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INDIVIDUAL AUTONOMY AND THE PUBLIC INTEREST: SOME  
THEORETICAL CONSIDERATIONS

BY

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**DECLARATION**

I hereby declare that except for reference to works which I have duly cited and acknowledged, this thesis is my own work and that no part of it was taken from materials and works that have been accepted as part of the requirement for the award of any degree in any university.



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**Dedicated to:**

all who matter in my life



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**ABSTRACT**

This thesis starts off by showing or giving some evidence to support claims that traditional Akan societies, as well as many other traditional African societies, by some of their traditional beliefs and practices, suppress individual autonomy. That is to say, the continual observance of some beliefs and practices of traditional Akan societies makes the attainment of individual autonomy a problem. The observance of these beliefs and practices leads to the suppression of individual autonomy which in turn leads to frequent tensions between those who want to maintain the continuous practice of these traditional norms and beliefs and some individuals' attempt to be free. The thesis therefore seeks to show the importance of individual autonomy to every human being, both in traditional societies and even in modern states. The thesis also challenges some interpretations of the term 'public interest' as justifications given for the suppression of individual autonomy. To show that individual autonomy is not entirely antithetical or foreign to some of the beliefs and practices of traditional societies, as it is frequently argued, the thesis concludes by proposing a theory of a traditional Akan society that accommodates individual autonomy while still maintaining some of the principles that underlie the continual practice of some of their cherished and inherited cultural beliefs.

## INTRODUCTION

The main purpose of this thesis is:

- A. to show how important it is for individuals to enjoy their autonomy in any given society and that:
  1. traditional norms, beliefs, customs and practices are not to be used as justifications for denying individuals their autonomy,
  2. the 'public interest', not being a clearly defined concept should not be used as a justified excuse to deny individuals of their autonomy.
- B. The thesis also aims to show that the concept of individual autonomy is not entirely foreign to some of the beliefs and practices of traditional Akan societies and that within some of these beliefs and practices it is possible to tap some principles that can make the accommodation of individual's autonomy a reality.

This thesis starts off by showing or giving some evidence to support claims that traditional Akan societies, as well as many other traditional African societies, by their traditional beliefs and practices, suppress individual autonomy. That is to say, the continual observance of some beliefs and practices of traditional Akan societies makes the attainment of individual autonomy a problem. The observance of these beliefs and practices leads to the suppression of individual autonomy which in turn leads to frequent tensions between those who want to maintain the continuous practice of these traditional norms and beliefs and some individuals' attempt to be free. The thesis therefore seeks to show the importance of individual autonomy to every human being, both in traditional societies and in modern states. It challenges some interpretations of the term 'public interest' as justifications given for the suppression of individual autonomy. To show that individual autonomy is not entirely antithetical or foreign to some beliefs and practices of traditional societies, as it is frequently argued, the thesis concludes by proposing a theory of a traditional Akan society that

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accommodates individual autonomy while still maintaining some of the principles that underlie the continual practice of some of their cherished and inherited cultural beliefs.

Before proceeding, it will be important to give some brief definitions of some key concepts or terms. What do I mean, for example, by individual autonomy and who are these traditional Akan societies I am and going to be referring to? I start with the latter question.

To give us a little overview of the people referred to as Akans, let me borrow this extract from Kwasi Wiredu:

The word "Akan" refers both to a group of intimately related languages found in West Africa and to the people who speak them. This ethnic group lives predominantly in Ghana and in parts of adjoining Cote d'Ivoire. In Ghana they inhabit most of the southern and middle belts and account for close to half the national population of 14 million<sup>1</sup>. Best known among the Akan subgroups are the Ashantis. Closely cognate are the Denkyiras, Akims, Akuapims, Fantes, Kwahus, Wassas, Brongs and Nzimas, among others. All these groups share the same culture not only in basics but also in many details. Although the cultural affinities of the various Akan subgroups with the other ethnic groups of Ghana are not on the same scale as among themselves, any divergences affect only details. Indeed, viewed against the distant cultures of the East and West, Akan culture can be seen to have such fundamental commonalities with other African cultures as to be subsumable under "African culture" as general cultural type.<sup>2</sup>

Also, by 'traditional' Akan societies, I am referring to the period just before any colonial influence. I will sometime shift and refer to 'modern' (that is the post-colonial period) Akan societies or even modern day Ghana when I am of the view that the matter being discussed is still prevailing or relevant to it.

In attempting a definition of autonomy, one is faced with the daunting task of finding that definition adequate enough to capture the various senses that the word is employed in usage. I will, here, give just a brief introduction of what I mean by individual autonomy. A fuller description or explanation is given in chapter two

<sup>1</sup> The population of Ghana since the last population census in 2010 is now estimated to be around 24,223,431.

<sup>2</sup> Kwasi Wiredu, *Cultural Universals and Particulars: An African Perspective*, Indiana University Press, 1996, p. 157.

where I employed J. S. Mill's or Millian, and so if you like, a libertarian interpretation of individual autonomy.

From the origin of the word, we know the word 'autonomy' comes from the two Greek words for 'self', and 'rule' or 'law'. Autonomy, therefore, literally means 'self-rule'<sup>3</sup>. Thus we frequently hear or read that states are or should be autonomous, meaning states should or have the right to rule themselves. By individual autonomy I should also be taken to literally mean self-rule of the individual. My meaning of self-rule is expressed explicitly in these words of Isaiah Berlin;

I wish that my life and decisions to depend on myself, not on external forces of whatever kind. I wish to be the instrument of my own, not of other men's acts of will. I wish to be a subject, not an object.<sup>4</sup>

In short, by individual autonomy, I am talking about individuals being able to live their lives as they want to and not being controlled by any direct external forces. It is what Lindley summarises as "mastery over one's self, and one's self not being subservient."<sup>5</sup> Like I said, detailed explanation is given in chapter two but I am sure this will suffice in helping you follow the discussions below. I also will prefer, in this thesis, to use autonomy and freedom interchangeably to mean the same thing despite attempts by recent literatures to draw a distinction between the two.

In chapter one, I bring out some of the tensions, which as I will argue, arise out of some of the beliefs and practices of traditional Akan societies namely; the communalistic nature of traditional Akan societies, the influence of the family in individuals' lives, their value and expectations from marriage, the expected role and position of their women in their societies, including the elevated respect they give to persons of old age, persons of authority and their ancestral spirits, their superstitious character, the economic values and their

<sup>3</sup> Credit to Richard Lindley, *Autonomy: Issues in Political Theory*, Macmillan, London, 1986, p. 5, whom I borrowed the phrase 'self-rule'.

<sup>4</sup> Isaiah Berlin, *Four Essays on Liberty*, Oxford University Press, 1969, London, p. 131.

<sup>5</sup> *Ibid.*, p. 6.

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inheritance system. One is likely to find my account of traditional Akan societies here archaic and atavistic or perhaps not typical of any Akan society in this present time, yet it is my belief that these principles underneath these traditional beliefs and practices continue to linger on and surge up whenever individual's liberty and the maintenance of a certain status quo come into conflict.

What is the nature of the kind of autonomy that I claim is suppressed in traditional Akan societies and even in some modern states? Chapter two explains this kind of autonomy to be the autonomy based on the principle of non-interference. This kind of autonomy is achieved when individuals are allowed to pursue their own interpretation of the good life, that is, individuals are allowed to make and take decisions that are of their interest by themselves. I will agree with J. S. Mill that for individuals to remain or enjoy this kind of autonomy which is based on the principle of non-interference, it will be proper to have their choices and decisions not controlled by popular public opinions, customs and traditions and by government laws and policies. Thus governments and traditional authorities should not make laws and policies or hold on to traditional norms and beliefs that directly interfere in the private lives of individuals. I will point out that this kind of autonomy when enjoyed by individuals, appreciates their worth as rational human beings capable of making decisions for themselves. It also allows individuals to be innovative and creative without having to conform to a particular way of life throughout their life time. Autonomy based on the principle of non-interference makes individuals the master of their lives and prevents governments, traditional leaders or any other persons to have undue control over the lives of any individual.

To prevent chaos in the state or society because of inevitable conflict of interests among individuals pursuing their own agenda of a good life, I will agree with Mill that there is the need to set some amount of limit on individuals' freedom. I will agree with Mill that

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individuals are to be given their freedom in all things except in things that bring harm upon others and that the proper role of the state is to ensure that there is peace and order in society. The state is to ensure that individuals pursuing their own agenda do not bring harm upon others. Thus the only time interference by states or traditional authorities in the 'private' lives of individuals is justified is when an action by an individual can bring harm upon others. This is what I am calling the 'harm principle.'

Investigation into the proper role of the state and traditional authorities and what constitutes due interference and undue interference in the lives of individuals by the state and traditional authorities, will require of me to attempt an appreciation of the distinctions made between 'private' and 'public' realms. This is because if I am going to argue that states or traditional authorities are not to interfere in the 'private' lives of individuals except when actions by individuals can bring harm upon others, then it will be important to appreciate what make up for the 'private lives' and the 'public lives' of individuals. I will try to find out what accounts for the difficulties faced in finding a proper demarcation for these two concepts, 'public' and 'private'. I will find out whether it is possible to have a 'private realm' which is somehow distinct and separate from the 'public realm'. Using J. S. Mill's arguments, I will suggest that we consider the 'private' to be those actions or behaviours that do not bring about direct harm upon others and the 'public' to be those actions that have others involved in their harmful consequences. Nevertheless, there are certain situations where both the 'private' and the 'public' coincide. Here, I will show that there will be a need to find out which interest should be advanced in such a situation, but so far as individuals by their actions do not bring harm on others, such actions should be considered private and the principle of non-interference should be made to apply.

Not everybody will agree with my account of traditional Akan societies in chapter one, especially on how I will present traditional Akan societies as very authoritarian in

character. Such individuals will argue that traditional Akan societies, even though communitarian in character, allow for individuals' autonomy. Chapter three therefore seeks to challenge the argument made by 'moderate' communitarianism theorists that communitarianism as a theory of a good society accommodates individuals' liberty or that societies labelled as communitarian, like traditional Akan societies, do make room for the free expression of individuals' autonomy. I will show that if the argument by the 'moderate' communitarian theorists is true then their theory will not be any different from a liberal theory of a good society, since a liberal theory of a good society is what is noted for advocating individual autonomy. Similarly, I will show that the argument propounded by some liberal theorists that liberalism can also appreciate the worth of community living and solidarity among individuals just like what exists in communitarian theories, will also not make liberalism any different from communitarianism.

I will argue that unless we want to agree that the basis of a distinction made between communitarianism and liberalism is weak and so the distinction cannot stand, then we have to maintain a 'radical' position by our understanding of communitarianism and liberalism. Thus, unless we agree that communitarianism or societies so labelled as communitarian do not make room for the free expression of individuals' autonomy and that liberalism do not appreciate the worth of community, at least in the sense that communitarianism does, then we cannot maintain our hold on a strict distinction between communitarianism and liberalism since both theories will no more have anything that properly divide them as distinct and separate theories. I will however go along with the suggestion that these two theories, liberalism and communitarianism, should be explained as two theories belonging to different ends of the same spectrum. Thus, even though both theories acknowledge both communalistic and individualistic values, they do so with

different intensity. Such an explanation will make it possible to advocate for a communalistic society which makes room for individuals' liberty without any contradiction.

As noted earlier, the term 'public interest' is given many interpretations which are used as justifications for suppressing individuals' autonomy in both traditional societies and in some modern states. To have a better understanding of the term 'public interest' and to know whether any of its interpretations can be used to justify the curtailment of freedom to be enjoyed by individuals, Chapter four, seeks some theoretical considerations of the vague but frequently used phrase 'public interest'. Here, I will try to appreciate the difficulties involved in finding a proper definition for the phrase which is probably because of its subtle nature and also because those who use the phrase 'public interest' used it to mean so many things at different times. I will however come to the conclusion that it will be difficult to assume that that which is taken to be in the public interest will be in the interest of every single individual, for there will be some individuals who, no matter what the content of the public interest is, will have their interest not served or will be at the disadvantaged. I will therefore agree with Jeremy Bentham that one possible way of attaining the public interest is to allow individuals their liberty to pursue their own private interests. By so doing we can be assured that no one is left out by a policy assumed to be in the interest of all. This approach at the public interest is also in line with the proposed freedom of the individual based on the principle of non-interference. This approach at the public interest will also prevent governments, traditional authorities or any other persons from using their own understanding, interpretation or projection of what is in the public interest, which may be misinformed or misinterpreted, whether by malice or not, to push and order people into conformity to certain behaviour or ways of life as the only means of attaining the good life.

I will also find out in this chapter, if the 'public interest' can be made synonymous with that which promotes the cultural values of a society. Given the historical formation of

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cultures and the fact that cultural borrowing has been going on for ages among cultures, I will argue that it will be impossible to identify a set of cultural beliefs and practices known for example as Akan or Ghanaian culture which is authentic and indigenous to the people of Akan or Ghana without a dent of influence from other cultures. Again, I will find out whether it will be possible to make the public interest synonymous with the cultural values of a society or that which promotes these values, given the fact that some of the content of some of these cultural values are harmful, detrimental and even dehumanising to the people who practice them. I will conclude by suggesting that the public interest should not be made one and the same as the cultural product and values of a group or society, or that which promotes these values without taking into consideration the effect of these cultural products and values on the lives of individuals in the group or society.

To show that the kind of individual autonomy being described is not altogether antithetical or foreign to some traditional beliefs and practices, chapter five proposes a theory of a traditional Akan society that can accommodate individuals' autonomy while still maintaining some of the principles that underlie the continual practice of some of their cherished and inherited cultural beliefs. Some of these beliefs and practices that I will talk about will include the value traditional Akans place on the family, the importance they give to marriage and the worth they see in procreation. I will also talk about traditional Akans belief in human dignity, that is, the belief that all are equal in the eyes of God who created man. Finally, I will look into their communitarian character itself which develops in them a sense of brotherliness towards each other and requires of them to seek the general welfare of all. My aim is to find out some of the principles underlying these beliefs and practices which make them appealing to the Akan people and how the accommodation of individuals' liberty will fit into these principles. I will use same-sex marriage as my main example of an

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expression of individuals' freedom hoping that the principles or conclusion reached are applicable to other forms of individuals' free expressions as well.

**Chapter 1****EVIDENCE OF SUPPRESSION OF INDIVIDUALS' AUTONOMY IN  
TRADITIONAL AKAN SOCIETIES**

The aim of this chapter is to identify and present some beliefs and practices of traditional Akan societies of which the continuous observance poses a threat to individuals attaining their freedom to live their lives as they will want it. I argue that the continuous observance of these beliefs and practices sometimes leads to tension between individuals who want to be free to live alternative lives other than what is traditionally expected of them, on one side, and traditional authorities or individuals who want all to keep to the traditional norms, on the other side.

Before proceeding, I think it is important I point out that the kind of traditional Akan society I will be presenting here may not still be in existence anywhere in Ghana in this twenty first century, at least not in its entirety, mainly because of the influx of other cultures and also because traditional Akan societies are becoming more and more permissive of alternative ways as the days go by. Nevertheless, the issues and discussions raised here are still relevant today because the tension between individuals and society discussed here still emerges even in modern day Akan societies and even in many modern African states. Many, you will find, are quick to lament that some new or current practices pose a threat to some of their traditions.

Traditional Akan societies were selected because there one can find the sources of all their beliefs and practices including those that are no more held on strictly as before by present day Akans and those that still are. It is also important to note that I do not by these accounts of beliefs and practices of traditional Akan societies assume them to be solely prevailing in traditional societies and not to be found in any modern societies or that these accounts remain exclusive to traditional Akan societies alone. I am not making a claim that

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there is suppression of individuals' autonomy in traditional Akan societies just because they are traditional, neither am I entirely condemning traditional Akan practices.

My purpose, rather, is to point out some beliefs and practices of traditional Akan societies which I believe the continual observance leads to the suppression of individuals' autonomy. It is possible that some of these beliefs and practices are still in practice even in many modern societies. We will come to see an example of this in subsequent chapters when I give an example of how an expression of individual liberty (specifically same sex marriage) is suppressed by some traditional practices of the Akan people.

Among these traditional Akan societies in Ghana, there are a number of still prevalent beliefs and practices of which the continuous observance does not give room to their individual members to freely express themselves. That is to say, the continual observance of some beliefs and practices of traditional Akan societies makes the attainment of freedom a problem. These beliefs and practices lead to the suppression of individuals' freedom which in turn leads to frequent tensions between those that want to maintain the status quo of these traditional norms and beliefs and the attempt by some individuals to act in accordance with their personal views and convictions. The communalistic nature of traditional Akan societies, the influence of the family on individuals' lives, their value and expectations from marriage, the expected role and position of their women in their societies, including the elevated respect given to old age, authority and ancestral spirits, their superstitious character and their economic values are all contributing factors which in a way contributes to the suppression of individuals' liberty.

Traditional Akan societies are noted for their communalistic character. This communalistic character requires that members of the Akan societies place great importance and emphasis on communal values which include, but not limited to, a shared social life, a high rate of interdependency and mutual aid and the maintenance of clan or kinship ties

which comes with some expected obligations from members. Almost every activity of individuals in traditional Akan societies is supposed to be geared towards this one purpose – the common good of the society or the common interest of all. There is, as a result, great difficulty in separating the ‘private’ lives of individuals from that of the ‘public’. That is to say, there exists a thin line of demarcation between ‘private’ and ‘public’ life in traditional Akan societies. Even with things concerning whether one will want to marry or not, the choice of a marriage partner as well as the choice to have children or not, are not just individual’s ‘private’ decision to make, but rather are made while taking into consideration the interest of the larger family or clan and at times the interest of the entire community at large and also not without some influences from parents and other family members.

Members of traditional Akan societies, as such, tend to exhibit a high degree of conformity to values, beliefs and norms. This is mainly due to the features of these traditional societies to live a shared social life and to work towards the common good of all in the society. This search for the common good of all require of individuals to often consider the flourishing and success of the whole community more than their own. This will most often require one to blend into the group and do as has always been done. It is primarily, the requirement to conform which tends to suppress individuals’ autonomy and prevents any form of deviation from the everyday norms and traditions. Individuals therefore are not given ample room to exercise their independence away from prevailing community values.

Individuals’ actions are to be within the framework and jurisdiction of the community if he or she wants to fit into the community. With proverbs such as “when a person descends from heaven, he descends into a human society” to show, as Gyekye puts it, that “human person is communal by nature, a social being from the very outset,”<sup>6</sup> and others like “a person is not a palm-tree that he should be self-complete” to mean that “the individual

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<sup>6</sup> Kwame Gyekye, *African Cultural Values: An Introduction*. Sankofa Publishing Company, p. 36.

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person lacks self-sufficiency,"<sup>7</sup> individuals are encouraged to seek first the good of the society and just like the good book says, "and all other things shall be added on to them."

In looking for details, traditional Akan societies, for example, are noted for the great value and importance they place on the family. Gyekye noted that:

The communal values such as solidarity, mutual helpfulness, interdependence, and concern for the well-being of every individual member of society, find their highest and most spontaneous expression in the institution of the family. Indeed, the family itself is held as a fundamental value—a social as well as moral value.<sup>8</sup>

Family, for the Akans, includes all members of the extended family; of those whom one believes to share a common blood or ancestral relation. There are of course many positive benefits that the individual can enjoy from belonging to a family or a clan. The family, for example, gives to the individual an identity, support in times of need and a sense of belonging. At the same time, some features of these family ties and bonding place a lot of restraints on the individual's liberty. The family, for example, plays a highly influential role in the individual's choice of marriage partner. Every family or clan has its own traditional requirements, obligations and expectations of each individual member. Gyekye again noted that:

...each individual member of the family is brought up to think of himself or herself always and primarily in relation to the group of his or her blood relatives and to seek to bring honour to the group of his or her blood relatives and to seek to bring honour to the group...children have obligations to their parents and parents have obligations to their children. Both the father and the mother who fulfil or have to fulfil their obligations to their children are members of extended families and so have obligations to members of their extended families as well.<sup>9</sup>

It is as a result of these expectations, responsibilities and obligations that sometimes result in some tensions between some individuals who want to live their lives free of these obligations

<sup>7</sup> *Ibid.*, p. 37.

<sup>8</sup> *Ibid.*, p. 75.

<sup>9</sup> *Ibid.*, p. 75-76.

and expectations, and those who want to maintain the traditional family structure and its requirements.

The influence of traditional Akan family structure on the lives of its members extends even to the choice of marriage partner. There are some families that are a no go area for family members, for reasons which might perhaps be linked to some ancestral feud. This, for instance, places restrictions on the individual's choice of marriage partners and so should it happen that two individuals should fall in love with each other they will have no choice but to curtail that love if their family traditions do not support their union. In many cases the only available choice left for the two lovers is to run away together cutting away all family relations. In some situations, family members get to pick and choose spouses for their members who are seen to be ready for marriage in what is called a fixed marriage. Again, in such situations, individuals involved in the fixed marriage do not have a choice as to whom they will marry and may even be seeing their marriage partners for the very first time on the marriage day. Such marriages are conducted under the belief that with time the two couples will learn to love each other. Such marriages take away the individual's freedom to choose for him or herself whom he or she wants to share their life time with in marriage. Here, tension arises if an individual, for instance, insists on marrying the woman or man he or she is in love with and yet family members have also arranged his or her marriage with another person whom he or she has no idea about.

There is also the expectation of family members after one of their members gets married. Marriage in traditional Akan societies brings to the man and woman some elevated and respectable social status. Noted rightly by Dzobo, "confirmed singles are thus considered useless persons whose names should be blotted out of memory."<sup>10</sup> Apart from the elevated social status marriage confers to couples, traditional Akan societies consider procreation as

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<sup>10</sup> N. K. Dzobo, "Values in a Changing Society: Man, Ancestors and God" in Wiredu and Gyekye (ed.) *Person and Community*, The Council of Research in Values and Philosophy (1992), p. 233.

the major reason for marriage. Thus a married man with children receives higher respect than a married man with no children. Dzobo, for example, reports that:

Man's ultimate goal as an individual and as a member of his clan therefore is to multiply and increase because he is the repository of the creative power, the right use of which is his chief responsibility. Likewise, when a woman marries the most important thing that she takes to her husband's house is her productive powers because this is the essential part of her nature.<sup>11</sup>

It is therefore expected of every married couple to give birth to children to continue the extension of the clan and the preservation of family names. Married couples in traditional Akan communities are therefore not at liberty to decide for themselves whether they will want to be parents or not. Whether the couples are economically sound or not, whether the couples abhor children or not, they must go out of their way and satisfy family members or face the continual wrath and intrusion of their marital home by family members. Thus Emmanuel Abraham also noted that:

In African traditions, marriage is procreative in its primary purpose. Accordingly, women who have attained menopause do not in general remarry and in some societies e.g. among the Nargi, their current marriage can be terminated in this circumstance. Men, likewise, are not expected to marry, unless they have a chance of fathering children, and subsequent impotence and sterility in a married man can cause him to lose his wife.<sup>12</sup>

This report by Abraham is also true of traditional Akans. In many instances, the refusal or inability of married couples to give birth can lead to the annulment of the marriage by family members. Many Married couples of traditional Akan societies, as a result, do not enjoy the privacy of their marital home since there are constant intrusions by other family members. Here, the tension arises when you have some married couples who do not want to have any children of their own but only want to enjoy the company of each other.

<sup>11</sup> N. K. Dzobo, "The Image of Man in Africa," in Wiredu and Gyekye (ed.) *Person and Community Ghanaian Philosophical Studies, I*, The Council of Research in Values and Philosophy (1992), p. 131.

<sup>12</sup> Emmanuel Abraham, "Crisis in African Cultures," in Wiredu and Gyekye (ed.) *Person and Community Ghanaian Philosophical Studies, I*, The Council of Research in Values and Philosophy (1992) p. 20.

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Family members in traditional Akan societies are also expected to show concern for each other's needs. No one is expected to live a selfish and isolated life but must show commitment to the flourishing of the family. Wealthy family members are therefore obliged to cater for the needs of the less privileged ones. Uncles, in matrilineal communities, are expected to take care of their nieces and nephews in their upbringing, education, and in their professional training. These demands can put financial strains on individuals and also place restrictions on who individuals want to help or what they want to do with their wealth.

When it comes to the suppression of individual rights and freedom in traditional Akan communities, women are especially vulnerable as compared to the men. Even though Akan traditional practices and norms place restrictions on the autonomy of both men and women alike, the restrictions placed on women are more profound. Women in traditional Akan communities are considered to be the weaker sex and so made to submit wholly to the authority of the men. Roles have been clearly marked out and demarcated into feminine and masculine and it is required of every man to play a masculine role and of every woman to play a feminine role. Fighting and going to war, for example, are considered to be roles played by men. It is also considered the role of men to be elders of their clans and of the communities, who make decisions that affect the clan and the community on the whole.

Women are not expected to go to war neither are their views sort or considered when it comes to matters of family interest. It is also believed that the rightful place of the woman is the kitchen where she is expected to cook food for the household. The expectation from women to do things that have been marked as womanly and the expectation from men to play roles that are considered manly do serve as stumbling blocks for both men and women alike. This expectation of respective role playing for respective genders curtails the development of interests in areas which are not considered appropriate for either sex. Here, there are signs of tension when men and women develop alternative interests in certain roles

and jobs traditionally not associated with their sex. Such individuals are negatively tagged and receive name callings.

One will find out in traditional Akan communities that the men are allowed to marry as many women as they can economically provide for but their women are not given this liberty. Girls are betrothed at very young ages to older men to become second and third wives without their consent being sought. Women are not supposed to possess any economic property of their own and so any woman that acquires any form of economic wealth must entrust it in the hands of her husband.

There is also the widowhood rite. When a man loses his wife he can, shortly after the funeral, go ahead and marry another person but the same cannot be reported of the woman. Widows are required by traditional family norms to go through a long process of widowhood rites, most of them very dehumanising. Widows are for example made to sleep by the corpse of their dead husbands for weeks, not allowed in public places for some period of time and made to mourn their husbands for months. Widows who refuse to go through these rites are accused of being responsible for the death of their husbands. After the widowhood rites have been observed the woman does not again have the liberty to marry whom she desires or the liberty to remain without a man. Some traditional laws permit the eldest brother of the widow's husband to marry the widow as part of the eldest brother's inheritance of his deceased brother. These are evidence of the suppression of women's liberty or autonomy in traditional Akan societies which are a potential cause of tension.

Moving on from the suppression of women's liberty, there is also in traditional Akan communities a highly elevated respect given to people of old age and persons in authority. In these societies age is of a great essence. The number of years one has is supposed to determine the level of one's experience, knowledge and wisdom in all aspects of life. Old people are therefore consulted for advice and ideas whenever there are conflicts or

the need for some major decisions to be taken. No matter the level of education of a young man, his knowledge and wisdom is not to be compared to that of an uneducated aged man. Aged people are also considered to have the power to curse people who wrong them and bless those who offer aid and services to them.

When could understand why older people are considered wise. There more years one has, the more the accumulation of life experience yet as Gyckye noted, "age and knowledge should not be equated with wisdom."<sup>13</sup> Acquiring all the experience and knowledge of the traditions and norms does not make one automatically a wise person in as much as having knowledge of all the moral laws doesn't make automatically make one a moral person. Beside, one person cannot have access to all of life experience.

This elevated respect for old age and the assumption of wisdom associated with persons of old age, has some positive sides in that these old people are not neglected from societies but are given opportunities to continue to contribute to the flourishing of their clans and communities. At the same time, this elevated respect for the elderly and the association of wisdom to them leads to these elders projecting and exerting their thoughts and ideas on the rest of the people. Since the elders are considered to know best, since the elders are right, the youth must submit to the demands and directives of the elders even if they have alternative interests and perceive things differently. Since it is considered detrimental for the young to challenge the authority and wisdom of the elderly for fear of a curse of one's life being short lived, the youth will have to succumb to wishes of the elderly, since this is what is perceived as an assured way of living a long life as well and for one to also receive respect from the youth in one's old age. It is not only the youth who are expected to succumb to their elders. Grown up men and women who might be married with children of their own also must show respect for their elders and listen to their counsel if they want to receive the

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<sup>13</sup> Kwame Gyekye, *African Cultural Values: An Introduction*, Sankofa Publishing Company, p. 143.

blessings of old age and longer life on earth. Here, tension arises when the youth as well as grown up men and women want to follow a course which the elderly are against. Going by their own convictions will imply neglect of their elders and succumbing to the elderly will mean the given up of their autonomy.

Apart from the highly elevated respect for people of age and the association of wisdom to them, there is also a highly elevated respect for and reverence towards ancestral spirits. Ancestors are considered to be spirits of certain dead relations who are believed to have led an exemplary life during their time spend on earth. These ancestral spirits are believed to have both the experience of mortal life and spiritual life having lived in the world of man and now in the world of the spirits. They are also known to have supernatural powers to bless or curse the living. They are also believed to be protectors of their clans against bad omens and spirits. This is how Wiredu conceived of them;

The ancestors are conceived of as persons who continue to be members of their pre-mortem families, watching over their affairs and generally helping them.....in view of their presumed power to promote human well-being, they are approached with considerable respect.<sup>14</sup>

Ancestors are therefore held in high esteem and are regarded as custodians of tradition. There is therefore an obsession to follow tradition as given or handed down to present generations by the ancestors. This is to ensure that the ancestors are not wronged or angered because of some deviation from known customs. This obsession to follow the path of the ancestors leads to a high level of conformity to beliefs and practices. It is what greatly stands in the way of individual creativity and the development of alternative methods and behaviour which are seen as a deviation from the ways of the ancestors. Individuals' freedom of expression is therefore confined to only those which tradition will permit. Tension therefore emerges between individual creativity and the maintenance of tradition when

<sup>14</sup> Kwasi Wiredu, *Cultural Universals and Particulars: An African Perspective*, Indiana University Press, Bloomington and Indianapolis, 1996, p. 47/48.

individuals develop certain ambitions, alternatives behaviours and desires that are contrary or outside the scope of known and prevailing traditions.

It is also the desire of everyone to become an ancestor after his demise. Wiredu again noted that “everybody hopes eventually to become an ancestor.....ancestorship is simply the crowning phase of human existence.”<sup>15</sup> Because of this hope and desire to one day become an ancestor, individuals must leave their lives in a way and manner acceptable by his society for it is not anybody at all who can qualify to be an ancestor. As noted by Dzobo “[ancestorship] is conferred upon those who earn them by the excellent title and is earned by living virtuously in this life.”<sup>16</sup> Dzobo<sup>17</sup> further identified the conditions of becoming an ancestor as marriage, having children, being in good health, and dying of a natural cause in one’s old age. The first two conditions confirm my earlier comments of how importance marriage and the bearing of children are important to traditional Akan societies. With these conditions to look out for, members of traditional Akan society wanting to become an ancestor (because if one fails to attain the ancestor title after one’s demise that individual is generally assumed to have led a reckless life not worthy of mention or emulation) will have play his traditional role well and not deviate or acquire an alien believe or character. This again leads to a life of conformity and fear of alternative lifestyle.

Traditional Akans’ obsession with religion further contributes to the suppression of individuals’ autonomy. It is said that religion and spirituality permeate all aspects of a traditional Akans’ life, so much so that Akans find it difficult to differentiate between the religious and the non religious. In commenting about Akan’s religious attitude, Wiredu noted that:

There is, indeed, generally among the Akans a confirmed attitude of unconditional reverence for *Onyankopon*, the Supreme Being.....they

<sup>15</sup> Ibid., p. 48.

<sup>16</sup> N. K. Dzobo, “Values in a Changing Society: Man, Ancestors and God” in Wiredu and Gyekye (ed.) *Person and Community*, The Council of Research in Values and Philosophy (1992), p. 231.

<sup>17</sup> Ibid., p. 233-234.

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regard Him as good, wise, and powerful in the highest. He is the determiner of human destiny as of everything else.<sup>18</sup>

This obsession with religion makes them superstitious, so much so that they tend to give spiritual and religious connotation to almost everything thing that happens around them. When one discovers the healing powers of certain herbs and plants, for example, he is said to have received the revelation from dwarfs in the forest or directly from some gods. If one's farm fails to yield good crop at time of harvest, it said to be a curse from either an enemy, ancestors or from the gods. In all of these instances no proper scientific investigations are conducted to ascertain the true cause but rather gods are consulted for rituals to be made to avert the cause. These superstitions can sometimes become a potential threat to individuals' freedom. This is because individuals who develop interests outside the permit of tradition or exhibit alternative behaviour lying outside the norms are condemned as influenced and bewitched by evil spirits. Attempts are made on such persons to get these evil spirits exorcised and when they are not successful such individuals become outcasts and are labelled as witches and wizards. The superstitious explanations given to alternative behaviours and interests outside the norm suppress individuals' liberty since individuals must act in accordance with traditional requirements so as not be called witches or seen to be possessed with evil spirits. This places some restrains on creativity, innovations and individual self development.

Some economic values of traditional Akan communities also undermine individuals' search for freedom. As noted above the communal nature of traditional Akan societies makes the welfare of the community the primary goal of all. Economic structures are also arranged to foster similar goal, which is to achieve the common good of all. In traditional Akan communities, land is the main source of economic wealth. Chiefs are said to

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<sup>18</sup> Kwasi Wiredu, *Cultural Universals and Particulars: An African Perspective*, Indiana University Press, Bloomington and Indianapolis, 1996, p. 46.

be the custodians and trustees of all the lands in the community which are held to be communally owned. Chiefs and elders have the power to distribute the land to families as they deem fit yet guided by the common good of the community. Thus Gyekye rightly noted that:

Land, a fundamental property in African society, is communally owned. The Chief or the head of the lineage or clan is the custodian of the land. His position is that of a trustee, holding the land for the clan or the whole community (village or town). He is invested with the power to manage and administer the communal property, but he is under an obligation to do so in the interests of the members of the community or the lineage (clan), all of whom also have a title or right to claim ownership of the land itself.<sup>19</sup>

The only sort of private ownership of land that existed in traditional Akan society was that which belong to clans and lineages. Even with these ones, the lands are under the trusteeship and custody of the clan heads who had the authority to distribute it among the family members to work on. Individuals therefore cannot have as much land as they want or even use the allocated land for the kind of business or investment they desire. How the land is used is decided and approved by family heads or the chief of the land. Traditional Akan economic values therefore suppress private ownership of land and the development of individual entrepreneurial skills of their members.

The nature of traditional Akan inheritance system also challenges the attainment of individuals' freedom. There are traditional laws regulating the distribution of dead relatives' property among the family members. Individuals do not have the liberty to go against family traditions and decide to whom their property should go to after their death. In matrilineal societies the eldest brother of the deceased inherits most of the properties including the wife and the children left by the deceased. In other situations, properties of a deceased family member are shared equally or proportionally among family members. This means that

<sup>19</sup> Kwame Gyekye, *African Cultural Values: An Introduction*, Sankofa Publishing Company, p. 96-97.

individuals who want to leave their properties directly to their children and wives cannot do so. If one's household is inherited by an irresponsible brother or cousin then it will lead to the neglect of the deceased children and the complete destruction of one's wealth and business.

Commenting on the nature of traditional African inheritance system, Gyekye noted that:

The inheritance systems of many communocultural groups in most African societies are such as raise the expectation of a number of members of a lineage (or extended family) to inherit, or at least have claim to the property left by a deceased wealthy member of the family.<sup>20</sup>

Gyekye was here lamenting on how the inheritance system of traditional African societies leads to the collapse of many industries after the demise of the founder due to family members all claiming part of the company. It is this same inheritance system that also suppresses individual autonomy. The inheritance system and laws act as an impediment to individuals' freedom of choice and decision making. Tension here emerges when individuals want to leave their property as a form of inheritance to some specific individuals or persons but family tradition would not allow.

In conclusion, this chapter has sought to provide evidence to show that the continual observance of some traditional Akan beliefs and practices has the tendencies to suppress the autonomy of the individuals. I have tried to show that some of the beliefs and practices of traditional Akan societies stand detrimental to the attainment of individuals' autonomy and that the continual observance of these beliefs and practices often leads to tension emerging between some individuals who want to be free from traditional ways of life and some persons who may want the status quo of traditions to always prevail.

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<sup>20</sup> Kwame Gyekye, *Tradition and Modernity*, Oxford University Press, Oxford, 1997, pp. 252-253.

**Chapter 2****THE NATURE OF INDIVIDUALS' AUTONOMY AND ITS IMPORTANCE****Introduction**

Autonomy of the individual, as I have been showing in the previous chapter, is very difficult to achieve in traditional Akan societies. What is the nature of this autonomy that is said to be lacking in traditional Akan societies and how are we to realize this kind of autonomy? In this chapter, I present a classical libertarian view of what is meant by autonomy of the individual and why this kind of autonomy is important for any theory of a good society. I will employ essentially J. S. Mill's principle of 'non-interference' and also agree with him that the only justified interference in the lives of individuals by states or traditional authorities is the one based on the 'harm principle'. Together the two principles say that individuals in a society are to be given the freedom to live their lives without any interference from others except when their actions bring harm upon others. This investigation will lead me to further investigate into the public and private dichotomy as a way of identifying the proper limits to governments' or traditional authorities' intrusion in individuals' affairs and also the proper limit to this autonomy that is supposed to be enjoyed by individuals.

**Section 1: Classical liberal view of individuals' autonomy**

I will be using essentially the views and ideas of John Stuart Mill in his book *On Liberty*<sup>21</sup> mainly because I believe the ideas and views expressed by him concerning individuals' freedom have been and still are very influential in the writings of many liberal philosophers. Hardly will any modern liberal theorist writes without making reference to

<sup>21</sup> J. S. Mill, *On Liberty*, 1859, Batoche books, Kitchener, 2001.

Mill's work and ideas expressed in his book *On Liberty*, either by directly quoting him or indirectly presenting some aspects of his thoughts. That is to say that the influence of Mill's thought on the idea of autonomy of the individual on modern liberal theorists cannot be overemphasized and so I believe it is only prudent that I start my investigation of individuals' autonomy using his views. One recent liberal thinker who has been fascinated by the thoughts and ideas of Mill on individuals' autonomy is Kwame Anthony Appiah. One can find influences of Mill in many of his works on individuality and personal freedom. This is evident in his works like *The Ethics of Identity*<sup>22</sup>, *Cosmopolitanism*<sup>23</sup> and in his paper titled "Liberalism, Individuality, and Identity."<sup>24</sup>

In brief, we can describe Mill's conception of individuals' autonomy as based on a principle of non-interference; that is, for Mill, individuals in any society are to be allowed their liberty of tastes and pursuits, of framing the plan of their life to suit their own character, of doing as they like subject to such consequences as may follow so far as they do not harm others in the process. The kind of individual autonomy therefore in contention, the kind which is said to be lacking in traditional Akan societies, is the one just described by Mill, which is the principle that individuals in a society are to be given the freedom to live their lives without any interference from others except when their actions bring harm upon others. The exception which I called 'the harm principle' will be discussed as we go along. It is this principle of non-interference that I argue is absent in traditional Akan societies.

Some of the beliefs and practices of traditional Akan societies pose a problem because they take away the liberties of individuals and place authority in the hands of their leaders who determine the kind of life their individual members are to live in order to attain these leaders perception or conception of the good life. I argue that it is because of the

<sup>22</sup> Kwame Anthony Appiah, *The Ethics of identity*, Princeton University Press, Princeton, USA, 2005.

<sup>23</sup> Kwame Anthony Appiah, *Cosmopolitanism: Ethics in a World of Strangers*, W. W. Norton, New York, 2006.

<sup>24</sup> Kwame Anthony Appiah, "Liberalism, Individuality, and Identity", *Critical Inquiry*, Vol. 27, No. 2 (Winter, 2001).

continuous observance of some of these traditional norms and practices which takes away individual autonomy, that leads to frequent tension between individuals, who want to do things their own way and traditional authorities, whose quest is to maintain the status quo.

Human freedom, we all have come to appreciate, is not absolute. There are many hindrances that prevent man from achieving all that he wants, when he wants it and how he wants it. Some of these hindrances are man-made while others are natural. Some of them we can control and overcome yet others are at the moment beyond our natural capabilities to control and so we learn to live with them. The kind of hindrances on individuals' freedom that Mill challenges here is the kind that are man-made and hence within human power to control or remove. Mill essentially wants to put the power of decision and choice in the hands of the individual. For Mill, individuals are to be the authors of their own lives by deciding for themselves how they want to live their lives. Individuals should be at liberty to make their life choices without any influences from their fellow men in any form (so far as their actions do not bring harm upon others).

Mill realized that individuals' autonomy or the enjoyment of freedom by individuals could be hindered in several ways; It could be hindered through the use of force by means of government's policies and laws enforced by its security apparatus (that is when we bring to government-citizens relationship). Thus it is possible for certain government policies or laws to impede or restrict the enjoyment of individuals' liberty. This can manifest itself in so many ways. It could manifest itself in the economic life of the people, as in certain trade policies, price ceilings and the placement of embargoes on the provision of certain goods and services. Government policies can also affect the social life of the people as in certain laws and policies that do not acknowledge marriages among certain groups of people like homosexuals or dictate the number of children families are to have.

Apart from government or state interventions in the liberties of its people, there is also what Mill referred to as the “tyranny of the majority”<sup>25</sup> which he describes as an evil which societies must guard against. “Tyranny of the majority” is when the choices and preferences of the majority in society are generally assumed as what is right and usually imposed on the minority group. By so doing, anybody with a contrary view and preference is ridiculed and considered a misfit. In order not to be a misfit or attract social ridicule, individuals in such societies who may have different preferences are influenced into succumbing to the generally accepted norm of behaviour.

In the traditional community settings, like that of traditional Akan societies, it is possible for individual autonomy to be taken away by the insistence to observe and follow tradition as it has been handed down to the current generations by their ancestors. I will now in the following paragraphs be considering how the continuous observance of some traditional beliefs and practices can and do hinder the enjoyment of individual autonomy.

In the traditional Akan societies which I have been describing, one can clearly see evidence of the suppression of individuals' autonomy. There is a strong passion on the side of traditional authorities and even the among majority of the people to protect traditional norms and values from what they believe to be external intrusions of different cultures. This passion allows for very little change in how things are done and if any major changes should occur at all they take very long time to happen.

The obsession of keeping to the status quo, that is, that which has been done by our ancestors over the years, moves traditional authorities to demand strict adherence to beliefs, norms and practices. As has been shown already, individuals who develop alternative life choices and behaviours are considered deviant and become outcasts without any consideration as to allowing them the free expression of their autonomy. They either have to

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<sup>25</sup> J. S. Mill, *On Liberty*, 1859, Batoche books, Kitchener, 2001, p. 8.

succumb unwillingly to these traditions or face constant hostile social opposition which sometimes forces them to live their preferred lifestyle in secrecy.

Mill wants choices and decisions taken by individuals to be devoid of the direct influences by traditional leaders and authorities through their traditional beliefs and practices (in case of traditional societies); devoid of intrusions by states through their laws and policies (in case of a state); devoid of influences of public opinions. Individuals' decisions are to be their own, reached after careful reasoning. As I mentioned in the introduction, this is what Lindley summarises as "mastery over one's self, and one's self not being subservient."<sup>26</sup>

R. S. Downie and Elizabeth Telfer also gave us a further understanding to what it mean to have mastery over one's self. This they did when they asked us to see an autonomous man as the man who has the "capacity to choose what to do, whether he will do X or refrain."<sup>27</sup> the word 'capacity' here shouldn't be seen to be referring to physical strength or capability but rather the absence of any external physical restraint caused by a third person.

Again, they described as autonomous, the man who has the capacity to choose what to think.<sup>28</sup> This is could be described as referring to 'psychological freedom' that is the ability to think what one wants to think without any fear of punishment. This 'psychological freedom' can be influenced by physical external forces like the inability for one to freely choose what he wants to do for himself. If one is not free to choose what he wants to be then he will also not be free, in a way, to choose what he thinks since he fears that such a thought might lead him to do what he is not allowed to do which will in turn attract some form of punishment or public ridicule.

Downie and Telfer also described one as autonomous "in virtue of a capacity to think what he likes on moral matters, make up his own mind on moral issues, decide for

<sup>26</sup> Richard Lindley, *Autonomy: Issues in Political Theory*, Macmillan, London, 1986, p. 6.

<sup>27</sup> R. S. Downie and Elizabeth Telfer, "Autonomy", *Cambridge University Press on behalf of Royal Institute of Philosophy*, Vol. 46, No. 178 (Oct., 1971) p. 293.

<sup>28</sup> *Ibid.*, p. 294.

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himself what he ought to do, choose his own moral position."<sup>29</sup> They perceive this to be one of the characterizations of what they call 'moral individuality' which should be found in any autonomous individual. In brief, Downie and Telfer's understanding of an autonomous man, the man who is a mastery of himself, is the man who has the capacity or free to choose for himself his actions, free to choose what he wants to think and free to choose what to do given any moral situation. The lack or absence of these in an individual constitutes the lack or absence of individual autonomy.

Returning to Mill, Mill sees individuals who live their lives in accordance with what people expect of them are not autonomous. Such persons, Mill believes, are more like puppets controlled by prevailing public opinions or simply are ape-like imitators dancing to the tune of others:

He who lets the world, or his own portion of it, choose his plan of life for him, has no need of any other faculty than the ape-like one of imitation. He who chooses his plan for himself employs all his faculties.<sup>30</sup>

From the above quotation it can be said that Mill's conception of an autonomous person involves one who chooses his plan for himself and to do this means that one is capable of employing all his faculties. By this Mill meant that humans are rational beings capable of thinking for themselves and of making and taking decisions that are in their interest. In the following words, Mill explains further what he meant by the employment of all of one's faculties. He claims that:

The human faculties of perception, judgment, discriminative feeling, mental activity, and even moral preference, are exercised only in making a choice. He who does anything because it is the custom makes no choice. He gains no practice either in discerning or in desiring what is best. The mental and moral, like the muscular powers, are improved only by being used.<sup>31</sup>

<sup>29</sup> *Ibid.*, p. 295.

<sup>30</sup> J. S. Mill, *On Liberty*, 1859, Batoche books, Kitchener, 2001, p. 55.

<sup>31</sup> *Ibid.*

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From this we can infer that by the employment of all of one's faculties, Mill meant that an individual should rely on his sense of perception which brings to him all sorts of experience, his moral prowess which gives him the power to discern between what is good and what is bad and the mental faculty which he uses to make for himself good judgement. An autonomous person will need to apply or exercise all these faculties to become a master of his own life for anyone whose life choices depended heavily on popular opinions and traditional demands are not employing their mental faculties, for they have allowed others to do the thinking for them. Mill claimed that every individual should be seen as the best judge on matters concerning himself. He should be the author of his life and not just follow a manual written down a priori by the family, society, or state.

Perhaps we could link Mill's claim of an autonomous man employing all of his faculty in making a rational decision or choice and Downie and Telfer 'moral individuality' to Kant's version of an autonomous individual. Kant was of the view that a good moral decision can and should be made by an autonomous will. He describes an autonomous will as "the property that the will has of being a law to itself."<sup>32</sup> He describes a will which is not autonomous as heteronomous will, that is, a will that:

...seeks the law that is to determine it, anywhere but in the fitness of its maxims for its own legislation of universal laws, and if it goes outside of itself and seeks this law in the character of any of its objects.<sup>33</sup>

A Heteronomous will, for Kant, does not give itself the law but rely on external influences. Here, even though Kant was referring to acting because of some ends, that is, either because of some benefits or to avoid some harm or pain, it is still possible to relate the autonomous will (the will which is a law to itself independent of any external influences) to the

<sup>32</sup> Immanuel Kant, *Grounding for the Metaphysics of Morals*, translated by James W. Ellington, Hackett Publishing Company, Indianapolis/Cambridge, 1981, p. 44.

<sup>33</sup> *Ibid.*, p. 45.

autonomous individual (the individual who takes his own decision without any direct external influences).

Kant was of the view that humans are rational beings who are capable of a will, that is, to be able to reason and act through arriving at beliefs and desires.<sup>34</sup> It is this rationality and possession of a will that differentiates humans from non-humans. It is also what makes every human individual worthy of respect. So Kant describes man as having 'absolute worth'<sup>35</sup> and entreats that we treat men as an end themselves and not as means to certain end. In Kant's view, "man, and in general every rational being, exists as an end in himself and not merely as a means to be arbitrarily used by this or that will."<sup>36</sup> Inferring from this, we should respect the rationality or the will of every individual, allowing them to make their own choices, and not force them to leave their lives in in certain prescribed ways in order to achieve someone's conception or idea of the good life. Humans, as rational beings, should be masters of their own lives.

From Mill and the other authors considered, we can say that traditional Akan societies, so described in chapter one, or any society which does not allow for the free expression of its individual members does not conceive of its individual members as rational and therefore capable of deciding for themselves what they want their lives to be. They will therefore need the authorities to direct them as to the best way to live their lives. It will mean that individuals in these societies, so described, are not allowed to employ their full faculties since their authorities have already developed for them a handbook that will guide them throughout their life. As a result, individuals need not do any serious thinking for themselves to know how they are going to live their lives since all they have to do is follow the norm and inherited family traditions. Like Mill said, such individuals are no more than ape-like

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<sup>34</sup> *Ibid.*, p. 23.

<sup>35</sup> *Ibid.*, p. 35.

<sup>36</sup> *Ibid.*, p. 35.

imitators. Individuals are rather to be given the liberty to think and make choices for themselves since they have it in them as rational agents to do so.

At this point authorities from traditional Akan societies might come in to challenge this principle of individuals' autonomy on the basis that every individual lives in a society or is born naturally into an already existing society and so inevitably will be influenced by society in diverse ways. A person's environment alone places certain limitations on him: the kind of friends he walks with, the school he is taken to, the family he is raised in and a whole gamut of social factors are continually hitting at him and influencing his choices and decisions. Even if the individual has to make a life for himself, he will still need the social institutions and structures provided by the community, and so all this talk about an autonomous individual free from social pressures is never attainable. S. I. Benn identified this same concern or counter argument when he asked the question that:

Are we not all governed by the basic pre-suppositions of a society which has provided the very conceptual structure of our world, the traditions into which we have been inducted, the demands of roles we have internalized?<sup>37</sup>

To which he gives what I believe to be the most appropriate response that:

The autonomous man does not rest on the unexamined if fashionable conventions of his sub-culture when they lead to palpable inconsistencies. He will appraise one aspect of his tradition by critical canons derived from another. As the artist or the scientist must draw on the resources of a tradition to contribute creatively to its development, so an autarchical man must construe it for himself to become autonomous.<sup>38</sup>

Benn understood and appreciated the fact that individuals can be and are influenced by a whole gamut of social factors, some of which individuals will have no control over. Yet, he believed that the autonomous man must do his own critical self appraisal to these social and cultural experiences and then make his own decision as to which of these experiences he will

<sup>37</sup> S. I. Benn, "Freedom, Autonomy and the Concept of a Person", *Proceedings of the Aristotelian Society*, New Series, Vol. 76 (1975 - 1976), p. 126.

<sup>38</sup> *Ibid.*, pp. 126-127.

like to adopt. Individuals should be free to choose and reject any of the experiences they so wish without any fear or intimidation from their fellow men.

Mill was also not oblivious to this possible counter-argument from traditional leaders. Like Benn Mill agrees with the view that cultural tradition and other social factors can play some role in individuals' choices yet he believed that individuals still have it in them to forge their own path of life. He was of the view that:

[The individual] must use observation to see, reasoning and judgment to foresee, activity to gather materials for decision, discrimination to decide, and when he has decided, firmness and self-control to hold to his deliberate decision. And these qualities he requires and exercises exactly in proportion as the part of his conduct which he determines according to his own judgment and feelings is a large one.<sup>39</sup>

Thus the autonomous man should not allow himself to be oblivious to happenings and experiences around him. He should not be oblivious of history but rather must give his own rational appraisal of these happenings, experiences and history and then create for himself his own path. In the final analysis, it should be up to the individual to say that this is what he wants his life to be. It is only when the individual makes a rational decision by thinking through his choices and deciding that this is what he wants for himself and that he wants it because it is what he thinks will benefit him or be to his interest, that we can call such a person autonomous. Thus given all the social factors that play some role in individuals' decision making, individuals can still become autonomous just by employing their full faculties in deliberation and decision making.

Observation of man in society confirms that an individual can still 'be of himself' despite numerous social conditions affecting his decision making. That is why it is possible to find individuals who have been raised and trained within certain cultural experience to grow and develop contrary alternative values from those cultures they were trained in. A boy

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<sup>39</sup> J. S. Mill, *On Liberty*, 1859, Batoche books, Kitchener, 2001, p. 55.

can be trained in a seminary most of his life but can still grow to develop different interest in medicine or business. Such an individual can become autonomous by going for what he wants among the available alternative of experiences and not what is expected of him by family traditions or public opinions. In the traditional Akan society described in chapter one as being authoritarian through the suppression of individuals' autonomy, individuals are brought up in traditional norms and practices, trained in these traditions and made to know their roles in sustaining these traditions. As they grow up it is possible for their interests to change either through influences from other cultures or through a natural desire to be something different. As noted by Erich Fromm, "the more the child grows and to the extent to which primary ties are cut off, the more it develops a quest for freedom and independence."<sup>40</sup> (By 'primary ties' Fromm meant ties with parents and cultural influences.) Any attempt to quench this thirst for freedom can lead to internal psychological conflict for the individual which might later lead to negative rebellion against these obstacles, which here will be parents and the upholders of traditions.

Having said this, I think it is important to mention that an autonomous person is not necessarily the one who is said to always or constantly go against the prevailing norms of his or her society. Individuals can choose for themselves the way of life of family traditions or follow the prevailing norms of their societies and still remain autonomous if after having rationally thought through their options they decide that following the norm is what will benefit them. In this instance, the individual is not identifying himself with popular opinions or demands just because they are the prevailing interest of the masses which they have no choice but to succumb to against their personal interest, but rather such an individual believes these prevailing norms are in consonance with his or her own interest and agenda. The difference between the two is that unlike the former, the latter individual can give a rational

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<sup>40</sup> Erich Fromm, *The Fear of Freedom*, Routledge, London and New York, p. 23.

reason for going along with prevailing norms and traditions and the reason would not be because everybody else is doing it, or that it was because defenders of traditions and customs will want him to or by the forces of popular social demand, but rather because it was what he willingly wanted to do. That is why S. I. Benn would have us distinguish between "one who simply accepts the roles society thrusts on him and uncritically internalizes the received *mores*, from someone committed to a critical and creative conscious search for coherence and the truth in doing what he is doing."<sup>41</sup>

It is true that familial relations and ties influence the choices and decisions of individuals. Traditional norms and even public opinions can somehow affect individuals' judgement and decision making. These facts are unavoidable. So far as men continue to live in society and maintain contact with each other, individuals are bound to be influenced by one idea or another. This is not what the principle of individuals' autonomy wants to challenge. The principle of non-interference rather challenges the claim that individuals are to succumb to these influences without developing alternatives of their own. It challenges the view that individuals are to uphold prevailing norms as the only definition of the good life or that individuals having benefited from these practices, norms and institutions are obliged to keep practicing them in the same way and manner they received it without making any change, whether radical or small. The principle of individuals' autonomy rather holds that since individuals are rational beings with minds of their own, they are to be given the freedom to choose among the various experiences they encounter from all aspect of societies how they will prefer to live their lives without fear, intimidation or intrusion from their fellow men.

Allowing individuals' autonomy to prevail in society does not also mean that traditional norms and values are not respected or should be abandoned altogether. A

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<sup>41</sup> S. I. Benn, "Freedom, Autonomy and the Concept of a Person". *Proceedings of the Aristotelian Society*, New Series, Vol. 76 (1975 - 1976), pp. 126-127.

community's traditions represent one way of life and could be the chosen way of life for some individuals so far as the norms and practices within these traditions attract them. Traditions are therefore not to be totally abandoned but rather improved upon and made more attractive to its members and also others outside these traditions. Anthony Appiah<sup>42</sup> noted that there are two different ways for an individual to express autonomy and accuses Mill of not coming clear as to which he is arguing for in his essay *On Liberty*. Appiah held that in one way, an individual can remain autonomous simply by being different from all others through the creation of his own alternative lifestyle or idea hitherto unknown or seen before by anyone. In this instance, the individual can be said to have contributed to diversity for he would have introduced something new. This is what perhaps might be termed as 'authenticity in self-creation'. In another way, an individual can remain autonomous by just being a master of his own plans and decision but not necessarily bringing about something new altogether. In this instance, the choice or decision he arrives at on his own may be the choice and decision of others as well yet because he arrived at it by his own volition without being coerced, we can say of him that he is autonomous:

For I might choose a plan of life that was, as it happened, very like somebody else's and still not be merely aping them, following them blindly as a model. I wouldn't, then, be contributing to diversity (so, in one sense, I wouldn't be very individual), but I would still be constructing my own in another sense, individual plan of life<sup>43</sup>

This second sense of individual autonomy described by Appiah is consistent with what I have been describing in previous paragraphs. Appiah however wants us to interpret Mill as advocating for both senses and not just for the first sense and I think I would want to agree with him.

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<sup>42</sup> Kwame Anthony Appiah, "Liberalism, Individuality, and Identity", *Critical Inquiry*, Vol. 27, No. 2 (Winter, 2001), pp. 312-313.

<sup>43</sup> Kwame Anthony Appiah, "Liberalism, Individuality, and Identity", *Critical Inquiry*, Vol. 27, No. 2 (Winter, 2001), pp. 312-313.

Given the realities of societies, it is very difficult to achieve individual autonomy of the first kind, which for individuals to meet, individuals must demonstrate something quite different from everyone else and through that add to diversity—that is, if it is a matter of choice, the individual must choose something which has never been chosen before: if it is a matter of behaviour, the individual must demonstrate a behaviour which hitherto was unseen before. This type of autonomy is difficult to attain because as it stands now our choices and decisions, are more often than not, the choices of others as well. Individuals however can still claim to be autonomous if we genuinely come up with an idea ourselves oblivious to its existence already elsewhere. Let's take for example someone in a small town in Ghana, who after some careful thoughts comes out with the initiative to become a rap artist. His initiative is authentic in the sense that he is the first in his town to come out with such a project and he came out with this project without any direct external influence of rap music elsewhere. He was not aware at the time that his initiative has been developed already in other places. We can call such a person autonomous in this sense for he might not have added to the diversities in the global society but has done so for his small town which hitherto knew no rap music. Again, as mentioned earlier, an individual can also be autonomous when he adopts or identifies with certain traditions or way of life and makes it his own only when he came to it through his own volition.

It is because individuality of the first kind is difficult to achieve and because one can identify with certain traditions and still remain autonomous in the sense just described that we should not absolutely dispense with traditions. Since according to the principle of individuals' autonomy individuals are at liberty to choose among experiences or traditions, it should be possible to have some aspects of certain traditions rejected by some individuals and yet embraced by others. It is also often the case that whenever one rejects the cultural practice of a community his or her chosen alternative is likely to be that of another culture.

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All over the world we hear of individuals rejecting the culture of their birth and embracing the cultures of other societies. We need not compel people to conform to one specific cultural tradition but rather leave the decision in the hands of individuals themselves. If they find certain cultural tradition in line with their own life agenda then they will embrace it themselves.

So far in this exposition, I have identified an autonomous individual to be the kind of individual who is a master of himself, in the sense that he chooses his own direction of life. Achieving this autonomy will require that individuals enjoy a life of non-interference in things that affect them directly, a non-interference by the state, traditional leaders or by public opinions.

Here, Akan traditional authorities may argue that allowing individuals their autonomy in the sense that I have described, without interference whatsoever from the state or traditional authorities, might lead to a society which is unsafe to live in. This, they may continue, is because of possible conflict of interests that may arise among individuals in societies and so unless there is some amount of intrusion in the lives of individuals peaceful coexistence cannot be attained in society.

These concerns are true and largely a possibility. To solve this problem we will need to set some limit to the freedom we asking for individuals. This is where the part of Mill's principle of non-interference I referred to as the 'harm principle' will come in useful to address the concern of the traditional authorities and governments. Remember Mills principle of non-interference comes with a proviso. The principle and its proviso together read that 'individuals in a society are to be given the freedom to live their lives without any interference from others except when their actions bring harm upon others'.

principle' is what is needed to properly delimit the autonomy of the individual and address the concerns of the traditional authorities.

Thus the argument which may be posed by traditional authorities will not arise when the role of states and traditional authorities are properly defined. Mill, at the beginning of chapter four of *On Liberty* identified this same problem and asked:

What, then, is the rightful limit to the sovereignty of the individual over himself? Where does the authority of society begin? How much of human life should be assigned to individuality, and how much to society?<sup>44</sup>

The summary of his response is quoted as follows:

Each will receive its proper share, if each has that which more particularly concerns it. To individuality should belong the part of life in which it is chiefly the individual that is interested; to society, the part which chiefly interests society.<sup>45</sup>

Mill was of the view that individuals should be rightly given their autonomy in all matters that concern them, thus he makes a distinction between things that interest only the individual and other things that are of the interest to the society. Mill held the view that there are matters that concern the individual and those that concern society. The state does not have the right to interfere in matters that concern the individual but can only intervene in issues that include the welfare of others as well. This is what is said to have contributed to the distinction made between what is said to be 'private' and what is said to be 'public'. It is assumed that states or authorities need to stay clear of the 'private lives' of individuals and only to concern themselves with things of 'public interest'. The fear for the loss of order in society so described by traditional authorities because individuals have been granted autonomy will therefore not arise because the role of states will be to ensure that individuals by the expression of their autonomy do not bring harm to others. That is to say that as soon as the consequences of one's actions bring about harm not only to the individual agent of that

<sup>44</sup> J. S. Mill, *On Liberty*, 1859, Batoche books, Kitchener, 2001, p. 69.

<sup>45</sup> *Ibid.*

act but upon others as well, the state is justified to intervene. The proper role of the state or authorities is to ensure peace, security and mutual coexistence among individual members of the society. In the words of Mill:

That the only purpose for which power can be rightfully exercised over any member of a civilised community, against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant. He cannot rightfully be compelled to do or forbear because it will be better for him to do so, because it will make him happier, because, in the opinions of others, to do so would be wise, or even right. These are good reasons for remonstrating with him, or reasoning with him, or persuading him, or entreating him, but not for compelling him, or visiting him with any evil in case he does otherwise.<sup>46</sup>

Mill has by this given the only provision that should justify governments' interference in the lives of individuals. This provision is when actions by individuals do not only affect them alone but others as well, thus, unless one's actions bring about harm on others the state does not have any reason for interference. This provision seeks to define the proper limit of individuals' autonomy and that of the state and will ensure that peace prevails in societies even while individuals enjoy their autonomy. Mill was perhaps of the view that as soon as one's actions bring harm upon others it fails to become 'private' but 'public', the state then can interfere. This proviso does not permit the state to interfere in my affairs even with the intention, be it genuine or not, to prevent my own harm.

The only thing the state can do if it anticipates my destruction because of my actions and choices is to at best persuade me, protest, encourage, entreat and reason with me to consider my actions. It might present to me alternatives and show me how these alternatives might lead to a better fulfilling life. All these the state can do but what it cannot do is to force me into doing something other than what I want to do so far as what I want to do brings no harm upon others except my own self, otherwise it will constitute an abuse or the taken away of my autonomy.

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<sup>46</sup> J. S. Mill, *On Liberty*, 1859, Batoche books, Kitchener, 2001, p. 13.

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Using Mill's proviso we can argue that leaders of traditional authoritarian societies are not justified in denying their members their autonomy so far as their actions and choices do not bring harm upon others. The burden of proof is on leaders of traditional societies to show how the granting of autonomy to their members will bring harm on others or society. They will have to show how allowing individuals their autonomy to marry whomever their heart desire will lead to more harm than good. They will have to show how allowing same sex marriages can bring harm on others when these actions and choices have been taken by two consenting adults. Similarly, they will have to show how allowing couples to decide whether they want to have children or not will bring harm on society.

It seems from the above discussion of the proper limit of the state that the principle of non-interference except when individuals' actions lead to or can be shown to lead to some harmful consequences on others can only hold when the distinction between private and public lives or realms is accepted or defined. We learned from Mill that governments and authorities are not to concern themselves in matters that are of individual interest, which are usually referred to as private but are to concern themselves with matters of public interest, that is, when consequences of actions and behaviours does not only involve the individual agent. The next section will consider this distinction made between private and public realms and find out if the distinction holds true or not. If the distinction holds, then we need to know where the private starts and leaves off for the public to begin. On the other hand, if the distinction does not hold then we need to find out what becomes of the principle of non-interference with its proviso.

## **Section 2: The Public and Private Divide**

The notion of the 'private' makes some sense when it is contrasted with the 'public'. Nevertheless, making the distinction between these two is not at all an easy task mainly

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because of the subtle nature of these two notions. It may be due to the fact that these two notions never seem to have a fixed meaning or ascription but rather their meanings or ascriptions keep changing over time. Consequently, some things or activities which were definitely considered private some hundred or fifty years ago now have their nature becoming questionable and opened to debates. It is also common to hear individuals agitating that their governments or leaders are intruding on their private space. Social and political theorist, Jeff Weintraub, also gives us another reason why the public/private distinction is difficult to draw. He believes:

The use of the conceptual vocabulary of 'public' and 'private' often generates as much confusion as illumination, not least because different sets of people who employ these concepts mean very different things by them- and sometimes, without quite realizing it, mean several things at once.<sup>47</sup>

These discourses of public and private, he believes, cover a variety of subjects that are analytically distinct and, at the same time, subtly—often confusingly—overlapping and intertwined.

Despite the difficulties in drawing a distinction between the two realms, perhaps a distinction of a kind is still essential for political, legal, moral, economic and social theorization, since all of these theories rely on this distinction in formulating policies and laws. In politics, a distinction between the private and the public realm is needed in order for governments to know which of their policies are to the benefit of the public as a whole and which are to the benefit of individuals. It is also needed, as I have been showing, to know how far governments or leaders should interfere in the lives of their citizens. In the legal sphere the distinction is needed to know which laws are public or civic and which are private—for public laws are seen to be those laws that have to do with the relation between

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<sup>47</sup> Jeff Weintraub, "The Theory and Politics of the Public/Private Distinction" in Jeff Weintraub and Krishan Kumar, ed. *Public and Private in Thought and Practice: Perspectives on a Grand Dichotomy*, p 1.

the state and individuals while civic laws are laws that have to do with issues concerning individuals or groups that has nothing to do with the state. In moral and ethical debates, the distinction again becomes relevant especially in debates concerning abortion, euthanasia, suicide and homosexuality. This is because while some would argue that individuals do indeed have a right to make decisions on moral and ethical issues, others would not agree and believe it is an issue of 'public' concern. There seems therefore to be a growing concern to separate one's 'private' life from that of 'public' life and to be given the sole authority of jurisdiction in things held to be 'private'. It is believed that some decisions are 'private' and so should be devoid of 'public' probing while others should be brought to the 'public' domain. In articulating the importance of the distinction, Gerald Turkel shows how understanding the distinction between public and private is needed to understand what is meant by individual autonomy and also the conduct of legal actions. He asserts that:

The dichotomy appears necessary for individual autonomy, the maintenance of social institutions, and the conduct of legal action; at the same time, it tends to legitimate and mystify patterns of inequality and structures of power through which individual autonomy, social institutions, and legal actions are accomplished.<sup>48</sup>

There have been numerous attempts to properly set the distinction between the 'public' and 'private' and I want at this moment to look at some of them and their possible implications and difficulties. Jeff Weintraub<sup>49</sup> identifies four major ways in which public/private distinctions are currently made in social and political analysis. The first he calls the liberal-economist model which sees the 'public' as the administrative state and the 'private' as the market economy. The second he calls the republican-virtue and classical approach which regards the 'public' as the realm of political community based on citizenship and the 'private' as both the market and the administration state. He sees the third approach

<sup>48</sup> Gerald Turkel, "The Public/Private Distinction: Approaches to the Critique of Legal Ideology", *Law & Society Review*, Vol. 22, No. 4, Special Issue: Law and Ideology (1988), pp. 801-802.

<sup>49</sup> Jeff Weintraub, "The Theory and Politics of the Public/Private Distinction" in Jeff Weintraub and Krishan Kumar, ed. *Public and Private in Thought and Practice: Perspectives on a Grand Dichotomy*, p. 7.

as socio-historical and anthropological in nature, where here 'public' life is considered to be a shared social life. The fourth is what he calls a Marxist feminist approach where the family is considered to be "private" and the larger economic and political order, 'public'.

According to Weintraub<sup>50</sup>, despite the numerous forms of public and private distinction, there lie at least two fundamental and analytically quite distinct kinds of imagery in terms of which the private can be contrasted with the public. These two kinds of imagery are:

1. What is hidden or withdrawn versus what is open, revealed, or accessible.
2. What is individual, or pertains only to an individual, versus what is collective, or affects the interests of a collectivity of individuals. This individual/collective distinction can, by extension, take the form of a distinction between part and whole (of some social collectivity).<sup>51</sup>

A look at Weintraub's fundamental distinctions between the private and the public shows that first of all the private is taken to be what is hidden or withdrawn. But the question we can ask is what is hidden and withdrawn from whom? Is it everybody or some few people? It is possible for somebody to do some things by himself, hidden and withdrawn from every other person, yet he can also do some things withdrawn from some people but known to some other people. Which of these situations would we call private? The first would give us a very thin and strict definition of the private and would rule out anything that is shared by more than one person while the second would include too much.

Weintraub also characterizes the public to be what is open, revealed or accessible. The problem with this characterization is that there are some things that even though considered public, are not open and accessible to all. For example, it is not everybody who can have access to the president or his office even though he is a public figure and his office is said to be a public space. Similarly, there are some things considered private but yet open

<sup>50</sup> Jeff Weintraub, "The Theory and Politics of the Public/Private Distinction" in Jeff Weintraub and Krishan Kumar, ed. *Public and Private in Thought and Practice: Perspectives on a Grand Dichotomy*, pp. 4-5.

<sup>51</sup> *Ibid* p. 5.

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and accessible to all. An example will be a privately owned public transport. It is also not always the case that things done hidden are private. When a man defiles a young girl in a dark and abandoned place, his action is hidden but that does not make it private. This may perhaps be because his action brought harm not on himself but on another person who did not willingly agree to be harmed.

S. I. Benn and G. F. Gaus<sup>52</sup> also suggested that public and private vary along at least three dimensions: (a) interest, distinguishing whether benefits or losses are communal or restricted to individuals; (b) access, referring to the openness of facilities, resources, or information; and (c) agency, which refers to whether a person or an organization is acting as an individual or as an agent for the community as a whole. Their second dimension is similar to Weintraub's fundamental distinction and thus faces similar predicaments which is how open and accessible should resources or information be to be considered public. Should it be open and accessible to some few people or to everybody?

The first dimension they provide however is worth looking into. In their first dimension given above, something is considered private if the end result benefits or harms the individual agent alone, and public when it is the interest of the community or society that is at stake. This characterization of the distinction between the private and public actually reflects the position of Mill as we have been discussing above. Recall that for Mill, actions should be considered private so far as their consequences bring no harm upon others except upon the individual agent of the act. This is similar to what Benn and Gaus are claiming in the first dimension they provided for the distinction between the public and the private. When the benefit or loss of an individual action is restricted to the individual then we are to

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<sup>52</sup> S. I. Benn and G. F. Gaus, *Public and Private in Social Life*, New York: St. Martin's Press, (1983) in James L. Perry and Hal G. Rainey "The Public-Private Distinction in Organization Theory: A Critique and Research Strategy", *The Academy of Management Review*, Vol. 13, No. 2 (Apr., 1988), p. 184.

consider these actions as private, but if the benefit or loss affects others or has to do with the welfare of the entire community then his or her action is no more held as private but public.

This characterization however does not pass without its own problem or two. First of all, we are not able to tell whether the benefit, harm or loss that Mill, Benn and Gaus are describing should be immediate benefits or remote benefits or both. There are also some actions that benefit both the individual and the community at the same time. Take for example, an individual who buys a private car and uses it for public transport in a certain community. Here the benefit is both to the individual and the community. He gets to make some money out of rendering the service and at the same time aids members of the community in their movement from one place to another. If this individual decides to destroy this car, can we argue that he does not bring harm only to himself since he would be destroying his means of livelihood, but also bringing harm to others since he would be denying many people a means of transportation. It is also difficult to identify specific actions which consequences do not, one way or the other, affect others as well.

From the above discussions so far, it seems that any attempt to make a clear cut distinction between the public and the private is fraught with practical and conceptual difficulties. Some authors already frustrated with the uncertain division between the public and private want to suggest a third realm which is supposed to be an intermediary of the two. They argue that the two way distinction is incoherent because it seems from the above discussion that no matter how hard we try to apply it we end up in a kind of dilemma. The form of the dilemma is like this: if X and Y are distinct and if A belongs to X then we expect that A has only the property of X, but A, it seems, possesses some of the properties of X and some of Y. So A belongs neither to X nor Y but belongs to both. So they hope by proposing a third realm they will solve the problem posed by the uncertain dichotomized boundaries. One person who holds this sort of position is Alan Wolfe. Alan Wolfe showed that the usual

divide of 'public' and 'private' realms does not reflect what is on the ground, especially of modern societies. He therefore, in addition to the two realms proposed a third realm which is supposed to be an intermediate of the two. This is how Wolfe formulated his trichotomy:

First there is the *private* sector in which we appropriately judge behaviour by whether it maximizes individual freedom or self interest; a *public* sector in which we make decisions that are meant to apply equally to everyone in the society (even as we recognize the near impossibility of doing this)<sup>53</sup>; and a realm of distinct *publics*. These publics—by which I mean families and kinship networks, associations, ethnic and racial groups, linguistic communities, and other similar communities of interest, identity and belief<sup>54</sup>

Wolfe held that this third realm has the features of both the public and the private realms. He further thought that this intermediate realm is the ideal way to preserve both the freedom found in the private realm and the normative constraint posed by the public realm.

The theory of a third realm with both the features of the private and public does not really take away the problem of the distinction. This is because it is only possible to speak of this third realm with both the characteristics of the private and public realms, when you have fully and clearly identified and delimited the two realms. Since the third realm is assumed to have some features of the private and public realms, it would mean, first of all, that we agree that there are two distinct realms call private and public and secondly we can clearly differentiate the features of these two realms. But this is what we have been having difficulties at doing, that is, trying to find out if there are indeed two distinct realms called private and public. The theory of a third realm is therefore an antecedent to us determining a clear demarcation between the private and the public realms and so would not help us clear the difficulties in properly making the distinction.

<sup>53</sup> His distinction between the public and the private is quite similar to Benn and Gaus's first dimension where they differentiated between the public and the private on the basis of who is benefiting.

<sup>54</sup> Alan Wolfe, "Public and Private in Theory and Practice: Some Implications of an Uncertain Boundary" in Jeff Weintraub and Krishan Kumar, ed. *Public and Private in Thought and Practice: Perspectives on a Grand Dichotomy*, p. 196.

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Do we then abandon or give up the attempt to draw a distinction between these two realms and consider the public and private as an illusion? Does the attempt to formulate a third realm show that we can't have a distinction between the public and private? Duncan Kennedy is of the view that:

The development of intermediate terms means formal recognition that some situations are neither one thing nor another –neither public nor private –but rather share some characteristics of each pole, as in the case of private businesses affected with a public interest<sup>55</sup>

But answering the above posed questions in the affirmative can lead to serious consequences for our principle of non-interference. It will lead to difficulties in telling when intrusions by governments or states in the lives of individuals are justified or unjustified, since we will not have any clear basis for judging. It will mean that the tension between individuals and states will continue to exist and the fear of the traditional authorities will materialize since such an uncontrolled situation will lead to chaos in society. It will give authorities the justification to interfere in the lives of their members, for they will argue that that is the only way to keep law and order in society. Despite a lack of a clear and distinct division of the two realms, abandoning the division all together will not be a remedy. It is important we have at least some sense of public life and some sense of private life.

What is private should be a combination of some of what has been suggested by some of these authors. The private is personal; it stands to benefit the individual person or institution at least as the main focus, all other persons who benefit from it do so as a byproduct of that act. At the same time the private should be free from the scrutiny of others unless the individual agent wills it to be otherwise. The public, on the other hand goes beyond one individual. Numbers make up for the public. The public points to many people outside the individual but at the same time includes the individual. What is considered public should

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<sup>55</sup> Duncan Kennedy, "The Stages of the Decline of the Public/Private Distinction", *University of Pennsylvania Law Review*, Vol. 130, No. 6 (Jun., 1982), p. 1351.

in theory be opened and accessible to all albeit in practice not all have access. Like Weintraub suggested, the public can mean the citizens of a country, sometimes not including the state as an administrative body and other times including it. Families when compared with the state is private yet since it involves more than one individual who have interactions with each other, it could be considered public and will sometimes require state's interventions to regulate how these individual members relate with each other. This is necessarily to prevent abuses within families.

The distinction between private and public remains important because there is the need to give individuals some jurisdiction in some aspect of their lives without being told by others what and how they should live their lives. One appropriate way to draw the line is to go along with Mill's proviso, which is to consider the private to be those actions that do not bring about direct harm to others and the public to be those actions that have others involved in their harmful consequences. There are of course certain situations where both the private and the public coincide and there will be a need to find out which interest should be advanced in such a situation. As Mill puts it:

As soon as any part of a person's conduct affects prejudicially the interests of others, society has jurisdiction over it, and the question whether the general welfare will or will not be promoted by interfering with it, becomes open to discussion. But there is no room for entertaining any such question when a person's conduct affects the interests of no persons besides himself, or needs not affect them unless they like (all the persons concerned being of full age, and the ordinary amount of understanding). In all such cases, there should be perfect freedom, legal and social, to do the action and stand the consequences.<sup>56</sup>

### Section 3: conclusion

From the discussion so far, I have shown that an autonomous individual is the individual who is able to enjoy freedom which is based on the principle of non-interference.

<sup>56</sup> J. S. Mill, *On Liberty*, 1859, Batoche books, Kitchener, 2001, p. 69.

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Such autonomy is achieved when individuals' ways of life are self-chosen or self-created. Such an individual is a master and author of his own life and comes to his decisions and choices through the rational employment of all of his faculties. His ability to make and take decision for himself is what differentiates his individuality from apes, robots and puppets who do not have any power of will but act on instincts, how they have been programmed, and under the control of the puppeteer respectively. For individuals to remain or enjoy their autonomy their choices and decisions should not be controlled by popular public opinions, customs and traditions and by government laws and policies. Individuals can learn from norms, traditions and customs and even from popular opinions but out of these experiences, individuals should be given the freedom to choose for themselves how they want to live their lives. Traditional authorities also do not have any excuse or justification to use the preservation or continuity of certain traditions as basis for interference in the personal life of its members.

The kind of individual autonomy that is being advanced here is aimed at allowing individuals to accept their differences. It is aimed at appreciating that individuals have a mind of their own and are able to make rational informed decisions by themselves using the whole gamut of experiences they pick from society and from their relation with others. It is also to show that no single person has or group of persons have the best and only true understanding of what constitute the good life which all other individuals are supposed to follow religiously without question. That is, it is better for individuals to follow their own life agenda and make their own mistakes than to be a puppet directed by the views and opinions of the masses or used to fulfil some people's own personal agenda.

Achieving this individual autonomy will require a high level of tolerance from all. People who show difference in character or behaviour should not be burnt as witches and wizards but respected for their difference. It will mean that we tolerate differences in sexual

orientation, religion, political associations or any form of associations and social groupings. It will mean that traditional authorities do not have to tag some individual preferences as unnatural and a threat to existing culture but rather consider them to be alternative ways of life which all are at liberty to pursue. It also requires that laws that are made by governments are properly intended to maintain public peace, security and order and not to take away the freedom of individuals. It is aimed at celebrating the worth of individuals as rational agents who have the ability to be creative and innovative. Individual autonomy therefore is important and must be upheld by all societies and must be inclusive in any theory of a good society.

We also realized from our discussions that for individuals to properly enjoy their autonomy there is a need to have some form of distinction made between their private lives and public lives. Despite the difficulties faced in finding a clear and distinct distinction of these two lives of the individual, I conclude that it is important that some sense of a distinction is maintained to prevent authorities of all kinds controlling all aspect of the lives of their people and also to identify the proper limit to individual's freedom. I therefore proposed that perhaps going by Mill's non-interference and harm principle may give us some solution. Thus all activities by individuals are to be considered private so far as these activities do not bring harm on others and public as soon as their actions bring harm upon others. This solution, I must admit, is not entirely devoid of its own problems and challenges but, as I said before, it will serve society and individuals better if we maintain some distinction between the private and public lives of individuals, where individuals are given the power of jurisdiction over their private lives than to say that there is no distinction between the two realms and live individuals and authorities to do what they deem fit.

**Chapter 3****THE ALLEGED POLARITY BETWEEN COMMUNITARIANISM AND LIBERALISM****Section 1: Introduction**

In the previous chapters I have argued that some practices of traditional Akan societies lead to the suppression of individual autonomy. One key feature in traditional Akan societies that makes the suppression of individual autonomy inevitable is their communitarian nature. I showed in chapter one that the communitarian nature of traditional Akan societies requires of their members to place great importance and emphasis on communal values which include, but not limited to, a shared social life, a high rate of interdependency and mutual aid and the maintenance of clan or kinship ties which comes with some expected obligations.

Not every communitarian theorist will agree with this position that the communitarian nature of traditional Akan societies makes the attainment of autonomy by their individual members very difficult. For some communitarian theorists, it is an error to describe communitarianism as a social theory which makes the attainment of individual autonomy a problem. They will therefore have us distinguish between an authoritarian society and the kind of communitarianism they are advancing of which some of them believe properly reflects the situation on the ground. They argue that it is possible for communitarianism or for a communitarian society to uphold the freedom of individuals. As a result they make a distinction between 'radical' or 'strong' communitarianism and 'moderate' communitarianism. This chapter looks at the differences between these versions of communitarianism and aims to find out whether it is possible to advance a 'moderate'

communitarian theory still keep it different from its best known rival, the principle of liberalism.

## Section 2: The debate

It seems to be generally acknowledged that these two theories of a good society, communitarianism and liberalism, are different in character. Their differences all boil down to this—that while liberal principles lay much emphasis on individuals and promote the free expression of individual members in society, communitarian principles project the importance of community life and encourage all to leave their lives in accordance with the common good of society.

Communitarianism as a principle of a good society has been accused of over-emphasizing community's importance so much that they sacrifice the freedom and autonomy of individuals for the good of the community. Communitarians are said to promote kinship ties and communal good while neglecting the individual as a rational agent with his or her own aspirations and desires some of which extend beyond society's jurisdiction. Some communitarians have spent considerable time and effort debunking the above accusations levelled against them. They have shown that communitarianism makes room for individuals' freedom contrary to the belief that they do not. One can find evidence of this in the works of Kwasi Wiredu and Kwame Gyekye.

Gyekye, for example, in *Tradition and Modernity*<sup>5</sup> strongly opposes the accusation that communitarianism makes no room for individual freedom. He challenges those who have painted a picture of a communal life in traditional Africa as that which community life controls virtually all aspects of individuals' life. Key culprits, he pointed out, are John Mbiti

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<sup>5</sup>Kwame Gyekye, *Tradition and Modernity*, Oxford University Press, New York, 1997, p. 35-76.

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and especially Ifeanyi Menkiti<sup>58</sup>. Gyekye prefers to label the kind of communitarianism advanced by both Mbiti and Menkiti as a 'radical' or 'unrestricted' communitarianism, arguing that such a description is overstated and somewhat misleading. Gyekye argued that what exists in traditional African societies is rather communitarianism of a moderate kind.

From Gyekye we get the difference between the two types of communitarianism to be this: radical or unrestricted communitarianism is the kind of communitarianism which concern for community's welfare is so much required of every individual member that it overrides individual rights and privileges to himself while moderate communitarianism, on the other hand, is the type of communitarianism which despite the highly concern for the community's welfare individual members still have some space to seek their own interest and pursue their own agenda. In other words, radical communitarianism does not give room for individual autonomy but only concern itself with the advancement of the 'common good' at all times while moderate communitarianism combines the advancement of the common good with the advancement of individual autonomy.

Gyekye on his part makes a strong case for moderate communitarianism and rejects the radical or unrestricted communitarianism. He gives evidence from Akan proverbs and aphorism, and traditional institutions like the chieftaincy political structures, in a bid to show that the kind of communitarianism that exists in traditional African societies is a communitarianism of a moderate kind rather than a radical one. He argues that even though it is true that communitarian societies like that of traditional Akan societies require a lot of duties and responsibilities on the part of individual members and advocate strongly for such

<sup>58</sup> Menkiti in his paper "Person and Community in African Traditional Thought", in *African Philosophy: An Introduction*, edited by Richard A. Wright, University Press of America, 1984, pp. 171-181, relied on John Mbiti's statement "I am because we are, and since we are, therefore I am" (Menkiti, 1970, p. 141) to argue for an African communalism where the individual's whole life experiences are influenced and directed by his participation in community life of which he does not have a choice. He concludes in this paper that "in the African understanding, priority is given to the duties which individuals owe to the collectivity, and their rights, whatever these may be, are seen as secondary to their exercise of their duties." (p. 180). This is what Gyekye refers to as a radical communitarian position.

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values that tend to promote kinship ties and communal inter-relationships, they still leave room for the free expression of their autonomy. Gyekye shows that even the traditional African political system of the Akans as well as many other African societies is democratic and as such gives room for all to express themselves and be part of the negotiating process of law making<sup>59</sup>.

Kwasi Wiredu, on his part, defines communalism (used interchangeably with communitarianism) as “a social system in which kinship relationships are made the basis for interconnecting the well-being of the individual with that of the group.”<sup>60</sup> This clearly is an endorsement of moderate communitarianism, that is, the interconnection of the well-being of the individual with that of the larger group.

Some western communitarian writers also disagree with the position that communitarianism does not give room for individual autonomy. The communitarian theories of Alasdair MacIntyre, Charles Taylor, and Michael Sandel all make a case for a communitarianism that supports individual autonomy. MacIntyre, on his part, asserts that:

the fact that the self has to find its moral identity in and through its membership in communities such as those of family, the neighbourhood, the city and the tribe does not entail that the self has to accept the moral limitations of the particularity of those forms of community.<sup>61</sup>

MacIntyre, from the above quotation, concurs that despite the influential role community plays in the lives of individuals, individuals nevertheless need not accept only those values provided by the community they belong to, but can go beyond them. This, I believe, constitute nothing other than individuals freeing themselves of their community's demands and limitations. Andrew Jason Cohen rightly understood the above quotation by

<sup>59</sup> For more details on how Gyekye shows that traditional Akan societies do exhibit features that make them accommodative of individuals' autonomy, see chapters 2 and 4 of his book *Tradition and Modernity*, Oxford University Press, New York, 1997 and chapter 3 of *African Cultural Values: An Introduction*, Sankofa Publishing Company, Philadelphia, Accra, 1996.

<sup>60</sup> Kwasi Wiredu, “The Humanines and the Idea of National Identity”, p 3

<sup>61</sup> Alasdair MacIntyre, *After Virtue*, p. 221, in Andrew Jason Cohen, “Does Communitarianism Require Individual Independence?”, *The Journal of Ethics*, Vol. 4, No. 3 (Jul. 2000), p. 299.

MacIntyre to mean that “even though the communities we find ourselves in have already ‘authored’ a large part of the narrative of our lives, we can transcend the limits of the already authored context to be authors too.”<sup>62</sup> This, Cohen thought, and I agree with him, leaves readers of MacIntyre wondering how this can be possible, that is, if I am essentially who I am in virtue of my community, how do I then go around the community and design my own life outside of the community. This question by Cohen forms my basis of questioning the moderate communitarianism thesis which I will consider shortly.

Charles Taylor, who also argues for the importance of community in the lives of the individuals, makes the following assertion that:

Human beings can always be original, can step beyond the limits of thought and vision of contemporaries, can even be misunderstood by them. But the drive to original vision will be hampered, will ultimately be lost in inner confusion, unless it can be placed in some way in relation to the language and vision of others<sup>63</sup>

Like MacIntyre, Taylor also acknowledges the view that individuals can go over their community values and be original in thought and action.

Now assuming that all of what has been claimed by Gyekye and these western communitarian theorists so far is taken to be true, that is, moderate communitarianism can or does make room for individual autonomy, then the problem arises that can we still maintain the dichotomy between communitarianism and liberalism?

Advocates of liberalism, that is, the principle that holds that individuals should be given their autonomy without any interference from their fellow men, have also been accused of ignoring the worth and importance of society in the lives of individuals. They have been accused of failing to see that every individual is embedded in a society and that society contributes to their everyday choices and preferences. Furthermore, liberals have been

<sup>62</sup> Andrew Jason Cohen, “Does Communitarianism Require Individual Independence?”, *The Journal of Ethics*, Vol. 4, No. 3 (Jul., 2000), p. 299.

<sup>63</sup> Taylor, *Sources of the Self*, p. 37, Andrew Jason Cohen, “Does Communitarianism Require Individual Independence?”, *The Journal of Ethics*, Vol. 4, No. 3 (Jul., 2000), p. 302.

accused of being too individualistic and not appreciating the worth and the importance of certain types of obligations and commitments—commitments that are not chosen or explicitly undertaken through contracts or promises such as familial obligations and obligations to support one's community or country.

In the wake of these charges against them, some liberals have also defended their principle and have shown that liberalism does not necessarily lead to the disregard of others in the society but that liberalism can appreciate obligations towards one's family, society or state. In "Liberalism and Communitarianism"<sup>64</sup> for example, Will Kymlicka defends liberalism against communitarian's critique that the liberal view of the self, among other things, is empty, violates our self-perceptions, ignores our embeddedness in communal practices, and ignores the necessity of social confirmation of our individual judgments. He argues at length to show that these criticisms are unjustified and shows how liberalism can defend itself against them.

J. S. Mill was also quick to defend his liberal principles against the view that it is self regarding and shows no concern for others in the society. He argued in *On Liberty* that:

It would be a great misunderstanding of this doctrine to suppose that it is one of selfish indifference, which pretends that human beings have no business with each other's conduct in life, and that they should not concern themselves about the well-doing or well-being of one another, unless their own interest is involved. Instead of any diminution, there is need of a great increase of disinterested exertion to promote the good of others.<sup>65</sup>

Buchanan, also in "Assessing the Communitarian Critique of Liberalism"<sup>66</sup> challenges the view that liberalism will lead to the destruction of communities. He argues that, on the contrary, liberalism will support individuals' participation in community life.

<sup>64</sup> For details of he does this, see Will Kymlicka, "Liberalism and Communitarianism" *Canadian Journal of Philosophy*, Vol 18, No 2 (Jun., 1983), pp. 181-203

<sup>65</sup> J. S. Mill, *On Liberty*, 1859, Batoche books, Kitchener, 2001, p. 70.

<sup>66</sup> For details, see Allen E. Buchanan, "Assessing the Communitarian Critique of Liberalism", *Ethics*, Vol. 99, No. 4 (Jul., 1989), especially from pages 856-862.

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According to him, rights to freedom of association, expression, and religion which liberals champion, can provide a strong fortification against attempts to destroy or dominate various communities within nation-states.

They [i.e. rights to freedom] allow individuals to partake of the alleged essential human good of community by protecting existing communities from interference from without and by giving individuals the freedom to unite with like-minded others to create new communities.<sup>67</sup>

Thus to Buchanan, liberalism will rather promote the continual existence of communities and even lead to the creation of new ones.

It is evident from the above discussions that advocates of both principles, liberalism and communitarianism, have shown that they can make up for what they are said to be lacking. Liberals have shown that not only can their principles appreciate the value and worth of community life but that they can also promote the continual existence of communities and ensure communal participation of individuals. Communitarians on the other side have shown that communitarianism can appreciate the worth of individuals and can give room for the free expression of individual autonomy.

If the defences given by both the liberals and moderate communitarians are held to be true, that is, if indeed communitarianism can make room for individual autonomy and also if liberalism can appreciate the worth of community in the lives of individuals, then are we justified to still maintain a sharp distinction between liberalism and communitarianism? In other words, where lies the basis of drawing a distinction between these two principles if key features of both principles are present in both? In the following discussions I argue that taking the position of moderate communitarianism will bring down the distinction made between communitarianism and liberalism.

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<sup>67</sup> Allen E. Buchanan, "Assessing the Communitarian Critique of Liberalism", *Ethics*, Vol. 99, No. 4 (Jul., 1989), p. 858

I argue that for communitarianism to remain communitarianism in accordance with its advocacy for community interest, it will have to demand from individual members of a given society to adhere strictly to the social status quo set by the society, that is to say, it will have to demand that members of a given society conform rigorously to prevailing social practices and beliefs. Why? Because demanding anything less will give individuals room to have some freedom to do things their way, which in turn will collapse the communitarian agenda.

How do I mean? Kwame Gyekye defines communitarianism as “the doctrine or theory that the community (or group) is the focus of the activities of the individual members of the society”<sup>68</sup>. Gyekye further adds that:

Members of a communal society are expected to demonstrate a concern for the well-being of others, to do what they can to advance the common good, and generally to participate in the community life.<sup>69</sup>

If these features that define communitarianism are going to be realized or sustained, that is, if every individual is going to have the ‘community’ welfare’ as its focus, demonstrate concern for the well-being of others, do what they can to advance the ‘common good’, and generally participate in the community life, then it will require restrictions on the autonomy of members of the community. In what is frequently referred to as ‘a shared social life’ as it is known to exist in communitarian societies and principles, there are predefined roles, obligations, and expectations from each individual as a member of a clan and as a member of the community. Everyone’s action is supposed to be directed towards the ‘common good’. It is also one of the roles of the older generation to keep the younger generation in line with the traditions of the family or clan.

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<sup>68</sup> Kwame Gyekye, *African Cultural Values: An Introduction*, Sankofa Publishing Company, Philadelphia, Accra, 1996, p. 36.

<sup>69</sup> *Ibid*

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If these indeed constitute the make-up and features of a communitarian society, as Gyekye has shown, how then can a society, claiming or wanting to be communitarian, maintain these features if it is going to allow individuals their autonomy? For as I see it, allowing individuals their autonomy in such a society will mean that individuals will be free to deviate from the above communitarian features if they so wish. Individuals will have the freedom to decide whether to make the welfare of the community their focus or their own welfare. Individuals will have the freedom to decide whether to put the welfare of the community ahead of theirs. The pursuit of the 'common good' will be a matter of choice to be made by individuals depending on whether they want it or not and before you know it, what you have is a liberal society rather than a communitarian.

It therefore seems that if communitarian theorists want to maintain the communal character of their principle and at the same time promote individual liberty, as has been argued by defenders of moderate communitarianism, then eventually what holds the principle of communitarianism together, that is, its key features will be lost. It will therefore be difficult to distinguish this kind of communitarianism from liberalism. This, as I have shown, is so because if communitarianism is going to allow individuals' autonomy to prevail, then individuals are going to be free to choose alternative values outside of their communities. If communitarianism is going to allow individual autonomy to prevail, then individuals are really going to be free to decide whether they want to meet expected obligations to the clan and community or not.

Furthermore, if indeed these words of Gyekye are true, that is:

Participants in the shared values and practices and enmeshed in the web of communal relationships, may find that aspects of those cultural givens are inelegant, undignified, or unenlightened and would thoughtfully want to question and reevaluate them. The evaluation may result in the individual's affirming or striving to amend or refine existing communal goals, values,

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and practices; but it may or could also result in the individual's total rejection of all or some of them,<sup>70</sup>

then I argue that such a society can no more call itself communal but liberal and that the resulting principle can no more be distinguished clearly from liberalism since they will both be sharing similar features, which is the promotion of individual autonomy.

The option open for us, if we want to still maintain the distinction between communitarianism and liberalism is that we uphold what, Gyekye calls, radical or unrestricted communitarianism by our definition of communitarianism, that is, a society where community participation and kinship relation engulf and permeate the totality of individuals' lives and virtually dictate for them what should be done and what not to be done, on one side, and a liberal position which does not demand a 'strict sense'<sup>71</sup> of community participation but allows individuals the free enjoyment of their autonomy (we can label this kind of liberalism also as radical liberalism). But as has been shown by defenders of these two principles, no society can be totally communitarian without any regard for the freedom of their members or be absolutely liberal without showing any consideration for the social and community needs of its members. We therefore cannot have a sharp distinction between these two principles.

Since defenders of both principles have shown that radical communitarianism and what I call radical liberalism do not both reflect properly what is going on in societies and since societies labelled as communitarian actually have traits of liberal societies and vice versa, we should have no basis for the distinction between the two principles anymore. This is because if defenders of communitarianism argue that just like liberalism, their principle also allows for the free expression of individual autonomy in the form of freedom of speech,

<sup>70</sup> Kwame Gyekye, *Tradition and Modernity*, Oxford University Press, New York, 1997, p. 54.

<sup>71</sup> I am forced to use 'strict sense' here because whether one decides to be an active participant in society or not, he or she one way or the other can be said to be a participant in community life so far as he lives in the community and relates with people, no matter how minimal.

freedom of association, freedom of sexual orientation, the freedom to choose whomsoever one desires for marriage, and the freedom to decide whether one wants to marry or not or even the freedom to decide whether one will have children or not, then I believe what holds the distinction between the two principles will be lost or broken, for it will be that in both principles we can find similar trait, which is the advancement of individuals' liberty.

If defenders of communitarianism argue, as they do, that their principle advances the position that individuals can be independent from their community or can develop values outside their community, then it is difficult for anyone to come to terms with how such a principle can still remain communitarian and remain distinct from liberalism. Any principle which allows individuals to deviate from prevailing norms or existing status quos without any threat of intimidation is by definition and strictly speaking a liberal principle and not communitarian.

Similarly, if liberal theorists want us to believe that liberalism can appreciate the worth of community life almost the same way communitarianism can, then it will mean that to some extent, in certain situations, individuals' interests are going to be renounced for the interest of the community. Individuals will have to live a shared community life and value the worth of one another. If liberals are going to go by Mill's statement here that:

[Everyone] who receives the protection of society owes a return for the benefit, and the fact of living in society renders it indispensable that each should be bound to observe a certain line of conduct towards the rest,<sup>72</sup>

then eventually liberalism will also be advocating for values that makes it no more different from its communitarian counterpart and so the distinction between the two theories must fall apart.

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<sup>72</sup> *Ibid.*, p. 69

### Section 3: THE SEARCH FOR ALTERNATIVE WAYS TO SUSTAIN THE DICHOTOMY

#### Section 3a: Using Negative and Positive Freedom

It is perhaps possible that what makes the distinction between communitarianism and liberalism hold is more than the differences that I have captured above. Perhaps there are other factors that make one society communitarian and the other liberal, apart from the fact that the former suppresses individual autonomy and the latter makes room for it. Could it be that the difference is based on the difference in the level of emphasis when it comes to freedom? Perhaps it should be argued that these two theories, communitarianism and liberalism, deal with freedoms but freedoms of separate kinds, that is, while liberalism advocates for 'negative' freedom, communitarianism advocates for 'positive' freedom. This perhaps could be a possible way to defend the claim by some communitarians that communitarianism also makes room for freedom and at the same time keep communitarianism different from its liberal counterpart.

Negative freedom is said to refer primarily to a condition characterized by the absence of coercion or constraint imposed by another person or a thing. Positive freedom, on the other hand, is said to be a condition where one is able to do things that he or she wants when he or she wants to. It is said that the main difference between the two is that while positive freedom emphasizes on the agent's ability and the presence of resources, negative freedom only emphasizes the absence of external restraints. The difference between negative and positive freedom is captured in this quotation from Charles Hovarth where he classifies constraints on positive freedom as passive constraints and constraints on negative freedom as active constraints.

Freedom may be curtailed in two ways. On one hand, it may be curtailed by an inability to accomplish a desired task. This is an impersonal or passive curtailment. If I cannot read or if I do not have a book at all, then I can say: "I

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am not free to read a book." On the other hand, freedom may also be curtailed by the acts of others which keep me from accomplishing a task which I would otherwise be able to do. If I am forbidden to read a book, then I can also say: "I am not free to read a book." The phrase is the same, but the meaning is quite different.<sup>73</sup>

'Negative' freedom involves the passive participation of the state or community in the lives of individual members. The state is not required, as such, to provide resources for its members but to stay away for the individuals themselves to pursue their own agenda of a good life. The state should not put in place laws to constrain the behaviours and the lives of the people towards a certain end. The state is only expected to provide security of lives and properties and make sure all operate within the confines of the law. The principle behind this kind of freedom is what is usually referred to as the 'principle of non-interference'. According to S. I. Benn, this principle meant "the minimal or formal principle that no one may legitimately frustrate a person's acting without some reason."<sup>74</sup> Negative freedom therefore seeks to remove all sorts of unjustifiable external constraints or impediments that might prevent the realization of individuals' autonomy or freedom to act or pursue their life choices. This is also typical of most liberal theories and reflects exactly the kind of autonomy that we have been talking about in the preceding chapter.

'Positive' freedom, on the other hand, will involve the active participation in the lives of individuals by the community or state. The state or community (in its attempt to achieve what it conceives as the good life, the common good or the public interest for all of its members) must make some amount of provision for certain resources so that all can have access to this good life. It must provide certain resources that are aimed at improving the quality of lives of individuals in the community. In the words of John Christman:

<sup>73</sup> Charles M. Horvath, "The Social Equation: Freedom and Its Limits", *Business Ethics Quarterly*, Vol. 5, No. 2, Social Contracts and Business Ethics (Apr., 1995), p. 334

<sup>74</sup> S. I. Benn, "Freedom, Autonomy and the Concept of a Person", *Proceedings of the Aristotelian Society. New Series*, Vol. 76 (1975 - 1976), p. 109.

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A person who faces no restrictions on action that can be called an "intrusion" or "constraint" (at least as that has been typically understood) may still be palpably unable to act in any meaningful way. She may, for example, lack basic resources that all other "normal" people have easy access to.<sup>75</sup>

It is these basic resources that positive freedom seeks to provide. This usually involves the provision of certain basic amenities like access to food and water, health service, shelter, clothing and education. It will also include the placing of some form of restrictions on individual members so that all keep to the agenda of a specific good life. This is typical of most communitarian societies.

As much as these differences between negative and positive freedom can be sustained in theory, in practice no society has proven to be solely liberal without any interest whatsoever in the lives of their individuals or so restrictive as to control every aspect of the lives of individuals. Also every society, in order to ensure its continuity, in practice will, to some extent, have to be interested in the lives of its members. Laws must be enacted and enforced to ensure cooperation, peace and order. To ensure that individuals do not go around killing themselves for society to go extinct, certain values must be held as communal and as social, which should at all times supersede individuals' desire and choices. These are the communal values that the communitarian theorists are said to advocate for.

Similarly, no society can profess to control the totality of the lives of its members. Such a society will be met with rampant internal conflicts since individuals by their nature develop alternative choices and desires. Since individuals have their own agenda or projects, it is required of every society to allow individuals some amount of freedom to operate in order to realize these projects. These are the individual rights and freedoms that liberals advocate for.

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<sup>75</sup> John Christman, "Saving Positive Freedom", *Political Theory*, Vol. 33, No. 1 (Feb., 2005), pp. 80-81.

For the distinction between communitarianism and liberalism to be maintained using the differences in emphasis of the two kinds of freedom, that is, communitarian theories lay emphasis on positive freedom while liberal theories lay emphasis on negative freedom, we will have to agree that when communitarians say that their principle also makes room for freedom then they mean positive freedom. If by freedom communitarians mean more than positive freedom but have in mind negative freedom as well then again they enter into the domain of liberalism, which leads us back to the same problem as before, that is the problem of finding an appropriate distinction between the two. So far, going by the arguments by the moderate communitarians as we have seen from Gyekye, MacIntyre and Taylor, we can say that they are not only referring to positive freedom but to negative freedom when they defend the position that communitarianism makes room for individual autonomy. This being the case we cannot use the differences in emphasis of the two types of freedom by communitarianism and liberalism as an alternative way of properly marking out the difference between the two principles.

This conclusion just reached holds because when moderate communitarians argue that their principle can make room for both communal values and also respect individual rights and freedom, they are at the same time claiming that not only does their principle provide positive freedom for individuals but it also makes room for negative freedom as well. Moderate liberals also, in claiming that their principle accounts for the appreciation of the community as well as the promotion of individuals' freedom, are inevitably saying that liberalism accommodates both negative and positive freedom as well. This is because to promote or sustain community life usually involves active participation by states in the lives of individuals. This constitutes the provision of positive freedom. Likewise to promote individual rights and liberties will require that states become passive in their participation in the lives of individuals. This will also constitute a negative freedom. For these reasons using

the two types of freedom to establish a distinction between the two theories will present the same problem as before. The two theories will fall into each other because they both claim to exhibit similar features.

### Section 3b: Using distinct communitarian features

Many will not be willing to let go of the distinction between communitarianism just for the reasons I have given above. They will argue that there are, beside what I have mentioned, other factors or features that can clearly mark out a communitarian principle or even a communitarian society from its liberal counterpart. Going along with them, I want to find out whether indeed this can be possible. I want to investigate whether other distinctive qualities can be found within a communitarian principle or society that we can use to sustain the distinction between it and liberalism.

Let me start my investigation by looking into some characteristics that Kwesi Wiredu provided as essential and striking features of a communitarian society. In this long quotation, Wiredu provides us with some characteristics to be found in a communitarian society, especially in a traditionally African society. According to Wiredu:

A communalistic society is one in which extended kinship linkages play a dominant role in social relations..... this provides a broad domain of human relations in which a sense of obligations and rights and of reciprocity is developed on the basis of natural feelings of sympathy and solidarity..... By a kind of natural spill-over, the sense of sympathy and solidarity easily acquires a community-wide scope. At this scale of extension there is inevitably a certain diminution in the sense of belonging and solidarity, but it is strong enough to give the individual a solid sense of security. As anyone can verify, this sense of security is easily lost in the relatively non-communalistic setting of a modern city, with destabilizing consequences for individual psyches and for social equilibrium. Measured against the emotionally desiccated conditions of much city life, it becomes easy to perceive the role of kinship solidarity in the maintenance of morale in traditional rural life. So strong, in fact, is the sense of communal belonging in the traditional setting that an individual's very sense of self is contextualized not only to the fact of community but also to its values; so

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that a person, for all concerned, is not just an individual born of human parentage, but also an individual of that description whose settled habits evince sensitivity to the basic values of the community.<sup>76</sup>

In another paragraph Wiredu continues that:

The principle underlying the choices of a communalistic culture, however, is not only compatible with the golden rule but also analogous to it. Individuals in such cultures are enjoined to think in terms of not what they can gain from their society but what the society can gain from them, in order, however, that all can prosper. In other words, the individual's interests are to be adjusted to those of society, not vice versa. We find exactly the same outlook in the motto of the moral motivation: be ready to abridge your interests so that they can harmonize with the common interest. This is not a principle of the abnegation of individual interests, because it applies to all individuals, and in the upshot any one individual should be more frequently a beneficiary of the forbearance of others than a sacrifice of self-interest. Exactly the same is true of the communalistic imperative.<sup>77</sup>

We gather from Wiredu that some of the distinctive features of a communalistic society includes the strong sense of kinship ties which comes with duties and rights expected and demanded of each member. These kinship ties lead to a sense of solidarity and sympathy towards the other. This sense of kinship bonding also serves as a source of security for the individual members, a feature which Wiredu believes is non-existent in liberal societies. The sense of solidarity and sympathy does not only end within the family but is extended towards the entire community such that individuals do not see themselves as only belonging to a certain parentage but also to an entire community with which they are to share mutual interest.

In the second part of the quotation we learn from Wiredu that individual choices in communalistic societies are directed by the golden rule which we know to be 'do to others as you will want others do to you'. A key feature here of interest is that according to Wiredu's

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<sup>76</sup> Kwesi Wiredu, "State, Civil Society and Democracy in Africa" in *Quest (Zambia)* Vol. XII, No. 1, June 1998, p. 241-252

<sup>77</sup> *Ibid*

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description, individuals' interests in communalistic societies "are to be adjusted to those of society, not vice versa." Finally we learn that this principle is not a renunciation of individual's interest since the principle applies to all.

Given all these as the distinctive features of a communitarian society, most of which cannot be found in liberal societies, can these be used to mark out the distinction between communitarianism and liberalism and by so doing save the distinction from collapsing? That is to say, communitarianism will be the principle of a good society that advocates for a close sense of kinship relationships among individuals, a relationship which leads to a sense of solidarity and sympathetic feelings towards one another and where individuals' interests are adjusted to match up with that of the good of the community.

The answer to this question still remains the same. That is, it will be possible to use these features listed above as what clearly distinguish between communitarianism from liberalism, if such a communitarian principle does not profess to make room also for the free expression of individual autonomy. This is because as soon as this society, so described by Wiredu, decides to allow individuals their autonomy, eventually many of its features so described above, will be lost and the resulting society will no longer be different from that of a liberal society—for how can the communitarian maintain kinship relationship, coupled with its expected duties and rights from its members, if the community is going to be very permissive? This will mean that individuals will be at liberty to maintain kinship bonding or not without having to feel any sense of denial. How can this sense of sympathy and solidarity feeling among one another still be sustained if individuals are at liberty to pursue their own personal agenda without any consideration to community values? Consequently, the adjustment of individuals' interests to harmonize with the common interest will no more be an ideal thing to do since it will not apply to all equally.

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Communitarian theorists therefore cannot have it both ways. Either they hold on to these features that have been captured by Wiredu and accept that communitarianism as it stands, does not make room for individuals' autonomy and by so doing be able to keep the principle distinct from its liberal counterpart or accept that the distinction between the two principles cannot be sustained since both theories have nothing concrete and distinct separating them from each other.

There are, however, some suggestions that perhaps the distinction between the two theories should be seen as belonging to different ends of the same spectrum, that is, we should consider both communitarianism and liberalism as two theories of a good society which both acknowledge the worth of community life as well the worth of individual's freedom. Here the difference between two theories will only be in the difference in intensity or degree of appreciation each theory gives to either community life or individual's liberty. In this sense, communitarianism should be seen as the theory of a good society which though appreciates and allows for individual's liberty, places more worth in communal cohesion and solidarity than in individual's liberty. Liberalism on the other side will be considered as the theory of a good society which though appreciates the worth of community life to some extent, places more emphasis on the importance of individual's autonomy than they will on advancing community's solidarity and cohesion. In other words, we can say that both communitarianism and liberalism provide for both positive and negative freedom but that while communitarianism lays much more emphasis on the provision of positive freedom than negative freedom, liberalism lays more emphasis on the provision of negative freedom than they do with positive freedom.

I argue that going by what have been said by both defenders of moderate communitarianism and moderate liberalism that both theories do support community values as well as individualistic values, this alternative explanation of communitarianism and

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liberalism, as suggested above, appears to reflect the proper way of explaining these two theories. Nevertheless, if this alternative explanation is adopted, then it will mean that we do away with drawing a sharp distinction between liberalism and communitarianism, as if to say they are two clearly distinct theories with clearly distinct uncommon features. It is worthy to mention here that this alternative explanation given to the difference in the two theories is not without its own challenges. For starters, it does not make the tension or disagreement between individuals wanting to be free and authorities wanting to maintain the status quo with regard to certain circumstances go away. There is also the question of what constitutes a justifiable balance between the two theories, that is, how much freedom is to be given to individuals and how much worth should be given to community values.

#### Section 4: Conclusion

The attempt by moderate communitarians to show that the principle of communitarianism can accommodate individuals' liberty and the attempt by moderate liberals to show that the principle of liberalism can appreciate the worth of community in the lives of individuals should tell us that traits of both theories exist in both camps. The distinctions made between radical communitarianism and moderate communitarianism or backward-looking communitarianism and forward-looking communitarianism have been desperate efforts to accommodate individual liberties or negative freedom into the communitarian principle.

The attempts by liberals to show that their principle is sensitive to the needs of the community have also led to a proliferation of liberal theories like liberal republicanism, liberal patriotism, liberal multiculturalism and liberal civil society. If both communitarian and liberal principles hold a similar position that individuals' freedom is important and if both agree that community is essential to the individual, then there is will be no need to sustain the

sharp dichotomy between these two principles. If the essence of each principle is found in both, then there is actually no basis to keep our hold on a sharp distinction. That is to say that unless we maintain a radical definition of communitarianism and a radical definition of liberalism the sharp distinction between the two principles will fall apart or collapse into each other.

If we accept the conclusion that the sharp distinction between the two principles does not hold because they both share similar features, then we can adopt the alternative explanation that the two theories belong to different ends of the same spectrum and that their difference lies only in the degree of emphasis of community values and/or of individual liberty. This will also make it laudable to propose for the traditional Akan societies described in chapter one, some reforms that will make it more accommodative to individuals' liberty, as will be done in chapter five, without falling into any contradictions.

## Chapter 4

### THE PUBLIC INTEREST: SOME THEORETICAL CONSIDERATIONS

#### Section 1: Introduction

In the first and second chapter, I showed that traditional Akan societies, by some of their beliefs and practices, suppress individual autonomy. I showed and argued for a liberal principle of non-interference which basically says that individuals should be allowed to freely live their lives in accordance with their own preferences without any undue interference from their fellow men which should include government and traditional authorities through laws and policies and traditional norms and practices respectively, except in cases where individuals by their actions bring harm upon others.

Traditional authorities from these societies sometimes would want to justify why they hold on to their beliefs and practices and why they think these practices are relevant. They do so by giving various reasons to explain. One reason that is consistently given is that these beliefs and practices are in the 'public interest' or are that which promotes the 'public interest', otherwise referred to as the 'common good'. As we learned from previous chapters, the notion of the common good or public interest and its preservation or sustenance is a predominant feature in most communitarian theories of a good society. Describing a communitarian society, Wiredu asserts that: "We find exactly the same outlook in the motto of the moral motivation: be ready to abridge your interests so that they can harmonize with the common interest"<sup>78</sup>. From Gyekye we also learn that:

Members of a community society are expected to demonstrate a concern for the well-being of others, to do what they can to advance the common good, and generally to participate in the community life.<sup>79</sup>

<sup>78</sup> Kwame Wiredu, "State, Civil Society and Democracy in Africa"

<sup>79</sup> Kwame Gyekye, *African Cultural Values: An Introduction*, Sankofa Publishing Company, Philadelphia, Accra, 1996. p. 36.

In this chapter, I offer some conceptual analysis of this term 'public interest'. I look at some alternative definitions and interpretations of the term from western writers and also from some popular Ghanaian understanding of the term. I find out whether any of these alternative attempts at a definition can be used as the proper explanation for the term 'public interest'. This will inform us as to whether defenders of traditional Akan beliefs and practices are justified in claiming that these values are aimed at achieving the public interest and also help answer the broader question as to whether the 'public interest' can be used as a justifiable reason to suppress individual autonomy.

## Section 2: The Public Interest: some western theoretical considerations

The 'public interest' is alternatively referred to as the 'common good', 'common interest' 'the social good', 'the universal good', 'public good' or the 'general will'.<sup>80</sup> If finding the meaning of the term 'public' proved to be difficult in chapter two then defining or identifying the public interest or the common good is going to be worse, mainly because of the use of the words 'interest' and 'good' which have to do with values, and like all value related words it is hard to tell whether they are to be given universal meaning or that their meaning are relative.

At times, the public interest is assumed to be 'what the public want' or 'the desire of the public'. At other times it is associated with that which promotes 'the well-being of the society' or 'the benefit of society'. In some cases the public interest is taken to be what is 'just' or what is 'fair'. All of these alternative words and phrases—what the public wants or

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<sup>80</sup> Not everybody agrees that all of these phrases are synonymous. Bruce Douglass, for example, in his article "The Common Good and the Public Interest" published in *Political Theory*, Vol. 8, No. 1 (Feb., 1980), pp. 103-117, made a distinction between the common good and the public interest although I do not find his distinction very clear

desires, what is in the well-being of society, or benefits society, what is just and fair—are as vague as the term ‘public interest’, that these phrases and words attempt to explicate.

According to B. M. Barry “a policy, law or institution is in someone’s interest if it increases his opportunities to get what he wants—whatever that may be.”<sup>81</sup> Using Barry’s definition, we can say that whatever is in the public interest is supposed to bring the public closer to fulfilling its wants, needs or desires. It seems that in the case of private or individual interests, no matter what their content may be, they are those things that are of direct concern to the individual involved, yet these individual interests are sometimes difficult to determine even by the individuals themselves. This is so because most often individuals are not able to differentiate between what they want and what is in their interest (even though these two can sometimes coincide). Someone can want something but what he wants might not be what is in his interest, something he himself will come to the realization later. Looking at the difficulty even in achieving individual interests, can we argue that the public interest affects or benefits every single individual who is part of the public and if it does, does it benefit all equally?

To this question Barry thinks that just as to say that a policy is in the interests of farmers, for example, is to say that it is in the interest of each farmer as a farmer then to say that a policy is in the public interest is to say that it is in the interest of each member of the public as a member of the public or qua member of the public.<sup>82</sup> I am not sure I will want to agree with Barry’s analogy or position that a policy in the interest of farmers, actually is in the interest of all farmers and so the public interest is also in the interest of every member of the public. Let’s take for example a government policy to have all cocoa farms freely sprayed with insecticide. Now this is a policy aimed at the interest of cocoa farmers but would that

<sup>81</sup> B. M. Barry, “The Public Interest”, *Proceedings of the Aristotelian Society*, Supplementary Volumes, Vol. 38 (1964), p. 4.

<sup>82</sup> *Ibid.* p. 14f.

mean that the policy will promote the interest of every single cocoa farmer? What about those cocoa farmers who are already able to afford their own spraying. They are now not going to benefit per the policy because now every single cocoa farmer is going to produce high yields and compete with them on the market when hitherto they were the only ones coming out with good yields. It may also be in the public interest, as Roxbee Cox<sup>83</sup> noted, to imprison a murderer for life without it being in the interest of the murderer. This becomes problematic more especially if you consider the fact that the said murderer happens to be part of the public whose interest is being sought. The imprisonment of the murderer will not benefit all who are his or her dependents who are part of the public whose interest is being sought.

According to Cox, a natural suggestion to solve the problem above is to say that when a policy or course of action is in the interests of farmers, or of some group, or is in the public interest, it will at least be in the interests of the majority of members of the public<sup>84</sup>. That is to say, we should simply identify the public interest to be that which is in the majority's interest. But Cox realized that although it is true that what is in the public interest is normally in the majority's interest, it is not in fact this that accounts for the relevance and importance of the public interest. He asserts that:

It is worth noticing here that those who invoke the consideration that a policy is in the public interest would seldom be ready to replace their reference to the public interest by a reference to the interests of the majority. It may of course be suggested that this is merely because the expression 'the public interest' has acquired a more favourable aura than 'the interests of the majority' although not differing from it in meaning.<sup>85</sup>

Cox argues that what is in the majority's interest does not necessarily constitute what is said to be in the public interest even though what is said to be in the public interest is

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<sup>83</sup> J. W. Roxbee Cox, "The Appeal to the Public Interest", *British Journal of Political Science*, vol. 3 No. 2 Apr., 1973), p. 229.

<sup>84</sup> *Ibid.*, pp. 229-230.

<sup>85</sup> *Ibid.*, p. 230.

in the interest of the majority. In other words there is some difference between the majority's interest and the public interest. He says that:

If something is in the public interest it will also be in the interests of a majority of members of the public. But the converse does not hold: a policy can clearly be in the interests of a majority without being in the public interest. A policy that favoured the interests of men, where women formed a minority, would be a simple example of this.<sup>46</sup>

I believe Roxbee Cox was right not to make the public interest synonymous with the interest of the majority. Democracy as a form of governance operates by the majority's interest but experience has shown time and again that the majority are not always on the right. If, for example, we had had majority of people in South Africa preferring the continuation of apartheid to democracy, that wouldn't have automatically made apartheid to be in the public interest. As a result, the public interest is not always determined through the cast of a vote or the position of those who can make the most noise.

Similarly article 12, clause 2, of Ghana's constitution will not carry the same weight and meaning had it read "every person in Ghana, whatever his race, place of origin, political opinion, colour, religion, creed or gender shall be entitled to the fundamental human rights and freedoms of the individual contained in this chapter but subject to respect for the rights and freedoms of others and for the *majority's interest*" instead of the last phrase reading *public interest*.

Making a majority's interest one and the same with the public interest will make it possible for the majority in society to suppress the minority. The fact that most people in a group agree that an innocent person should be convicted of a crime does not make that act to be in the public interest. The aftermath of his conviction might be catastrophic for the group.

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<sup>46</sup> J. W. Roxbee Cox, "The Appeal to the Public Interest", *British Journal of Political Science*, vol. 3 No.2 (Apr., 1973), p. 238.

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Cox's statement that if something is in the public interest it will also be in the interest of a majority of members of the public is also interesting and worthy of consideration. Cox seems to believe that even though the public interest is not synonymous with the majority's interest, whatever policy or law that is assumed to be in the public interest will invariably be in the majority's interest. Now is it always the case? Doesn't the notion of public interest and how it is sometimes used make it possible for a particular act or policy to be in the interest of a few rather than the majority and still be classified as in the public interest? Take for example, a policy that demands that all educational institutions should provide a ten percent quota for the physically challenged. Can't this be said to be an example of a policy that is in the public interest and yet only a minority group benefits? The answer is no on my account. This policy might seem to be to the advantage of only the physically challenged persons, hence only a minority group but in the long run the benefit is to the broader community. This is because when these physically challenged persons are educated, apart from the fact that they will no longer be on the street asking for alms, they will now be in a better position to contribute their quota to national development. So I agree with Roxbee Cox when he said that whatever is in the public interest will be in the majority's interest even though the converse of this statement is not true.

If the public interest is not the majority's interest, what specifically is it and how do we achieve it? Jeremy Bentham will prefer to label the public interest as "the sum of the interests of the several members who compose it."<sup>67</sup> Explaining Bentham's position, Virginia Held<sup>68</sup> asserts that Bentham saw a community as a collection of individuals, and nothing else and that the community's interest is the interests of its members. J. A. W. Gunn also gave a similar rendition of Bentham's position when he asserted that Bentham saw the community or the public as a fictitious body and the public interest as an abstract term covering a mass of

<sup>67</sup> Jeremy Bentham, "Introduction to the Principles of Morals and Legislation" in *Works* ed. J. Bowring (London, 1843) I, p. 2.

<sup>68</sup> Virginia Held, *The Public Interest and Individual Interest* (New York, 1972) pp 64-65.

individual interests<sup>99</sup>. It seems then that to achieve the public interest, Bentham would like us allow individuals to pursue their own interests, since they are those which are real and concrete. Will this approach solve the problem of the public interest?

Bentham's approach fails to take into account the existence of conflicting individual interests. It will be very difficult to fulfill every individual's interest without stepping on someone's toes. Besides, there is no contradiction in saying of a particular policy that even though it is not in my interest, it is in the public interest. To avoid the difficulties that Bentham's position might face, it will be a better alternative to say that the public interest, not being anything concrete we can put our finger on does not exist. The phrase is employed in usage to refer to an impossible situation where we have members of the 'public', whichever group is being referred to, know for sure what their interests are and have all, individually, come to a consensus that a particular act, policy, or law is or will lead to the attainment of that agreed interest. This being an impossible scenario, as shown earlier when considering the various alternative attempts of defining the public interest, it will be rather prudent to talk of the realization of individual interests than the public interest. This is because individual interests are more concrete, discoverable and confirmable. Looking at all the problems faced by the various attempts at interpreting the public interest; taking into consideration Bentham's statement that the community is but a fictitious entity which does not have any interest of its own other than the interests of its individual members, I think the public interest if it is to exist at all will be better attained or served when individuals are allowed to pursue their own interest guided, of course, by the 'harm principle'. This is probably one effective way to be sure that the public interest actually is in the interest of all.

Allowing individual members of society to pursue their own interest as a way of achieving the public interest is also in line with the liberal position of non-interference. Here

<sup>99</sup> J. A. W. Gunn, "Jeremy Bentham and the Public Interest". *Canadian Journal of Political Science*, vol. 1, No. 4 (Dec. 1968) p. 400.

the individual is able to live and follow his or her own life agenda without having to follow a government's own postulation of what it perceives to be in the public interest which might not be so after all. It also guides against governments or traditional leaders exploiting their members for their own agenda using the pursuit of the public interest as an excuse.

Of course there is the issue of conflict of individual interests. Here, governments can serve the public interest by providing security for its members in situations where individual actions can bring harm on others. The role of government in ensuring the public interest will be limited to ensuring peace, stability and security in society as individuals are left to pursue their individual goals and agenda.

### Section 3: The public interest as that which promotes the cultural values of a society

In Ghana, and possibly for most of Africa, it is not uncommon to hear people arguing or to read from the newspapers that a particular action, behaviour or a yet to be passed policy is not African (un-African) or not Ghanaian, and therefore is detrimental to the interest of Ghanaians. One particular subject that raised such sentiments recently has to do with homosexuality. When the question of whether homosexuals should be given constitutional rights to marry found itself in the public domain, there were loads of negative comments and articles written by Ghanaians<sup>90</sup>, most of them going to all lengths to show that homosexuality is foreign to the African and Ghanaian culture and was introduced to African cultures by the West. In an article written by Dr. Kwame Akoto and published August 2010, for example, he argued that:

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<sup>90</sup> I use Ghana and Ghanaians rather than traditional Akan societies and Akans in this section because there is hardly any literary evidence that confirms traditional Akan societies' sentiment or position concerning homosexuality or same-sex marriage. One can argue that the search for public acceptance of same-sex marriages is a modern ethical concern to traditional Akan communities. Nevertheless, the author is of the view that these general sentiments discussed here as being shown by many ordinary Ghanaians and the resulting conclusions reflects and applies to a high extent to that of traditional Akan societies and of the Akan people.

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Over the last 20 years or so there has been steady erosion in Ghanaian values and culture and this is due to the advent of Western culture through films, music videos, magazines, newspapers, fashion magazines and the like, through their most popular vehicle the Internet or multi-TV channels. As a result of this cultural imperialism whether they are appreciative of it or not, many Ghanaians especially the youth have begun to inculcate these western values and belief systems thinking they are superior to their own Ghanaian/African value and belief systems. A typical example of this is the issue of homosexuality otherwise known as gay and lesbianism. Today in the west being gay or lesbian is commonplace and is totally a part of western society.<sup>91</sup>

In another news report, we read that in 2006, Mr. Kwamena Bartels, the then Minister of Information and National Orientation, released a statement on August 31, banning a purported international conference for gays and lesbians, which was rumored to be scheduled for Accra in late September of that year. In the released statement, Mr. Bartels declared that:

Government would like to make it absolutely clear that it shall not permit the proposed conference to take place anywhere in Ghana. Government does not and shall not condone any activity which violently offends the culture, morality and heritage of the entire people of Ghana.<sup>92</sup>

Looking at the positions taken above by both Dr. Kwame Akoto and the Honourable Minister, one can notice that they seem to assume that there are some sets of practices, beliefs and ideas which can be called Ghanaian or African to which all actions and behaviours should conform, if it is to be called Ghanaian or African. It is by this assumption that what is in the public interest is taken to be that which is either synonymous with, or promotes, these sets of ideas and practices so labeled as the cultural values, norms and traditions. I will, in this section, try to show that the public interest is not all the time synonymous with what is assumed to be the cultural values nor is it always that which tends to promote these sets of ideas and practices.

<sup>91</sup> <http://allafrica.com/stories/201008180526.html>, accessed on 9<sup>th</sup> November, 2010 at 18:00 GMT.

<sup>92</sup> <http://www.modernghana.com/news/2/102935/1/what-is-ghanaian-culture-gay-group-leader-asks.html>, accessed on 9<sup>th</sup> November, 2010 at 18:15 GMT.

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In a response to the Honourable Minister, the leader of a group which claims to represent Ghana's homosexual population, Mr. MacDonald, asked a very important question that has a lot of philosophical implications. He asked "what is culture in Ghana's context?" More compelling still is what he said next: "I think we need to talk more about what is Ghanaian and what is not Ghanaian again, so that we see whether we need to be incorporated into society..."<sup>93</sup> More often than not, we speak of a Ghanaian culture, African Culture, American culture, etc. assuming there is a set of uniform or monolithic ideas, behaviours and practices common to all of these people so classified as Ghanaians, Africans or Americans. We also take it for granted that as members belonging to a particular society there are or should be some form of practices and behaviours common and shared by all, for after all, what will be the essence of being a member of a particular society if we do not share many things in common with the rest of the members of that society.

The crucial questions here are:

- i. What qualifies some ways of life as Ghanaian culture and others as non-Ghanaians?
- ii. If something is Ghanaian does it mean it is good?
- iii. Is that which is taken to be Ghanaian sacrosanct and so cannot be altered or abandoned?
- iv. Is that which is taken to be Ghanaian binding on all Ghanaians and at all times?

When a group of people who believe they share a common ancestry, continually do things together in a particular way over a long period of time, it becomes their way of life, their culture. As the group continues to exist, their way of responding to problems is maintained with continual practice which is then passed on from one generation to another with minor changes here and there. In time, these practices become a tradition. Yet, every generation is faced with its own special problems which sometimes the old approach of doing

<sup>93</sup> <http://www.modernghana.com/news/102935/1/what-is-ghanaian-culture-gay-group-leader-asks.html>, accessed on 9<sup>th</sup> November, 2010 at 18:15 GMT

things can't meet. In such situations new ways are developed and the old ways are abandoned. As societies develop, territories are enlarged and visitors are accommodated. Trade with other societies is inevitable since a single society cannot by itself provide all its needs. Activities of war, activities of trade and the accommodation of visitors and strangers bring about cultural exchange and borrowing. These borrowed cultural practices and norms are appropriated by the society because perhaps at the time they presented better ways of meeting the challenges of the society or because of their aesthetic value. In time, these borrowed cultures are not seen by later generations as having been borrowed but rather they are seen as their own and will be readily protected as such.

In light of these socio-historical facts, it becomes problematic for a single society to claim absolute and exclusive ownership to certain beliefs and practices when some of these inherited cultural values might have been started by empires which are no more in existence. Some of these cultural values might have been introduced by some ancient kingdoms that our ancestors used to pay homage to because these ancient kingdoms defeated our ancestors in a war. So it was, in ancient civilization, that whenever a particular regime, empire or kingdom is in control, that regime, one way or the other, had an impact on the culture and civilization on the states under its control. It was so in the time of Greek civilization and also of Roman civilization. There are countless reasons and possibilities that can account for the emergence of a particular culture.

The Golden Stool of the Asante Kingdom to date remains a very important part of the Ashanti's tradition. Nevertheless, the man who is known in history to have conjured the stool from the sky, Okomfo Anokye, was not a native of the Ashanti kingdom but from Akwapim in the Akwamu Kingdom southeast of Ashanti. It is therefore conceptually and historically impossible to have an Ashanti culture or an Akan culture which is so authentic and indigenous to the people of Ashanti or to the Akan people without any dent of influence

from other people's culture over the years. The bottom line, therefore, is that since we cannot have a strict definition of what counts as Ghanaian and what does not count as Ghanaian it will be conceptually impossible to make the public interest one and the same as that which promotes the cultural values and traditions of Ghanaians. This is because we will not be able to tell which of the cultural values that needs promoting from those that we need not promote because they are not Ghanaian.

Secondly, not all of these generally accepted 'Ghanaian cultural values' are acceptable by all. Being a member of a cultural group does not mean that everybody in that group partakes or participates in all of its cultural products and believes in all of its ideas. It is possible and normal for individuals of a particular group to have certain desires outside and beyond the jurisdiction of their group. This being the case, any attempt to equate the public interest with the cultural values of a society or a group will mean that those who do not participate in these cultural values, perhaps because they do not find them appealing will be disadvantaged. Since all public policies are going to be channeled at improving these cultural values, those individuals who do not find these cultural practices and values appealing will be forced one way or the other to conform or lose out. Similarly, if the public interest is assumed to be that which promotes the cultural values of a society, it will make it possible for public laws to be enacted against those who do not conform to these cultural practices assumed of the group, mainly because they are going to be considered a threat to the continued existence of these practices. This will constitute the suppression of individual autonomy and make societies authoritarian. In such a situation the public interest will be biased and will not give room for individuals to enjoy their free will.

Finally, not all the assumed cultural practices of a group or a society are known to be good for its people. There are some cultural practices which are detrimental to the development of the people as a group and as individual members. If we go ahead to equate at

all times the public interest with the cultural values or that which promotes them, then there is the possibility of promoting some cultural practices which are morally questionable and also those that obviously stand against the fundamental human rights of individuals. In Ghana, for example, some cultural practices have been tagged as negative with many calling for their abolishment. Examples of these include female genital mutilation (FGM), trokosi or shrine slavery and the culture of perceiving and treating women as second class to men. It therefore seems that even the cultural practices must meet certain moral standards before it is accepted by the people. This being the case it will be an error on the part of policy makers or traditional leaders to make the promotion of certain accepted cultural values and practices as that which is in the public interest while making any other thing which is assumed to be foreign to these known cultures a public evil.

In this section, I have tried to show that we cannot define the public interest as that which promotes the cultural values and traditions of a given society. This is because it is not easy to determine which of our cultural values are strictly Ghanaian and which are not. In light of cultural borrowings and exchanges that have been going on since antiquity, it is both theoretically and historically difficult for any society to claim exclusive rights to any given cultural traits. Also, not all the assumed cultural products for a group or a given society are understood and appreciated by all those in the group or society. Thus, if the public interest is to promote these cultural products only, then these individuals are going to be disadvantaged. It is also going to make it possible for governments to use this interpretation of the public interest to force all into conformity to certain specified behaviours, something which will constitute the suppression of individuals' autonomy.

Finally, due to the fact that some cultural products are morally questionable and are potential threats to the enjoyment of individuals' human rights and dignity, it will be a serious blunder for anyone to assume that the promotion of cultural products will at all time lead to

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the achievement of the public interest. The goodness and wrongness of a cultural product is not to be found in its origin but rather in how it enhances the lives of the people who practice it. This being true, no cultural trait can be said to be sacrosanct and untouchable unless it meets this standard. The public interest cannot be the same as the cultural product and values of a group or society, or that which promotes these values just because it is their cultural values without taking into consideration their effect on the lives of its people.

It is in this light that homosexuality or any other human individual behavior cannot be simply dismissed because it is foreign to known and prevailing cultures. The onus then is on the former Honourable Minister, Kwamena Bartels and Dr. Kwame Akoto, including others who think like them, to show how allowing homosexuals their liberty will be detrimental to the 'Ghanaian culture'. To do this, they will have to be able to clearly delineate those cultural products which are exclusively Ghanaian and those which are not and let the rest of the world know the criterion they used in doing so. As already shown, this will be an almost impossibility.

#### **Section 5: Conclusion**

So far, we have learned from the proceeding that what is meant by the public interest is not easy to define. Looking for the public interest is like chasing your own shadow, you just cannot catch it. The proceeding has shown that the public interest is vague and not well defined. Its vagueness has made it possible to be used to mean so many things at once, coupled with many difficulties. I have shown that the public interest is not synonymous with the interest of the majority. I have also shown that it is not possible for the public interest to benefit every single individual equally and that no matter its content there are people who,

one way or the other will be disadvantaged by that which is perceived to be in the public interest.

It is because of the fact that the public interest is difficult to determine and also that no single individual or body can exclusively know what is in the interest of everybody, due to diversity in interests, that I see Bentham's approach to the realization of the public interest more appealing. Bentham will want us to see the public interest as nothing beyond the interest of the individual members of the society. If we put in place policies that augment individuals' chances of achieving or fulfilling their personal interests and of setting goals, then we are on our way to attaining the public interest. This is because, unlike the public interest which is subtle, vague and difficult to identify, individual interests are more vivid and concrete. The pursuit and attainment of them are therefore more easily to do. This approach is in line with the liberal position to allow individuals their freedom of expression and their autonomy to pursue their own life agenda without any undue interference from their fellow men. This will also help guide against some individuals or authorities using their own perception of what is in the public interest as a basis to suppress individual freedom.

**Chapter 5****SOME AKAN TRADITIONAL VALUES VERSUS THE INDIVIDUAL SEARCH FOR FREEDOM****Introduction**

In chapter four, I looked at some theoretical considerations regarding the meaning of the term 'public interest' and some possible application of it. We saw the intricacies and difficulties involved in finding an appropriate meaning of the term 'public interest'—these difficulties have something to do with the subtleness and vagueness of the term, allowing for all sorts of interpretations to be given to the term public interest. I concluded, however, that one possible means of attaining anything that might be in the public interest is to allow individuals to freely pursue their own private interests since these private individual interests are more easily identifiable, vivid and easily attainable as compared to attaining the public interest in its vague usage.

Attaining the public interest by allowing individuals to pursue their private interest, will give to individuals their autonomy or liberty to pursue their own agenda of a good life without any undue interference from other persons. It will also guide against governments and traditional authorities using the public interest in its vague sense to control the lives and behaviours of its people to conform to certain predefined rules and regulations, traditional laws and values, laws and policies, which these governments and traditional authorities perceive to be the only assured ways of achieving the good life for all of its members. Thus, pursuing the public interest by allowing individuals to freely pursue their own private interests, gives to individuals the power of autonomy, which gives credence to their rationality and respect for their dignity as humans.

Going by this conclusion, in this chapter, I propose a theory of a traditional Akan society which will give some accommodation to the free expression of individuals' liberty while still maintaining at least some fundamental principles underlying some of its traditional beliefs and practices. This will require a revisit to some of these traditional Akan beliefs and practices that I identified in my introduction as standing antithetical to individuals' free expression; to investigate some of the fundamental principles that motivate the continual practice of these beliefs and how individuals' autonomy could be promoted while still maintaining some of the good principles.

## Section 2: Some Principles Underlying Some Traditional Akan Values and Practices

Primarily in chapter one, I identified some traditional Akan practices and beliefs that make the pursuit of individual freedom a problem in traditional Akan societies. I showed that it is because of the continual belief and practice of these cherished and inherited traditions *vis-a-vis* individuals' quest to be free that brings about the frequent tension between traditional authorities, upholders of tradition and members of these societies. The contents of some of these traditional beliefs and practices made it quite impracticable for any individual to claim autonomy over his personal life. These included the value and worth Akans place on family or kinship ties, their marriage processes and purpose for marriage, family names, and their communitarian character itself. It is my job here to identify some principles underlying the practice of these traditions and see how these principles can be upheld while giving individuals some autonomy of their lives.

As mentioned in section four of chapter four, one behaviour that has received much opposition in Ghana, as well as in many parts of the African continent, is homosexuality. The core reason for the opposition, apart from the overly religious character of the African people, is the belief that homosexuality is a foreign imposition and as such poses a threat to African

culture. It is, therefore, the strong conviction of most African people that everything must be done to purge homosexuality out of the continent. I will, as a result of the current popular interest on the subject matter, use homosexuality as my main reference throughout this chapter. My conviction is that if I am able to argue for a traditional African society that can accommodate an expression of individual autonomy as controversial as homosexuality, then the same principles here can be applied to any other form of individual free expression in behaviour and in choice making, though, of course, with varying degree of success.

As mentioned earlier, traditional Akan societies place a lot of value on the family. Family bonding is very crucial in Akan societies and so keeping regular contact with kinship relations and clan members is highly motivated and expected. The traditional Akan concept of the family extends beyond the nuclear family make-up of a husband, wife and children. It includes parents and grandparents, uncles and aunties, nephews and nieces, cousins and all other kinship ties in what is usually referred to as a clan or lineage. What holds these individuals together as a unit is that they share a common ancestry and are thus related by blood. It is crucial for members of a clan to maintain regular contact with each other to maintain the feeling of belonging and to show solidarity with other members. Because of the worth traditional Akan communities place on the family, they similarly place equal importance on the processes that lead to its sustainability and expansion. These processes basically are marriage and procreation.

Commenting on the purpose of marriage, W. E. Abraham noted generally about traditional Africa that:

In African traditions, marriage is procreative in its primary purpose. Accordingly, women who have attained menopause do not in general remarry and in some societies e.g. among the Nargi, their current marriage can be terminated in this circumstance.<sup>94</sup>

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<sup>94</sup> Emmanuel Abraham, "Crises in African Culture" in Wiredu and Gyekye (eds.) *Person and Community*. The Council for Research in Values and Philosophy (1992) p. 20.

N. K. Dzobo also made similar observation. He observed that:

Man's ultimate goal as an individual and as a member of his clan is to multiply and increase because he is the repository of the creative power, the right use of which is his chief responsibility. Likewise when a woman marries, the most important thing that she takes to her husband's house is her productive powers because this is the essential part of her nature.<sup>95</sup>

Both Dzobo and Abraham's observation about African traditional attitude towards marriage can be said to apply similarly in traditional Akan societies. In traditional Akan societies, marriage is a big event meant to unite two separate families. The main purpose of marriage is procreation. Procreation is also important to the Akans because it is the children who are going to expand the clan as well as maintain the family name. Family names are very important to the Akans because family names give to the bearer his or her identity as a member of the clan. One is easily recognised as a native of the community or not by the mention of his family name. Family names bestow on the bearers all the pride, honour, fame and glory of past ancestors.

What are some of the principles that can be tapped from the traditional Akan perspectives on marriage and the importance it places on family bonding and kinship ties? One important benefit individuals receive from belonging to a clan is the sense of security. By security I do not mean the kind of protection security firms, police or armies provide for people. The sense of security I speak about, which is to be found in marriage and in being a member of an extended family or clan, is of a different kind. The extended family system provides a sense of belonging where all members can come and seek refuge. Most clans have family homes which welcome back all of its members after they have tried their luck elsewhere and have failed. Family members provide aid for each other when they need it. In effect, the family protects its own and gives solace to all who need it.

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<sup>95</sup> N. K. Dzobo, "The Image of Man in Africa" in Wiredu and Gyekye (eds.) *Person and Community*, The Council for Research in Values and Philosophy (1992) p. 131.

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In marriage, it is expected that the two couples find friendship and companion in each other. In case of incapacitation of either one of the couples, he or she is expected to rely on the love and care of his or her partner. Children born to the couples also enjoy some sort of security in the form of upbringing and protection from their parents. The parents complement each other's efforts in the raising of the children. The woman is expected to train her daughters in knowing her responsibilities as a girl and a future wife. The man also owes responsibility to his sons, to train them in the inherited tradition of his fathers and their future roles as head of family. The parents also can look forward to enjoying some form of security from their children when they are old and weak. The children are expected to take care of their parents by providing food for them and seeing to their health and other material needs. Thus it is frequently said in an Akan proverb that: "when your parents take care of you for your teeth to grow, you must also take care of them for their teeth to fall out."

Despite my saying that couples are expected to find friendship and companionship with themselves in their marriage, the fact of the matter is that in traditional Akan communities, men do not actually seek this friendship and companionship from their wives and women likewise do not receive friendship and companionship from their husbands. Men treat their wives only as sex objects and to raise and nurse their children, and will rather prefer the company of their fellow men or cohorts. Married men are found more often than not in the company of their male counterparts with whom they work together, drink together, and share ideas. Men will only come back home to their wives to eat and to sleep.

The women too, because of the frequent absence of their husbands, find friendship and companionship in their fellow women with whom they share secrets and gossip of the town. The women are most often with each other on their farms, in the market place and on the way to the stream and back. Thus the friendship and companionship which the man and the woman are supposed to provide for each other in marriage is mostly found outside the

marriage, among friends of the same sex. This being the case, traditional Akan societies shouldn't find it out of place or 'unnatural' for man to man relationships to become intimate and similarly for woman to woman relationships to become intimate, and when they do, it is highly probable that the two couples will find the expected friendship and companionship among themselves more than they would have had with persons of the opposite sex. Same-sex married couples can therefore provide for each other the security of friendship and companionship desired in marriage. Love and companionship can easily be nurtured among same-sex relationships as compared to heterosexual relationships.

One may argue that even if homosexual couples can provide for each other the friendship and companionship expected in marriage, as argued above, they cannot together produce children who are going to see to the expansion of the clan and ensure for the continuation of the family name, which also happens to be another important fundamental principle for marriage. Thus same-sex couples cannot fulfil the primary requirement of marriage which is procreation. To start with, making procreation the core duty of marriage causes one to wonder whether it is the marriage of their members that they are so interested in or giving birth to children. This is because we learn from traditional Akan communities that when a woman fails to give birth to children for her husband, either the marriage is annulled or another woman is brought in as a second wife. If the interest is more in the giving of birth so as to expand the clan and keep the family name alive, then I do not think one necessarily has to be married to be able to do so. On the other hand, if it is the marriage of their members which is of more interest to them, then traditional Akan societies will have to allow individuals the freedom to decide whom to marry and for what purpose. This should not exclude persons of the same-sex nor the reason of love, friendship and companionship.

When it comes to traditional Akan societies' belief in procreation as a core element of marriage, this is where same-sex couples will face the most challenge. How do they give

the clan a child to continue the family name and at the same time extend the membership of the clan? One should note that adoption will not be a solution here because as already indicated above, traditional Akan families are very particular with the fact that every new member to the family by way of birth should have the blood of the lineage in him or her. That is to say, the child should be one's own child borne by him.

It could be suggested here that same-sex couples can seek solution from modern science. Artificial insemination can be a solution for homosexual couples faced with the problem of child bearing, if the need for a child to continue family names and expand the clan is crucial to the traditional Akan families. This is because with artificial insemination the child will have at least the DNA of one of the parents. Male homosexual couples can find a female volunteer who will be inserted with the sperm of one of the couples for the natural process of fertilization and conception to take place. Female homosexual couples can also find a male donor to donate sperm to be inserted in the womb of either of the couple for the natural process of fertilization and conception to go on. Since the resulting child will have the blood of one of the couples in him, he will be worthy to carry the family name and as a result, may help expand the clan.

The argument may continue that children born to same-sex couples can enjoy the same security to be found in the home of heterosexual couples. Same-sex couples can also provide love, care and the good nurturing any child may need. If heterosexual couples fail in the upbringing of their child and the reason is not attributed to their being heterosexual but for other reasons then the same should be said of homosexual couples if they also fail to bring up their children well. Their homosexuality does not by definition make them unqualified for child upbringing. Like heterosexual couples, if same sex couples should fail in the bringing up of a child, the factors could include irresponsibility on the part of the couples, their

inattentiveness to the plight of the child and other social factors all of which can affect both heterosexual couples and homosexual couples alike.

Moreover, the extended family system provides structures that make it possible for children to receive love and affection, and good nurturing not only from the parents of the child but from other men and women in the family as well. Thus in the Akan tradition the word 'mother' and the word 'father' are used not only for your biological parents but for your aunts and uncles as well. This is because any of these uncles and aunts can easily take up the role of your parents whenever your biological parents are incapacitated or dead. Thus homosexual parents do not necessarily have to shoulder the burden of the child's upbringing by themselves but can rely on members of the extended family to give them a helping hand as and when they need it. This places same-sex couples in the traditional Akan settings even in a better position to have and care for children of their own than same-sex couples from most other places.

The suggestion I have made is that artificial insemination is a possible solution for the problem of same-sex couples bearing a child to continue the family name and for the expansion of the clan. While this seems convincing, there still remains this doubt in my mind as to whether children born using artificial insemination will be accepted by family members as one of their own, looking at the fact that these children were not conceived in a 'traditional' way, that is, the children were not born through sexual intercourse between a man and a woman. There is also the problem of the high cost involved in this process and the low level of technological advancement in traditional Akan societies. So despite the suggestion of artificial insemination, it seems that same-sex couples are still going to face some challenges when it comes to meeting the requirement of child bearing to continue family name. This should show that not every aspect of traditional Akan beliefs and practices can be made compatible with individual's autonomy. I argue that in such circumstances, individuals

should be given the liberty to decide whether they want to uphold tradition or not, rather than be made to conform to traditions no matter what.

Moving on from the traditional Akans' appreciation of the family or clan and the importance they place on marriage and procreation, I will want to now talk about some other values of the traditional Akan societies in which we can find principles that will not only help accommodate same-sex marriages but also all other individual free expressions. The recognition and respect for human dignity is evidently inherent in the traditional Akan ethos. Akans, in one of their proverbs, recognize that all human beings are children of God and that no one is the child of the earth. The idea behind this proverb is that since we are all from God, we are all equal before him and deserve equal respect. Kwame Gyekye even held that this notion of human dignity the Akans find in every human being can be used as a basis to argue for the respect for human rights even in a communal society like the Akans.<sup>96</sup> Now if every human being is equal before God as recognized by the above proverb, then traditional Akan societies must give accommodation and respect to individual behaviours that differ from the norm including homosexuals. If all humans are indeed equal and possess some dignity worthy of respect then individuals who exhibit difference in behaviour are still to be considered humans and be given due recognition and respect for their difference rather than be cast away, shunned, ostracised and discriminated against.

The communalistic character of traditional Akan societies itself also reinforces the above position. The communalistic attitude of traditional Akans develops in them a sense of brotherhood and compassion towards each other. The communalistic attitude of traditional Akan societies requires that all seek the general welfare of the community. A better way to achieve this general welfare of the community, as gathered from the previous chapter, is to allow individuals the freedom to pursue their private welfare or interest so far as their actions

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<sup>96</sup> Kwame Gyekye, *African Cultural Values: An Introduction*, Sankofa Publishing Company, Philadelphia, Pa./Accra, Ghana (1996) pp. 150ff.

do not bring harm on others. Individuals who deviate from the norm by exhibiting difference in behaviour or in character or in choice should not be discriminated against. Homosexuals are to be seen as members of the community whose interest must be regarded like everyone else in the society. Thus Thomas Nagel rightly noted that:

Any society concerned with fairness must try to decide what general structures or modes of treatment, applied to persons who differ greatly one from another, will qualify morally as a form of equal treatment, or at least not egregiously unequal treatment.<sup>97</sup>

We know from the communitarian character of traditional Akan societies that seeking the general wellbeing of all is their priority and this should not exclude homosexual individuals or any other individual who exhibit any form of difference. As Gyekye also noted:

The natural membership of the individual human being in a community cannot rob him or her of his or her dignity or intrinsic value, a fundamental and alienable attribute he or she possesses as a human being.<sup>98</sup>

This intrinsic value I believe includes the right to be free and to be whom one desires to be.

### Section 3: Conclusion

In this chapter, I have identified some principles underlying some traditional Akan practices and beliefs. These practices and beliefs that I spoke about included the value traditional Akans place on the family, the importance they give to marriage and the worth they see in procreation. I also spoke about their belief in human dignity, that is, the belief that all are equal in the eyes of God who created man. Finally, I looked at their communitarian

<sup>97</sup> Thomas Nagel, "Nussbaum on Sexual Injustice" *Concealment and Exposure and Other Essays*, Oxford University Press, 2002 p. 56.

<sup>98</sup> *Ibid.* p. 151.

character itself which develops in them a sense of brotherliness towards each other and requires of them to seek the general welfare of all.

Of these beliefs and practices, some principles were tapped or observed as being fundamentally inherent and as that which motivate the continual practice of these beliefs and practices. In marriage there is the principle of security which basically emerges from the love, friendship and companionship, the two couples are expected to find with each other. The extended family system provides for its members a place of refuge and a sense of belonging. Family members also enjoy aid from other members when they need it. We learned that procreation is essential in marriage because it is the children who are going to expand the clan and sustain the family name for posterity. The belief in human dignity is also underpinned by the principle that all humans are children of God and as such demand equal respect. From the communitarian character of the Akans we learn that there is an obsession with seeking the general welfare of all and also to look on everyone as a fellow brother even though from different parents.

I have shown that there is nothing in the above mentioned principles underlying the beliefs and practices of traditional Akan societies that should make them abhor homosexuality or same-sex marriages or any other display of individual free expression so far as individuals by their actions do not bring harm on others. I showed that given the fact that traditional married men and women do not seek the expected friendship and companionship from each other but from others of the same sex, it shouldn't be out of place to have these same-sex relationship develop intimately and that when they do, same-sex couples are more likely to find the expected friendship and companionship with each other more than they would have found with persons of the opposite sex.

I showed that one principle underlying traditional Akan marriage which might come as a challenge to same-sex couples is that of procreation for the purpose of expanding the

clan and the sustenance of family name. The suggestion that same-sex couples could rely on modern methods of artificial insemination to solve this problem, I have shown, might not work as expected because of the high cost involved and the low level of technological advancement in traditional Akan societies. I however showed that same-sex parents in the traditional Akan setting, when allowed, may do better in parenting than same-sex parents elsewhere because same-sex parents in traditional Akan societies can rely on the extended family structure and have other family members help them in the nurturing of their child which will be in line with the traditional set up of the Akan societies.

The belief in human dignity also calls for all humans to be accorded equal respect and the recognition of their autonomy when it comes to their individual choices and preferences. Respect for individual autonomy should be extended to include people who differ from us in character, behaviour and life choices. These differences should be seen as contingent factors that do not make one person less human than the other.

Finally, I argued that the communitarian nature of traditional Akan societies itself provides us with some principles that should make traditional Akans accommodative to individual differences so far as these individual free expressions do not bring about harm on others, much of which have been said in chapter two. Also, the principle of Akan communitarian societies to seek the general welfare of all, I argued, is best achieved when individuals are given the freedom or liberty to seek their own welfare or interest since it is the best assured way of attaining the interest of all without having to discriminate. The sense of brotherliness also inherent in communitarianism should make traditional Akans consider one another as brothers irrespective of differences in life choices and the differences in our definition or understanding of a good life.

In conclusion, we can then say that despite the popular argument that traditional Akan and for that matter African traditional beliefs and practices stand strictly antithetical to

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the granting of homosexuals their freedom or generally speaking, stand antithetical to the acknowledgement of individuals' freedom, liberty or autonomy, we can find in some of these same beliefs and practices of traditional Akan societies, some fundamental principles that will make room for the granting of homosexual freedom and more generally the granting of individuals' liberty or autonomy. Traditional Akan societies, if they are to see improvement in the lives of their people and prevent stagnation of ideas and to be able to face modern challenges in all of its facets, must allow individuals their freedom to use both the lessons learnt from tradition and from their own experience to forge for themselves their own way of life. This chapter had sought to show that there are inherent in their own beliefs and practices, some principles that will support this.

## CONCLUSION

Over all, this thesis has sought to show that traditional Akan societies, despite evidence of the suppression of individuals' autonomy, can make room for the free expression of individual autonomy and that the principles to make this possible are not to be found outside their own beliefs and practices but rather are inherent in their own cultural beliefs and practices. This being the case, individual autonomy should not be considered as a foreign imposition, nor should it be seen as totally antithetical to cherished inherited cultural beliefs and practices.

There is a need for traditional Akan societies to do a re-appraisal of what they believed to be their inherited cultural traditions in order to sieve out those cultural norms that are capable of depriving individuals their autonomy. Individual autonomy is very important for every society because it is that which allows for dynamism, innovation, and gives individuals the opportunity to be who they are and what they want to be. As long as these cultural norms that suppress individual autonomy continue to exist, there will continually be tension between some individuals who want to escape the holds of traditions and traditional authorities and upholders. This is because it is part of human nature to want to be free and in this age of mass cultural influx coming in from all angles, coupled with the internet and social websites, our people are becoming enlightened and becoming conscious of their right and the power they have in themselves to be whoever they want to be.

This should not be seen as a call for the total neglect of all of our cultural tradition. There are within these cultural traditions, some values worthy to be promoted which do not necessarily threatens the autonomy of the individual. These ones could still be promoted.

I have shown that in traditional Akan societies some of the principles which were observed as being fundamentally inherent in some of their beliefs and practices were these: in marriage there is the principle of security which basically includes love, friendship and

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companionship which the two couples are expected to find with each other. The extended family system provides for its members a place of refuge and a sense of belonging. Family members also enjoy aid from other members when they need it. We learned that procreation is essential in marriage because it is the children who are going to expand the clan and sustain the family name for posterity. The belief in human dignity is also underpinned by the principle that all humans are children of God and as such demand equal respect. From the communitarian character of the Akans we learn that there is an obsession to seek the general welfare of all and also to look on everyone as a fellow brother even though from different parents.

I showed from the principles observed from these traditional beliefs and practices above that most of them can be made compatible with the granting of same-sex couples their freedom to unite or with some other exhibition of individual autonomy. I showed that given the fact that traditional married men and women do not seek the expected friendship and companionship from each other but from others of the same sex, it shouldn't be out of place to have these same-sex relationship develop intimately and that when they do, same-sex couples are more likely to find the expected friendship and companionship with each other more than they would have found with people of opposite sex.

Same-sex couples, I argued, may be faced with some difficulties when it comes to meeting the requirement of procreation which is highly regarded in marriage by traditional Akan societies. The suggestion to rely on modern method of artificial insemination to solve this problem, I argue, will not be entirely successful. This is because there is no telling whether children born out of the process of artificial insemination will be accepted by traditional Akan families as worthy to bear the family name in the same way as other children born from the 'natural' process of conception will be. Even though the resulting child from the artificial insemination will be carrying the gene or blood of one of the couples, traditional

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Akan families might not perceive them to be the same. There is also the problem of the high cost involved in the process of artificial insemination and the fact that it will require a high level of technological advancement which traditional Akan societies lack. This challenge, I noted, is evidence that not every principle underlying every traditional Akan beliefs and practices can be made compatible with the search for freedom by individuals. I argued that in such circumstances, it makes more sense that individuals should have the liberty to decide whether they will uphold the traditional principle in question or not, rather than be forced to comply unwillingly.

Looking for other principles, I went on further that the belief in human dignity also calls for all humans to be accorded equal respect and this should include people who differ from us in character, behaviour and life choices. These differences should be seen as contingent factors that do not make one person less human than the other. Finally, I argued that the communitarian attitude of traditional Akan itself provides some principles that should make traditional Akans accommodative to individual differences so far as these individual free expressions do not bring about harm on others. Also, the principle of Akan communitarian societies to seek the general welfare of all, I argued, is better achieved when individuals are given the freedom or liberty to seek their own welfare or interest since it is the best assured way of attaining the interest of all without having to discriminate. The sense of brotherliness also inherent in communitarianism should make traditional Akans consider one another as brothers irrespective of differences in life choices and the differences in our definition or understanding of a good life.

I conclude that despite evidence to show that some beliefs and practices of traditional Akan societies stand strictly antithetical to the granting of homosexuals their freedom or, generally speaking, stand antithetical to the acknowledgement of individuals' freedom, liberty or autonomy, we can find in some of these same beliefs and practices of

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traditional Akan societies, some fundamental principles that will make room for the granting of homosexuals their freedom to marry and more generally the granting of individuals their liberty or autonomy.

The thesis has also shown that the public interest or the common good, not being a clearly defined concept should not be used as a basis for governments or traditional authorities or any other person's interference in the private affairs of individuals, nor can it be used to suppress individuals' autonomy. The thesis has agreed with J. S. Mill that individuals owe their private lives to themselves and that the only time governments or traditional authorities are justified in intruding into the lives of individuals is when individuals by their actions pose a threat, not to themselves, but to others as well.

The thesis argued that despite the lack of a clear and distinct dichotomization of the public and private realms of individual's action, there was still a need to maintain some distinction of a kind to prevent undue interference in all aspects of individuals' lives and also to duly curtail individuals' freedom.

It is clear from the discussion of the public interest that how the phrase is employed in usage is very confusing and suspicious. This being so, it is possible for authorities to hide behind this phrase and commit various atrocities against their own people. It could also be used to suppress individual autonomy. Yet those who employ it in their everyday language do not have a clear definition or understanding of what they are referring to. Either they are thinking of what it is the majority's interest or what they perceive to be in everyone's interest. To escape these difficulties, I argued that either we go along with Bentham's position that the public interest, if it exists at all, is best attained by allowing the pursuit of individual interests which are more profound, concrete and realistic, or we totally do away with the phrase and stick to what will help individuals further or attain their own interests. Whichever way we choose to go, one thing that still remains is that the public interest, the common good, or

whatever alternative phrase we choose in its place, should not be used as a justification to take away or suppress individual autonomy.

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