' as argued by Margret Radin.²⁸ While authors such as Titmuss refuse the commodification of personal property, blood in specific, the reasons for such refusal are hinged on the altruistic nature of donations.²⁹

This discussion is viewed from two main perspectives: individualistic and communitarian. The communitarian view understands man as only complete in community³⁰ and therefore human rights are centered and founded on communal beliefs that prioritise the group over the individual. As a result, individuals are the subjects of rights only by virtue of being part of the group.³¹ The individualistic view however acknowledges the individual as more than a part of the whole (the entire community).³² A study discussed in the Chapter that follows, shows the various reforms carried out in Kenya and what this meant: 'the amplification of the assumption that all human activity is already a commodity and the best way to organise these activities is through the market'.³³ The paper thus explores whether these views, especially communitarianism values, have survived the effect of the modern economy with particular regard to the idea of society and public goods. This discussion thus seeks to demonstrate how this has affected law making with particular focus on commodification of blood, considered as a public good.

²⁵ Margaret Radin, 'Market inalienability' 100 *Harvard Law Review* 8, 1987, 1859.

²⁶ Margaret Radin, 'Market inalienability', 1185

²⁷ Alvin Roth, 'Repugnance as a constraint on markets' 37.

²⁸ Margaret Radin, 'Market inalienability', 1918.

²⁹ Richard Titmuss, *The gift relationship: From human blood to social policy*.

³⁰ Oyowe Oritsegbubemi, 'Personhood and human rights: A critical study of the African communitarian and normative conception of self' Unpublished PhD, University of KwaZulu- Natal, Durban, 2013, 174.

³¹ Simon Ilesanami, 'Human rights discourse in modern Africa: A comparative religious ethical perspective', *Journal of Religious Ethics*, 294.

³² Bernard Matolino, 'The concept of person in African political philosophy: An analytical and evaluative study' Unpublished PhD, University of KwaZulu- Natal, Durban, 2008, 75.

³³ George Caffentzis, 'Neoliberalism in Africa, apocalyptic failure and business as usual practices' 1(3), *Turkish Journal of International Relations*, 2002, 89.

1.9 Research Design and Methodology

Information for this paper will mainly be collected through qualitative research. This will be a combination of library research and internet searches on books, journal articles and research papers. Library research will also be essential in analysing the jurisprudence around inalienability.

1.10 Assumptions

1. Blood insufficiency is a salient issue in Kenya today.
2. Introduction of incentives into the current blood donor system will lead to an increase in the blood units donated and as a result, move Kenya closer towards blood sufficiency.

1.11 Limitations

The study is limited by time constraints but the author intends to use the time allocated efficiently enough to refer to all necessary literature for this study.

This method of qualitative research also excludes fieldwork which in light of the topic at hand would have been helpful in analysing the receptiveness of Kenyans as a population to incentives as a means to increase blood donation. The author however intends to follow closely and where possible, incorporate the online statistics being collected by the Institute of Economic Affairs, Ministry of Health, KNBTS and CBDTS regarding this receptiveness.

1.12 Chapter breakdown

Chapter One will provide a background to the study enunciating the problem statement, hypothesis, research questions, methodology and purpose of this paper.

Chapter Two will include a study on the African conception of the person detailing two perspectives: the communitarian and individualistic view of the person.

Chapter Three will be a continuation of this debate as to who is considered the African person as exacerbated in the discussion on African human rights.

Chapter Four will discuss cash and non- cash incentives. Following this discussion, there will be a discussion on the viability of the latter in Kenya's legal framework as a means to attaining blood sufficiency. The Chapter will then conclude with a proposed framework for non-cash incentives in Kenya.

Chapter Five constitutes this study's conclusion.

CHAPTER TWO: THE AFRICAN CORPORATE EXISTENCE OF THE HUMAN PERSON

2.1 Introduction

According to the World Health Organisation (WHO), voluntary non-remunerated blood donation (VNRBD) is the cornerstone of a safe and sufficient blood supply.³⁴ This global stance presented by WHO therefore discourages payment for blood either in cash, or in kind which would be considered a substitute for money.³⁵ This position is hinged on two main concerns: that an incentivised blood donation system would not only be exploitative of individuals of a lower socioeconomic background but also corrupt prevailing social values thereby reducing people's 'sense of community'.³⁶ These values include human dignity that is considered a sacred value for which individuals and societies are not willing to compromise for any other form of potential gain.³⁷ Still, different cultures hold different perceptions of what they consider a sacred value or not.

This chapter will discuss the African conception of the person from two perspectives: the communitarian and individualistic view. From this discussion, values considered sacred by African societies will be established. It shall be posited that a person is construed as a human being when they are able to contribute to the well being of others. This contribution engenders reciprocity as appreciation for another's acts of generosity. Reciprocity, as a necessary component of the African notion of a person, shall represent part of the justification for an incentivised blood donation system. Further, this chapter shall consider the effects of neo-liberalism on the modern African society's understanding of public good and thereafter conclude.

³⁴ WHO, *WHO experts consensus statement on achieving self sufficiency in blood and blood products, based on voluntary non-remunerated blood donation (VNRBD)*, June 2012, 4.

³⁵ WHO, *WHO experts consensus statement on achieving self sufficiency in blood and blood products, based on voluntary non-remunerated blood donation (VNRBD)*, June 2012, 5.

³⁶ Richard Titmuss, *The gift relationship: From human blood to social policy*, 2 ed, New Press, New York, 1997.

³⁷ Nicola Lacetera 'Incentives and ethics in the economics of body parts' National Bureau of Economic Research, Working Paper 22673, 2016, 6.

2.2. The African Concept of the Person

2.2.1. The Communitarian View

This view, also referred to as collectivist,³⁸ opines that personhood is socially sanctioned by an individual's fulfillment of their obligations in society.³⁹ It is hinged on the idea that the person depends both descriptively and normatively on the community. In addition, supporters of this view believe that the community takes primacy over the individual: the community's needs should be placed ahead of the individual's.⁴⁰

2.2.1.1 Placide Tempels on African Communitarianism

For Tempels, the Bantu person is a living force with supreme dominion over all living things. Man, in this view is thus the ultimate expression of the fullness of life, not merely a living being.⁴¹ Tempels argues that the vital force that is found in man, as an individual, comes more to life when that individual engages in relations with his surrounding environment. He relates to the supernatural world, to his fellow human beings and to inanimate things.⁴² Consequently, it can be said that without interacting with other forces (members of the society) an individual cannot be recognised as a complete person.⁴³ The Bantu individual cannot in essence be a lone being. He maintains that for one to be recognised as a person, it is necessary that they are deemed

³⁸ Oyowe Oritsegbubemi, 'Personhood and human rights: A critical study of the African communitarian and normative conception of self' Unpublished PhD, University of KwaZulu-Natal, Durban, 2013,174.

³⁹ Bernard Matolino, 'The concept of person in African political philosophy: An analytical and evaluative study' Unpublished PhD, University of KwaZulu-Natal, Durban, 2008, 53.

⁴⁰ Oyowe Oritsegbubemi, 'Personhood and human rights: A critical study of the African communitarian and normative conception of self' Unpublished PhD, University of KwaZulu- Natal, Durban, 2013,174.

⁴¹ Placide Tempels, *Bantu Philosophy*, Presence Africaine (edition anglaise), Paris, 1969, 64 as cited by Watadza Mhazo 'A critical assessment of African Communitarianism for environmental well-being' Unpublished Masters, University of South Africa, Pretoria, 2016, 19.

⁴² Placide, *Bantu Philosophy*, 67 as cited by Mhazo 'A critical assessment of African Communitarianism for environmental well-being', 24.

⁴³ Watadza, in evaluating African communitarianism, conceptualises and summarises the meanings promoted by not only Placide Tempels but also Mbiti, Menkiti, Gyekye and Masolo. See Watadza Mhazo 'A critical assessment of African communitarianism for environmental well-being' Unpublished Masters, University of South Africa, Pretoria, 2016, 26.

worthy when assessed based on the quality of their relationships and their ability to observe common moral community tenets.⁴⁴

This view would thus be hinged on the belief that individuals in society would be drawn to act in service of their community or surrounding society. Consequently, this assumes that inherently the African individual should be driven to freely and willfully donate blood to those in need even when they are strangers to them, as only then, will they attain full recognition as a person.

2.2.1.2 John Mbiti on African Communitarianism

Proceeding from Tempels, Mbiti notes that the African view of the person can be summed up into the following: 'I am because we are, and since we are, therefore I am'.⁴⁵ He argues that African life is lived in a community of belonging and identity: 'only in terms of other people does the individual become conscious of his own being, his own duties, his own privileges and responsibilities towards himself and towards other people.'⁴⁶ Therefore, individuals are considered members of the community without they cannot be.⁴⁷

Considering this together with Tempels' theory of the person, it is evident that if each African person believed that they only attained self-realization in terms of the community around them, there would be greater altruism demonstrated by the statistics of blood donation in Kenya. As earlier discussed, there is heavy reliance on family donation and donation in time of crisis in Kenya. This depicts that the number of Kenyans who remain true to these values is minimal and diminishing, as demonstrated by the blood donation statistics earlier presented.

⁴⁴ Placide Tempels, *Bantu Philosophy*, Présence Africaine, Paris, 1969 as cited and understood by Bernard Matolino, 'The concept of person in African political philosophy: An analytical and evaluative study' Unpublished PhD, University of KwaZulu-Natal, Durban, 2008,3. It is noteworthy that Matolino further explains that Tempels differentiates those who matter and those who do not: the former being those of real importance that make real contributions in their respective societies while the latter are considered non-persons.

⁴⁵ John Mbiti, *African Religions and Philosophy*, Doubleday and Company, New York, 1970,108.

⁴⁶ John Mbiti, *African Religions and Philosophy*, 141. He says, 'the individual does not and cannot exist corporately... he owes his existence to other people... he is simply part of the whole... community must therefore make, create or produce the individual.'

⁴⁷ This concept of man as only complete in community also extends to South Africa thought labelled as '*ubuntu*'. This, as understood by the courts, literally translates to humanness whose outstanding feature in the community is the emphasis on human dignity. See *S v Makwanyane and Another* (1995), Constitutional Court of South Africa, paragraphs 225, 263 and 308.

2.2.1.3 Ifeanyi Menkiti on African Communitarianism

Developing this idea of the priority of the community over the individual, Menkiti argues that it is not enough to understand a person as simply a biological organism with certain psychological traits.⁴⁸ Instead, he stresses that for personhood to be attained, an individual has to go through a long process of social and ritual transformation so that what was initially biologically given can attain social selfhood with all excellences believed to be truly definitive of man.⁴⁹ This process requires that the community plays the special role of nurturing the individual. Similarly, Mbiti submits that there has to be some induction into the different stages of communal life that he refers to as 'corporate existence', and an individual cannot do that induction on their own, for that reason, they require the assistance of her fellow human beings in the community to attain that existence.⁵⁰

The African view of man as distinct from that found in Western thought, sees the community as defining of the person. The community thus gives the status of personhood to individuals in direct proportion to their participation in communal life.⁵¹ The individual is as a result brought up with a sense of belonging and solidarity with an extensive circle. The basis of this solidarity being a system of reciprocity in which individuals have obligations to a larger group of individuals who equally owe them certain rights.⁵² Individuals therefore sacrifice their independence for interdependence. Through acts of generosity, individuals limit their own freedom to that of the wider society in order to attain identity as a person.⁵³

Seeing this as part of the larger blood donation crisis in Africa, and Kenya specifically, this conception assumes that individuals continually choose community over their individual needs. As this conception is centered on the values of solidarity and reciprocity, they ascertain that

⁴⁸ Ifeanyi Menkiti, 'Person and community in African traditional thought' in Wright A (ed), *African philosophy: An introduction*, Lanham University Press of America, 1984, 170.

⁴⁹ Ifeanyi Menkiti, 'Person and community in African traditional thought', 173.

⁵⁰ John Mbiti, *African Religions and Philosophy*, Doubleday and Company, New York, 1970, 141.

⁵¹ Ifeanyi Menkiti, 'Person and community in African traditional thought', 172.

⁵² Paddy Musana, The African concept of personhood and its relevance to respect for human life and dignity in Africa and the global context, *African Study Monographs*, 27.

⁵³ Josiah Cobbah, African values and the human rights debate: An African perspective, *Human Rights Quarterly*, 9(3), 1987, 322.

altruism, irrespective of the final recipients, should be adequate to ensure blood sufficiency where the suggested donor is the African person envisaged here.

2.2.2. The Individualistic Conception of the Person

This position acknowledges the individual as part of the larger community. Nonetheless, proponents of this view underscore the need to recognise the individual as more than this: the individual's autonomy.

2.2.2.1 Kwame Gyekye on African Communitarianism

He argues against the above detailed positions labelling them as 'radical communitarianism' and presenting a notion of personhood he terms 'moderate communitarianism'.⁵⁴ According to Matolino, Gyekye argues that the individual is more than a social being he is other things such as the ability to make rational choices and virtue.⁵⁵ These things, he argues are mental attributes possessed at birth which are not acquired from the community.⁵⁶ Gyekye adds that,

'In the light of the autonomous or near autonomous character of its activities, the communitarian self cannot be held as shackled self, responding robotically to the ways and demands of the communal structure. That structure is never to be conceived as reducing a person to intellectual or rational inactivity, servility and docility. Even though the communitarian self is not detached from its communal features and the individual is fully embedded or implicated in the life of her community, the self nevertheless, by virtue of or by exploiting what I have referred as its "mental feature" can from time to time take distanced view of its communal values and practice and reassess or revise them'.⁵⁷

⁵⁴ Bernard Matolino, 'The concept of person in African political philosophy: An analytical and evaluative study' Unpublished PhD, University of KwaZulu- Natal, Durban, 2008, 75.

⁵⁵ Matolino, 'The concept of person in African political philosophy, 77. Gyekye further states, 'the most that can be said, then, is that the person is only partly constituted by the community'. See Gyekye Kwame, *Tradition and modernity: Philosophical reflections of the African experience*, Oxford University Press, 1997, 59.

⁵⁶ Kwame Gyekye as cited by Bernard Matolino, 'The concept of person in African political philosophy: An analytical and evaluative study' Unpublished PhD, University of KwaZulu-Natal, Durban, 2008,5.

⁵⁷ Kwame Gyekye, *Tradition and modernity: Philosophical reflections of the African experience*, 55- 56.

This position advanced by Gyekye alludes to the individual's ability to make free choices regardless of their allegiance to community and its values. The individual here, the potential donor, may therefore choose not to donate blood unless the patient in need is a relative, friend or out of a sense of obligation or an act of patriotism in time of disaster.

Bell, agrees with him that to uphold the community's significance neither dissolves the individual's own identity nor absolves them of their respective responsibility for their conduct toward the community.⁵⁸ Bell suggests that although the community remains a respectable space in the understanding of the individual in Africa, it needs to accommodate the real pressures of multicultural factors brought by globalisation in the modern dispensation in Africa.⁵⁹ Gyekye goes on to say that within the traditional Akan society, there are proverbs⁶⁰ that demonstrate that the individuality of the person is not entirely subsumed by the community.

Still, in discussing his version of communitarianism, he concedes that the individual does live in society. He does this in describing the idea of the common good as 'a good that can be said to be universally, shared by all human individuals, a good the possession of which is essential for the functioning of the individual in the human society'. Using this idea, he advocates for the 'good of all members' characterised by goods he believes each individual should have access to.⁶¹ These goods, akin to those articulated by the communitarian view discussed above, include the ethical values of solidarity, compassion, reciprocity, co-operation, interdependence and social well-being, he holds as the core of the individual's principles relating to the community.

While Gyekye holds the 'good of all the members' as superior to the individual even where such individuality does not cease to exist because of the community, Bell recognises that such good should be considered together with the changes in modern Africa. This touches on the fact that even with ethical community values to be considered by the individual, as a potential donor, we

⁵⁸ Richard Bell, *Understanding African Philosophy: A Cross- Cultural Approach to Classical and Contemporary Issues*, Routledge, London, 2002, 64.

⁵⁹ Richard Bell as understood by Watadza Mhazo 'A critical assessment of African Communitarianism for environmental well- being' Unpublished Masters, University of South Africa, Pretoria, 2016, 42.

⁶⁰ Some of these include, 'The clan is like a cluster of trees, when seen from afar, appear huddled together but which would be seen to stand individually when closely approached' and 'life is as you make it yourself'.

⁶¹ Kwame Gyekye as understood by Watadza Mhazo 'A critical assessment of African Communitarianism for environmental well- being' Unpublished Masters, University of South Africa, Pretoria, 2016, 38.

must acknowledge the various pressures faced given globalisation and emerging multicultural factors. Bearing in mind this position advanced by Bell, the necessity of studying the effect of pressures such as commodification and individuality on voluntary blood donors is manifest in considering what steps need to be taken to move closer towards blood sufficiency.

2.2.2.2. Masolo on African Communitarianism

He provides a moral definition of communitarianism-‘it exemplifies belief in the principle of practical altruism as an important social virtue’.⁶² Significant in his notion of the person, is his encompassing of the modern African society.⁶³ In his analysis, he is able to show that present-day Africans have been able to retain their communitarian philosophy. This, he elaborates, has enabled them to share their individual economic gains with members of the community retaining their altruistic and benevolent values.⁶⁴ Whereas this position suggests that the communitarianism has survived the effects of the modern economy, this can be contested by a review of the effects of neoliberalism in Africa, more specifically Kenya. While these values are still present in some societies today, the following section will explore how neo-liberal reforms have changed the perception of public goods.

2.3. Neoliberalism in Kenya

Neoliberalism, as presented in Kenya, focuses on the rational individual, the free market and the removal of control from the economy.⁶⁵ It has also been described as an amplification of the assumption that all human activity is already a commodity and the best way to organise these activities is through the market.⁶⁶ A sizeable array of donor supported neo-liberal reforms⁶⁷ has

⁶² Masolo D, *The self and community in a changing world*, Indianna Press, Indianna, 2010, 246.

⁶³ Masolo as understood by Watadza Mhazo ‘A critical assessment of African Communitarianism for environmental well- being’ Unpublished Masters, University of South Africa, Pretoria, 2016, 42.

⁶⁴ Masolo D, *The self and community in a changing world*, Indianna Press, Indianna, 2010,248.

⁶⁵ Konings Piet, *The politics of neoliberal reforms in Africa*, Langaa Research and Publishing Common Initiative Group, Bamenda, 2011, 18.

⁶⁶ George Caffentzis, ‘Neoliberalism in Africa, apocalyptic failures and business as usual practices’ 1(3), *Turkish Journal of International Relations*, 2002, 89. This is especially argued for activities previously considered ‘inalienable’ that should be deemed income- generating.

⁶⁷ These reforms are generally characterised by a focus on the rational individual, the free market and the removal control of the economy. See Konings Piet, *The politics of neoliberal reforms in Africa*, Langaa Research and Publishing Common Initiative Group, Bamenda, 2011, 18. See also Caffentzis George, ‘Neoliberalism in Africa, apocalyptic failures and business as usual practices’ 1(3), *Turkish Journal of International Relations*, 2002, 89. Here, neoliberalism is defined as an amplification of the assumption that all human activity is already a commodity

been carried out across economy, policy and society in Kenya.⁶⁸ In the 2000s, Kenya's government, together with Uganda's, advanced a restructuring of the idea of the society and public goods, urging the people to leave behind 'the traditional African mindset', lower their expectations relating to the state and public provisions and endorse capitalist commercial thinking and individualism.⁶⁹ During this neoliberal restructuring, there was a steady shift in moral dispositions of the society which has continued to date. This includes the monetisation and commodification of certain services.⁷⁰ According to Wiegratz and Cesnulyte, owing to an increase in the cost of living, directly linked to liberalisation reforms, actions that were deemed 'moral' or 'just' in the traditional sense were considered less important until individuals' situations improved. Still, community values remained and so, while individuals' still sought to care for and support their communities and families, these actions were only considered after securing their own material wellbeing.⁷¹

2.4. Conclusion

The implication is thus that whatever it is that is valuable about persons derives from something else, the community, which is the bearer of ultimate value.⁷² An individual consequently sees themselves as part of an ordered whole whose principle of order is the ethic of the community that becomes part of their self-identity.⁷³ Communitarianism viewed from the individualistic lens, though emphasising individual autonomy, concedes that the individual is part of the wider community and therefore owes it certain moral obligations. These obligations and

and the best way to organise these activities is through the market. This is especially argued for activities previously considered 'inalienable' that should be deemed income-generating.

⁶⁸ Wiegratz Joel and Cesnulyte Egle, 'Money talks: Moral economies of earning a living in neoliberal East Africa' 21(1), *New Political Economy*, 2016, 6.

⁶⁹ Wiegratz Joel and Cesnulyte Egle, 'Money talks: Moral economies of earning a living in neoliberal East Africa', 6. The then Ugandan Information Minister, Ms Kabambuka, emphasised this by stating, 'this is not a welfare state that is obliged to look after every hungry person'. See Bareebe Gerald, 'High inflation beyond our government', 10 April 2011.

⁷⁰ Wiegratz Joel and Cesnulyte Egle, 'Money talks: Moral economies of earning a living in neoliberal East Africa', 11.

⁷¹ Wiegratz Joel and Cesnulyte Egle, 'Money talks: Moral economies of earning a living in neoliberal East Africa', 14.

⁷² Oyowe O, 'Personhood and human rights: A critical study of the African communitarian and normative conception of self' Unpublished PhD, University of KwaZulu- Natal, Durban, 2013, 30.

⁷³ Wiredu K, 'Oral Philosophy of Personhood: Comments on Philosophy and Orality' 40 (1) *Research in African Literatures*, 2009, 16.

responsibilities, as discussed above, highlight interdependence, solidarity and reciprocity as central. Notwithstanding Masolo's study of the modern African economy, more recent literature, reveals a move towards commodification and monetisation of goods formerly considered free because of their inalienability. As presented above, community values remain but these are second to individual wellbeing.

CHAPTER THREE: THE NEOLIBERAL TURN IN THE AFRICAN HUMAN RIGHTS DISCOURSE

3.1. Introduction

Chapter Two above discusses the two distinct perceptions of the African person: the communitarian and individualist. It holds that whatever lens the African person is viewed from, the individual forms part of the whole community and is therefore obligated towards it. In view of these obligations, the chapter considers the effects of neoliberalism on the values that underlie these obligations.

Against this background, this Chapter seeks to discuss the African context of human rights. Within the human rights discourse, there are two main positions: universalist and relativist.⁷⁴ The former hold that human rights have unrestricted applicability across cultures; common to all⁷⁵ while the latter hold because morality is specific to different cultures, human rights thought should be culture specific.⁷⁶ Cultural and ethical relativists, insist that it is necessary for diverse patterns of life be given equal validity because of their inherent dignity even if some practices may differ from one's own.⁷⁷ Following this, this chapter will examine what has been advanced as the African theory of human rights.

There is no consensus as to the appropriate subject of human rights.⁷⁸ This chapter will study these divergent views in light of the positions presented in Chapter Two. Subsequent to this, this

⁷⁴ Simon Ilesanami, 'Human rights discourse in modern Africa: A comparative religious ethical perspective', *Journal of Religious Ethics*, 294.

⁷⁵ James Silk, 'Traditional culture and the prospect for human rights in Africa' in Abdullahi Ahmed An-Na'im and Francis Deng (eds), *Human rights in Africa: Cross-Cultural perspectives*, Brookings Institution, Washington, 1990, 316.

⁷⁶ Alasdair MacIntyre as cited by Simon Ilesanami, 'Human Rights Discourse in Modern Africa: A comparative religious ethical perspective', 294 clearly articulates this position stating that the language of morality has specific context, the social practices of the community with shared ends and a common telos.

⁷⁷ Melville Herskovits, *Man and his works: The science of cultural anthropology*, New York, 1948, 76. Founded on this belief of the equal value that should be accorded to various cultures and as a result, conceptions of human rights, An'Naim and Deng argue that non-Western ideas of human rights being innately different from the Western conception, cannot be directly applied to non-Western states. See Abdullahi Ahmed An-Na'im and Francis Deng, *Human rights in Africa: Cross-Cultural perspectives*, Brookings Institution, Washington, 1990, xii.

⁷⁸ Melville Herskovits, *Man and his works: The science of cultural anthropology*, New York, 1948, 76. See also Simon Ilesanami, 'Human Rights Discourse in Modern Africa: A comparative religious ethical perspective', 294.

Chapter will discuss the effect of these views on lawmaking today, particular with regard to commodification of blood.

3.2 Human rights discourse in Africa

3.2.1 Traditional conception of human rights

Central to the claim that it is necessary to have an African conception of human rights is the view that African values are native and unique and so, essentially distinct from the Western ideals primary to international human rights.⁷⁹ Another justification for this insistence on an African conception of human rights, is well articulated by Ojo,

‘With the experience of colonialism, African states have come to regard the colonial system as the worst form of violations of human rights. The system itself is a basic contradiction of human rights. It suppresses the right to self-determination. By dominating and exploiting the natural and human resources colonialism denied the colonised peoples the material means to ensure effective promotion and protection of human rights’.⁸⁰

This position can be rightly be placed in the post-colonial era where new African countries were keener to protect their right to development and sovereignty than their individual rights.⁸¹ This conviction is embodied in a famous quotation from Julius Nyerere, then president of Tanzania,

‘What freedom has our subsistence farmer? He scratches a bare living from the soil provided the rains do not fail; his children work at his side without schooling, medical care, or even good feeding. Certainly, he has freedom to vote and to speak as he wishes. But these freedoms are much less real to him than his freedom not to be exploited. Only

⁷⁹ Simon Ilesanami, ‘Human rights discourse in modern Africa: A comparative religious ethical perspective’, 294.

⁸⁰ Olusola Ojo, ‘Understanding human rights in Africa’, 1990, 117. This position has also been expressed by Kwasi Wiredu, ‘Western and African communitarianism: A comparison’ in Dismas Masolo (ed), *A companion to African Philosophy*, Blackwell Publishing Ltd, 2004, 493. He has again expressed a similar view in Kwasi Wiredu, *Philosophy and an African culture*, Cambridge, Cambridge University Press, 1980, xxi-xii. Here, he states that the search for a correct conception of African philosophy is part of the post-colonial African quest for identity.

⁸¹ Rhoda Howard, ‘Human rights and the culture wars: Globalisation and the universality of human rights’ 43 (1) *International Journal*, 1997/8, 99-101.

as his poverty is reduced will his existing political freedom become properly meaningful and his right to human dignity become a fact of human dignity.⁸²

Accordingly, a widespread perception of human rights in Africa is founded in communal beliefs and practices that prioritise the group over the individual.⁸³ This has been further asserted and defended as characteristic of African law.⁸⁴ This approach entitles individuals to rights not because of their inherent worth but by dint of being part of the group. For this reason, while the individual had duties towards the group, the latter could choose whether to confer or withhold the individual's rights based on the fulfillment of their obligations.⁸⁵ This communitarian ethic underscores the harmony of interests among Africans, which essentially concerned equilibrium of the entire community.

3.2.2 Human rights in contemporary Africa

Ibwahoh, on the other hand, argues that references to 'traditional African culture' often suggest a monolithic and static set of circumstances.⁸⁶ Adding to this, he contends that traditional cultural beliefs could and did in fact change in response to various internal and external pressures.⁸⁷ In agreement, Howard puts forward that in contemporary Africa, it is progressively holding true that the individual separates themselves from the group and ceases from depending on their group leader to represent them in the multiplicity of their relations.⁸⁸ As demonstrated in the previous Chapter, this position has evolved given the effects of the modern economy. Ibwahoh

⁸² Julius Nyerere, 'Stability and change in Africa' (an address to the University of Toronto) in Colin Legum (ed), *Africa Contemporary Record*, Volume 2, 1969-70, C30-31.

⁸³ Simon Ilesanami, 'Human rights discourse in modern Africa: A comparative religious ethical perspective', 305.

⁸⁴ Yougindra Khushalani, 'Human rights in Asia and Africa' 4 *Human Rights Journal*, 1983, 415. He states, 'African law in general is a law of the group, not only because it applies to micro societies (lineage, tribe, ethnic group, clan, family) but also because the role of the individual in it is insignificant'.

⁸⁵ Simon Ilesanami, 'Human rights discourse in modern Africa: A comparative religious ethical perspective', 306.

⁸⁶ Bonny Ibwahoh, 'Between culture and constitution: Evaluating the cultural legitimacy of human rights in the African state' 22 *Human Rights Quarterly*, 2000, 841.

⁸⁷ Bonny Ibwahoh, 'Between culture and constitution: Evaluating the cultural legitimacy of human rights in the African state', 841-842.

⁸⁸ Rhoda Howard, 'Evaluating human rights in Africa: Some problems of implicit comparisons' 6 (2) *Human Rights Quarterly*, 1984, 179.

acknowledges this dynamic and ever changing nature of cultures and societies.⁸⁹ This neoliberalism restructuring is present to date.

3.2.3 The Neoliberal Turn

According to Gathii, the neoliberal turn in African countries is not only a result of imposition by developed countries but also voluntary adoption for a number of reasons. These include: a convergence in thinking of policy makers and academic thinkers in developing and developed countries, persuasion that neo-liberal reforms are necessary prerequisites for increased economic growth and/ efficiency of public sector institutions, a belief by public officials in developing countries that strategic adoption of these policies signals their respective countries as ‘safe’ for investment and finally, officers in developing countries find it impractical to investigate alternatives to neo-liberal ideals or their efficacy, adopting them as they are.⁹⁰ While this framework was written in reference to economic policy, these reasons hold true for neo-liberal reforms regarding public goods that are now income- generating.⁹¹

Makau Mutua, in agreement, adds that because development is not linear in nature, such reforms cannot merely be transplanted or reproduced models of policy from developed countries to other countries.⁹² He adds that the current human rights regime can only be viewed as a piece of the whole given its roots in Western liberal tradition.⁹³

⁸⁹ Bonny Ibwahoh, *Between culture and constitution: Evaluating the cultural legitimacy of human rights in the African state*, 841.

⁹⁰ James Gathii, ‘The neo-liberal turn in regional trade agreements’ Albany Law School, Paper Series Number 40, 2010-2011, 49-50.

⁹¹ George Caffentzis, ‘Neoliberalism in Africa, apocalyptic failures and business as usual practices’ 1(3), *Turkish Journal of International Relations*, 2002, 89.

⁹² Makau Mutua, ‘Africa and the rule of law’ 13 (23) *International Journal of Human Rights*, 2016, 166. See also Makau Mutua, ‘The Banjul Charter and the African cultural fingerprint: An evaluation of the language of duties’ 35(339) *Virginia Journal of International Law*, 1995, 341. ‘The transplantation of the narrow formulation of Western liberalism cannot adequately respond to the historic reality and the political and social needs of Africa’.

⁹³ Makau Mutua, ‘The Banjul Charter and the African cultural fingerprint’, 344.

3.3. Conclusion

WHO recommends that all countries rely on voluntary blood donors for safe and stable supply.⁹⁴ A voluntary blood donation system can therefore be seen as a public good where the supply of blood depends on a sufficient number of individuals donating blood for no financial benefit.⁹⁵ Kenya, in adherence to WHO's directive, stipulates that KNBTS should provide voluntary non-remunerated blood donations to guarantee the availability of adequate and safe blood.⁹⁶ According to Culyer however, this leads to a shortage as a result of the free rider problem

‘... with collective giving... what becomes significant is “need”.... Meeting such “needs” accordingly takes on the aspects of a public good – if one person meets the “need” of another there is a very high probability that others (beside the beneficiary) will agree the “need” has been met. There is accordingly a strong inclination for them to leave it to others to meet the “need”. They will benefit from the indivisible benefits of the public good, a “juster society”, without having to divert resources from their own (non-public) consumption to mitigate the “need”. They get a “free ride”. In such circumstances, a serious shortage in the degree to which agreed “needs” are met is clearly possible, so that all will lose’.⁹⁷

As a result of this shortage, several countries that previously relied completely on voluntary blood donors have begun to offer different incentives to donors in order to meet their blood demand.⁹⁸ In Africa especially where there is heavy reliance on family donors, purely altruistic donors with the desire to help others (strangers) and improve their health, are not the majority

⁹⁴ WHO Global status report, *Towards self-sufficiency in safe blood and blood products based on voluntary non-remunerated blood donors*, 2013, 8.

⁹⁵ Ignacio Abásolo and Aki Tsuchiya, ‘Blood donation as a public good: An empirical investigation of the free-rider problem’ University of Sheffield, SERP Number 2012004, 2012, 2.

⁹⁶ Section 85, *Health Act* (No. 10 of 2017).

⁹⁷ Anthony Culyer, ‘Should social policy concern itself with “drug abuse”?’ 1(4), *Public Finance Review*, 1973, 52-53 as cited by Ignacio Abásolo and Aki Tsuchiya, ‘Blood donation as a public good: An empirical investigation of the free-rider problem’, 2.

⁹⁸ Hassan Abolghasemi, Nasim Divkalayi and Fariba Seighali, ‘Blood donor incentives: A step forward or backward’ 4(1), *Asian Journal of Transfusion Science*, 2010, 16.

and therefore many hospitals are unable to ensure safe and adequate blood supply.⁹⁹ In Kenya for instance, Sicily Kariuki, Cabinet Minister for Health, recently assured Kenyans that an assessment on the feasibility of introducing financial incentives to ensure adequate blood supply was ongoing.¹⁰⁰ Accordingly, it is evident that the move towards experimentation with new incentives for supply in Kenya is with ‘the noble view of ensuring preparedness and keeping a respectable volume of blood and related products’¹⁰¹ more than it is as a result of imposition by developed countries.

⁹⁹ Shamsudeen Mohammed and Harry Barton Essel, ‘Motivational factors for blood donation, potential barriers, and knowledge about blood donation in first- time and repeat blood donors’ 18 (36), *BMC Hematology*, 2018, 7.

¹⁰⁰ Magdaline Saya, ‘Funding cut not a deadly blow to transfusion’, 26 September 2019.

¹⁰¹ Kwame Owino, ‘Positive markets effect can solve Kenya’s blood deficit’, 2019.

CHAPTER FOUR: BLOOD DONATION AND INCENTIVES

4.1 Introduction

The previous Chapter sought to demonstrate how the debate concerning the different African conceptions of the person is exacerbated in the human rights discourse. Further to this, Chapter Three discussed the re-interpretation of blood from being understood as a public good to being seen as a possibly alienable good. Having established this, this Chapter seeks to discuss a possible framework for the use of incentives to elicit blood donations. This framework will be viewed against the backdrop of the imbalance between the aggregate blood supply and demand as well as excess supply after disasters and insufficient supply at all other times.¹⁰²

4.2 Cash and Non-Cash Incentives

4.2.1 Cash Incentives

Some countries and blood banks offer different kinds of incentives to blood donors in order to attain self-sufficiency.¹⁰³ These incentives may be cash or non-cash incentives, which have been proved to help promote blood donation in Sub-Saharan Africa.¹⁰⁴ WHO however discourages remunerated donors as their studies have shown that their blood is generally not safe.¹⁰⁵ In addition, several studies have shown that offering incentives to blood donors may undermine altruistic motivation to donate blood and thereby have a crowding out effect¹⁰⁶ on the number of donors. Consequently, this causes a decrease in blood supply.¹⁰⁷ It has also been argued that monetary remuneration may motivate people in need of money to donate and even conceal their

¹⁰² Robert Slonim, Carmen Wang and Ellen Garbarino, 'The market for blood' 28(2), *Journal of Economic Perspectives*, 2014, 177.

¹⁰³ Lorenz Goette, Alois Stutzer and Beat Frey, 'Prosocial motivation and blood donations: A survey of the empirical literature' 37, *Transfusion Medicine and Hemotherapy Review*, 2010, 149.

¹⁰⁴ Bernard Appiah, 'Promoting donation in Sub-Saharan Africa: Role of culture and interventions' Doctor of Public Health, Texas A&M University, College Station, 2013,34.

¹⁰⁵ Bernard Appiah, 'Promoting donation in Sub-Saharan Africa: Role of culture and interventions' Doctor of Public Health, Texas A&M University, College Station, 2013,34. See also WHO, *World blood donor day: New blood for the world*, 2010.

¹⁰⁶ According to Titmuss, motivating blood donors with monetary incentives makes blood donation appear purely selfish and as a result has negative effects on prosocial behaviours like voluntary blood donation. See Titmuss Richard, *The gift relationship: From human blood to social policy*.

¹⁰⁷ Hassan Abolghasemi, Nasim Divkalayi and Fariba Seighali, 'Blood donor incentives: A step forward or backward' 17-18.

true health status.¹⁰⁸ Therefore, offering someone with no alternatives for income money for blood could be understood to be coercive and compromising of their personal autonomy.¹⁰⁹

In the United States of America, blood banks and related institutions offer not only monetary but also material incentives.¹¹⁰ All blood donations are considered paid if the incentives are transferrable, refundable, redeemable or a market exists for the incentives. The latter, cash in any amount and items readily convertible to cash, will then be considered monetary incentives.¹¹¹

4.2.2 Non-cash incentives

While incentives are generally aimed at making a particular opportunity or activity appear more attractive, non- cash incentives being far less liquid than money, allow the issues discussed above to be circumvented.¹¹² These incentives fall within a range of different rewards and for the purposes of this discussion, may be understood to be ‘any gift, good or token, either of non-monetary value or small monetary, donors receive’.¹¹³ These include but are not limited to:

- National recognition through tokens of appreciation or public displays of their names: A study in Nigeria revealed that 18 percent of people would donate blood if they received such recognition. This recognition may either be during state functions as a collaborative effort between KNBTS and national bodies or simply mentioning the names of particular outstanding donors in mass media.¹¹⁴ Still, these will need to be discussed with their potential donors who may prefer anonymity. In Kenya, policy makers have embraced

¹⁰⁸ Benedict Nwogoh, Usimenahon Aigberadion and Alexander Nwannadi, ‘Knowledge, attitude, and practice of voluntary blood donation among healthcare workers at the University of Benin Teaching Hospital’ *Journal of Blood Transfusion*, 2013,2.

¹⁰⁹ Alena Buyx, ‘Blood donation, payment and non-cash incentives: Classical questions drawing renewed interest’ 36 *Transfusion Medicine and Hemotherapy*, 2009, 330.

¹¹⁰ Hassan Abolghasemi, Nasim Divkalayi and Fariba Seighali, ‘Blood donor incentives: A step forward or backward’ 17.

¹¹¹ FDA, *Blood donor classification statement, paid or volunteer donor*, CPG Section 230.150, 2.

¹¹² Alena Buyx, ‘Blood donation, payment and non-cash incentives: Classical questions drawing renewed interest’ 333.

¹¹³ Alena Buyx, ‘Blood donation, payment and non-cash incentives: Classical questions drawing renewed interest’ 36 *Transfusion Medicine and Hemotherapy*, 2009, 330.

¹¹⁴ Bernard Appiah, ‘Promoting donation in Sub-Saharan Africa: Role of culture and interventions’ Doctor of Public Health, Texas A&M University, College Station, 2013,74.

such recognition. This can be seen by the announcement of and curating of a weeklong blood drive in honor of the world's highest blood donor, Mr Arjun Manali, and Kenya's highest female and male blood donors, Alpha Kennedy Sanya and Aisha Dafalla respectively, that took place in September 2019.¹¹⁵

- Receipt of gifts and/ or tokens: The Red Cross has been known to give refreshments, t-shirts and food to blood donors but not their cash equivalent. This kind of reward is believed to not only be a symbol of altruism but also a representation of the value of the human person.¹¹⁶ Among younger donors especially, who are the majority of donors in Kenya,¹¹⁷ these gifts may be tailored to their respective age groups¹¹⁸ in order to motivate an altruistic spirit of donation.¹¹⁹
- Free health screening, medical check-up and/ or wellness class.
- Loyalty cards: these would allow donors to collect points that they may redeem to acquire other incentives such as tickets, vouchers or coupons.¹²⁰
- Donor assurance: the national blood bank such as KNBTS could come up with an interface where they track donors who are eligible and active who can then give blood to be assured that when or if they ever need blood, then they too will be guaranteed of its availability. The tracking system that has been suggested is using a loyalty programme similar to that of convenient cards where a donor would acquire 'loyalty card points' each time they donate that they could either store and later redeem for any of the earlier

¹¹⁵ Wairimu Wangu, 'World's highest active blood donor in Kenya' Kenya National Blood Transfusion Services Donor Stories, 5 September 2019.

¹¹⁶ Francis Delmonico, Robert Arnold, Nancy Hughes, Laura Siminoff, Jeffrey Kahn and Stuart Youngner 'Ethical incentives not payment for organ donation' 346(25) *New England Journal of Medicine*, 2002, 2004.

¹¹⁷ Aggrey Omboki, 'Running low: The story of Kenya's blood bank', 12 June 2018.

¹¹⁸ For the other donors, these incentives may be tailored to the specific socio-economic groups to ensure they are equally attractive to all.

¹¹⁹ Gift items such as t-shirts, wrist bands, hematinics and certificates have proved helpful in Nigeria where secondary schools and university unions are involved in encouraging a culture of blood donation. Salaudeen A and Odeh E, 'Knowledge and behavior towards voluntary blood donation' 307.

¹²⁰ Alena Buyx, 'Blood donation, payment and non-cash incentives: Classical questions drawing renewed interest' 337.

mentioned incentives¹²¹ or use for primary guarantee of blood when in need. The latter would however be in consideration of several factors such as one's eligibility to donate, extent of need and compatibility of blood as done in the operation of an organ donation or transplant list.

- Devolved blood banks: One of the county functions within Kenya's devolved government, is county health services.¹²² Provision of primary healthcare can be understood to include the availability of blood for the use of the community within specific counties. A devolved bank could also incentivise donation as potential donors would know that the blood would be used in their immediate community. In addition, the county government would be able to tailor any gifts or tokens to the needs and wants of the county members.

While these various incentives could vary depending on different factors and options available to various governments, these incentives may be used to strike a balance between personal self-interest that motivates donation and reward for giving to the public. Where these incentives have already been offered, it has been made clear that the rewards are not for the donation but for showing up to donate and therefore potential donors need not lie about their health status in order to qualify for any such reward or gift.¹²³ In addition, owing to the safety concerns raised by the use of incentives, Kenya could employ a system where such donations would be flagged and therefore labelled as 'incentivised' for the blood testing to be as thorough as necessary.¹²⁴

4.3 Conclusion

As earlier discussed however, Kenya's legal framework only provides for voluntary non-remunerated blood donors.¹²⁵ However, Kenya remains blood insufficient. For this reason, it is important to understand the motivators and barriers to blood donation in Kenya to ensure there is

¹²¹ Alena Buyx, 'Blood donation, payment and non-cash incentives: Classical questions drawing renewed interest' 337.

¹²² Fourth Schedule Part 2, *Constitution of Kenya* (2010).

¹²³ Nicole Lacetera, Mario Macis and Robert Slonim, 'Economic rewards to motivate blood donation' 340 *Science Policy Forum: Public Health*, 2013, 928.

¹²⁴ Nicole Lacetera, Mario Macis and Robert Slonim, 'Economic rewards to motivate blood donation' 928.

¹²⁵ Section 85, *Health Act* (No. 10 of 2017).

adequate and constant blood supply.¹²⁶ A recent study of blood donors in Nairobi revealed that most donors are within the age group of 18 to 28 years old and mainly donate to help a friend or family member out of obligation.¹²⁷ While it has been recommended that a wider age group should be encouraged to donate blood,¹²⁸ some of the non-cash incentives listed above can be offered to potential donors to ensure more donations depending on the particular targeted group.

¹²⁶ Shamsudeen Mohammed and Harry Barton Essel, 'Motivational factors for blood donation, potential barriers, and knowledge about blood donation in first- time and repeat blood donors', 7.

¹²⁷ Njambi Njuguna, 'Factors influencing blood donation at selected sites in Nairobi, Kenya' Jomo Kenyatta University of Agriculture and Technology, Nairobi, 2012,44.

¹²⁸ Njambi Njuguna, 'Factors influencing blood donation at selected sites in Nairobi, Kenya' Unpublished Master of Science in Public Health, Jomo Kenyatta University of Agriculture and Technology, Nairobi, 2012,45.

CHAPTER 5: CONCLUSION

5.1 Introduction

This study sought to establish a case for the introduction of a system of non- cash incentives to motivate blood donors. Following the first four chapters, this chapter shall provide a summary of the primary findings and recommendations of the study.

5.2. Study Results

This research was primarily inspired by the repeated news headlines concerning Kenya's blood crisis and numerous blood appeals from Kenyan residents all over the country across various social media platforms. Upon further examination on Kenya's legal framework around blood donation, the author was convinced that there were ethical steps the country could take to move the country closer towards self-sufficiency. In order to demonstrate this, the study aimed to prove that non-cash incentives within a regulated policy framework would move Kenya closer towards blood sufficiency. Using several studies taken across different countries in Africa, the author sought to demonstrate the greater willingness of donors to donate when incentivised as well as the ideal parameters of those incentives that would ensure such motivation remains ethical. While it has been argued that monetary incentives may drown out altruistic donors, this research shows that the perceptions of community and community values have not changed over time. The African individual is still considered a part of the community to which they owe solidarity and reciprocity.

This research thus recommends that Kenya adopt a system of offering non-cash incentives to blood donors based on the particular groups of potential donors. This study recommends data collection, as recently alluded by the Cabinet Secretary for Health, concerning the willingness of the biggest cluster of donors, between the age of 18 and 28 years old, to donate upon the introduction of the incentives. Additionally, this data collection may include the particular incentives various potential donors may be more motivated by. It is also noteworthy that Kenya and Africa as a whole's willingness to adopt these incentives, against WHO's directives is heavily motivated by our particularly heavy reliance on family donors and local attitudes as well

as misinformation on the blood transfusion process. Further, the particular framework suggested for Kenya is a non-cash incentive system that offers rewards that are not readily convertible to cash, not transferrable, irredeemable and non-refundable. Further, through the tailoring of these incentives to particular groups motivations, this will encourage a wider group of donors as well as more donation from the current majority of donors, youth. With this framework, the offering of these incentives will rightly fall within the definition of voluntary non-remunerated blood donors as earlier defined. These incentives will have low monetary value, if any value at all, but also will not be readily convertible to cash.

5.3. Conclusion

Following the debate as to the African conception of the person and its further exacerbation in the African human rights debate, this research has been able to demonstrate Africa's evolving ideals all through to its neoliberal restructuring. By this discussion, the author has been able to fulfill its first objective by justifying the use of the incentives given Africa's current view of public goods that were formerly considered inalienable and available freely to all. By discussing, blood as a public good only when it is available under a voluntary blood remuneration system, this study was able to reveal through the various studies discussed, Africans preparedness to view blood as partially commoditised. Kenya, already a step forward, seeks to conduct research as to the viability of these incentives¹²⁹ and regulate this through the recently proposed Kenya Blood Transfusion Bill.¹³⁰ The insights provided are thus particularly important given Kenya's current position. Using the particular framework suggested, this research has indicated that the introduction of these incentives will increase blood supply by motivating more blood donors. This, will thus move Kenya closer towards self-sufficiency within a non-cash incentive framework too far from liquid to be anything but voluntary non-remunerated blood donation.

¹²⁹ Patrick Mwangi, 'Crisis looms as Kenya blood banks run dry' People Daily, 19 August 2019.

¹³⁰ Wachira Mwangi, 'Drying blood banks put lives of 16,000 Kenyans at risk' Daily Nation, 2 December 2019.

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