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Individual Autonomy to Communal Justice: Integrating Ubuntu into Public Health Law in the East African Community

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ABSTRACT

The governance of public health in the East African Community (EAC) has become fraught with ethical dilemmas between individual civil liberties and communal health interests. This is due to the prevalent rights-based approach to autonomy that, although it prevents medical paternalism, alienates patients from necessary communal bonds and ignores the social dimension of health in Africa. This research aims at objectively establishing how the Ubuntu philosophy can be used to reform public health laws in the EAC for communal justice. The methodology involves philosophical analysis through literature review and assessment of existing regional legal regimes on the interplay between individual rights and communal duties. The results indicate that Ubuntu ethics such as solidarity and interdependence offer better normative foundations for health policies compared to radical individualism. Therefore, this study concludes that public health law reform based on relational justice will contribute to health equity and resilience in the EAC.

1. INTRODUCTION

Public health governance in the East African Community (EAC) entails both national strategies and regional cooperation for dealing with common health issues[1].

[1] Cletus T. Andoh, "African Communitarian Bioethics and the Question of Paternalism," *British Journal of Education, Society and Behavioural Science* 15, no. 4 (2016): 1–16.

Some of the initiatives that have been adopted in the EAC include increasing access to contraception services and maternal health through cross-border cooperation. Countries like Uganda were among the first to adopt comprehensive strategies in national governance, an example being the HIV/AIDS strategy of the 1980s, which involved mobilizing the entire population through the participation of decentralized government institutions and civil societies[2]. In the case of Kenya, the country has attempted to codify reproductive rights by passing the Reproductive Healthcare Bill of 2019. However, such initiatives have always encountered considerable resistance from conservative political quarters[3]. In spite of the regional approaches to public health governance, many of the governance models are based on inherited governance models, which may not be fully attuned to the realities of the local populations. These models have faced problems in their implementation owing to limited resources and absence of ethical frameworks[4].

As part of further enhancing these systems, the EAC has been moving towards Universal Health Coverage (UHC), as indicated in the United Nations Sustainable Development Goals. This effort requires a redesign of the primary health care system to become community-based, as evidenced in the "Ideal Clinics" that are being piloted in some parts of the continent[5]. Nevertheless, the challenge of the dysfunctionality of the health system and social disparities is still quite pronounced. The governance of the EAC should confront what has been described as the "quadruple burden of disease," such as HIV/AIDS, tuberculosis, and maternal mortality, which are strongly associated with poverty and deprivation. As a result, there is a need for a multi-sectoral approach that takes into consideration social determinants of health for the EAC to realise its long-term developmental goals[6]. The achievement of these goals will be hinged on going beyond the capitalistic models to more socially cohesive models.

Autonomous rights-based models of public health, derived mainly from Western bioethics, have succeeded in positioning the individual as the key locus of moral consideration. The "autonomy-centred" model has its origins in Millian liberty, which stresses the importance of individual sovereignty and non-interference provided that no harm is inflicted on others[7]. The advocates of this model claim that respect for autonomy is a deeply-rooted common morality as well as a fundamental human right irrespective of any socio-cultural stance. It was critical in dismantling the oppressive doctrine of medical paternalism whereby only the physician had the authority to determine the course of treatment for his patient[8]. Nevertheless, it has resulted in what

[2] Evanson Z. Sambala, Sara Cooper, and Lenore Manderson, "Ubuntu as a Framework for Ethical Decision Making in Africa: Responding to Epidemics," *Ethics & Behavior* 30, no. 1 (2020): 1–13.
[3] Chuma Himonga, "The Right to Health in an African Cultural Context: The Role of Ubuntu in the Realization of the Right to Health with Special Reference to South Africa," *Journal of African Law* 57, no. 2 (2013): 165–195.
[4] Cletus T. Andoh, "African Communitarian Bioethics and the Question of Paternalism," *British Journal of Education, Society and Behavioural Science* 15, no. 4 (2016): 1–16.
[5] Levi Pius Bolarinwa, "African Concept of Health as a Human Right: A Justification," in *The Human Right to Health and Corporate Responsibility in Sub-Saharan Africa* (2026), 45–65.
[6] Ibid
[7] Ibid
[8] Leonard Tumaini Chuwa, *African Indigenous Ethics in Global Bioethics: Interpreting Ubuntu* (Cham: Springer, 2014).

some refer to as the "tyranny of patient autonomy" or even "autonomy fetishism" where patient choice is often valued above the greater good of the situation or the outcome. In an African context, such an individualized perspective does not work as it fails to recognize the fact that individuals do not exist in isolation but as part of social interactions[9].

Ubuntu becomes an important normative response to health in Africa since it provides an alternative framework where the key element of consideration is humanness and solidarity. It is expressed by the idea of "I am because we are". The essence of Ubuntu is that being a person and being a human are inseparable from one's relations with other people. In contrast to the Western approach, where individualism prevails[10], Ubuntu is based on service and puts emphasis on actions in accordance with moral obligations towards the community. Ubuntu says that the highest ethical principle is to promote life, which can be provided only in harmony within the community. This model was successfully applied in Uganda, where HIV prevention measures were based on communal values and "social vaccines", resulting in a dramatic drop in prevalence due to moral persuasion and confidentiality[11]. By emphasizing communal character of health, Ubuntu allows for finding a compromise between personal and social interests in health policy.

The current public health legislation in the EAC region has been characterized by what may be termed as "policy vacuum" or inconsistency between rights-oriented constitutions and people's lived reality. Although many countries in Africa have signed international human rights treaties, these rights continue to be domesticated as statutory rights without regard to cultural concerns[12]. For example, despite providing for the right to health in its 2010 constitution, Kenya's judicial system still grants compensation damages rather than effecting the necessary changes to the country's health care governance system in case of rights violations such as forced sterilizations. This is because laws based solely on individualism and privacy may undermine the very notion of community and human responsibility[13]. Besides, inequality in terms of allocation of health resources continues to exist between elites and the majority poor since legal systems continue to favor elites who can afford better medical services. Thus, the innovative aspect of introducing Ubuntu to law reform is that it would emphasize the importance of health as a communal concern[14].

[9] Nancy S. Jecker, Caesar A. Atuire, and Nora Kenworthy, "Realizing Ubuntu in Global Health: An African Approach to Global Health Justice," *Public Health Ethics* 15, no. 3 (2022): 256–267.

[10] Cornelius Ewuoso and Susan Hall, "Core Aspects of Ubuntu: A Systematic Review," *South African Journal of Bioethics and Law* 12, no. 2 (2019): 93–103.

[11] Bukunmi Deborah Ajitoni, "Ubuntu and the Philosophy of Community in African Thought: An Exploration of Collective Identity and Social Harmony," *Journal of African Studies and Sustainable Development* 7, no. 3 (2024): 1–15.

[12] Perbawa, Ketut Sukewati Lanang Putra, Paul Atagamen Aidonojie, and Benjamin Okorie Ajah. "Disability and Electoral Justice for Inclusive Participation." *Journal of Sustainable Development and Regulatory Issues* 3, no. 2 (2025): 221–246.

[13] Dickson Kanakulya, *Governance and Development of the East African Community: The Ethical Sustainability Framework* (PQDT-Global, 2015).

[14] Aloysius Ochasi, Abdoul Jalil Djiberou Mahamadou, Russ B. Altman, and Levi U. C. Nkwocha, "Reframing Justice in Healthcare AI: An Ubuntu-Based Approach for Africa," *Developing World Bioethics* (2025).

What makes this topic novel is the particular move made towards shifting from the individualistic Western concept of autonomy to a relational concept of communal justice based on Ubuntu through public health law reform in EAC. Even though the use of Ubuntu as a theory is widespread in areas such as social work and philosophy, there have been no attempts at using it as a strategic framework for public health law reform[15]. The novelty in this topic is the introduction of an entirely new framework of reform through the introduction of "ought-onomy". "Ought-onomy" refers to the synthesis of values and communal oughts that would be instrumental in guiding the process of reform in non-Western contexts. In addition, this topic will seek to challenge the dominance of individualistic "rights talk" by illustrating how Ubuntu can contribute to multiculturalization of human rights to make them universally applicable, especially in times of regional emergencies such as epidemics[16].

The main goal of this study is to assess the potential of Ubuntu-oriented ethics as an appropriate benchmark for the transformation of public health laws in the East African Community. The aim is to develop a theoretical framework which combines individualism and the common good in a way that makes legal reforms both culturally meaningful and practically efficient. Moreover, the study will try to assess whether principles of solidarity, reciprocity and restorative justice can fill the existing gap between legal discourse of rights and communal life in Africa. In other words, the study will examine the potential of Ubuntu ethics as a morally justifiable alternative to individualism in order to foster social harmony and balanced distribution of resources within the community of nations in the East African Community.

2. METHOD

The current research uses a doctrinal legal research method to analyse the incorporation of the philosophy of Ubuntu into public health laws in the East African Community (EAC). The research method and data collection tools are detailed below.

Research Approach: This research makes use of a qualitative doctrinal research method and entails analysis of legal principles, constitutional provisions, court decisions and public health laws regulating individual rights, collective justice and health care regulation in EAC Partner States.

Data Collection Instruments: The main data collection tools used in this study are documentary analysis and library research. Primary data sources will include the Constitutions and public health laws of EAC Partner States, East African Community Treaty, East African Community Health Protocol, African Charter on Human and Peoples' Rights and World Health Organization's instruments. Secondary data will include academic articles, books, policy papers and publications of the African Union, WHO and EAC Secretariat.

Data Collection Procedures: The data were systematically gathered from the following electronic databases – Scopus, Web of Science, HeinOnline, Google Scholar,

[15] Yamikani Ndasauka, "Autocentric Ubuntu and Sexual-Reproductive Health Rights in Sub-Saharan Africa," in *Sexual and Reproductive Health and Rights of Women in Africa and the Caribbean: Linking the Two Regions* (2025), 41–58.

[16] Nosisa Cynthia Madaka, *Public Health Policy in Resource Allocation: The Role of Ubuntu Ethics in Redressing Resource Disparity between Public and Private Healthcare in South Africa* (master's thesis, Stellenbosch University, 2019).

official government sites, and institutional repository sites using keywords on Ubuntu, public health law, communal justice, and East African Community.

Data Analysis Tools: The collected literature was then analyzed using doctrinal analysis, thematic analysis, and comparative legal analysis using an Ubuntu Legal Integration Matrix for analysis of the incorporation of communal justice in public health law within the East African Community.

3. RESULTS AND DISCUSSION

3.1. Public Health Governance in the East African Community

In the East African Community (EAC), public health governance is increasingly becoming an area marked by cross-border collaborations to enhance maternal health outcomes and increase contraceptive use[17]. Indeed, member states like Kenya and Uganda have enacted legal and policy frameworks designed to domesticate international health standards, for example, those set out in the Maputo Protocol. Nevertheless, regional governance is largely reactive and not proactive, addressing individual redress through judicial processes while neglecting systemic transformation[18]. The EAC strategy aims to synchronize health system components such as governance, financing, and services in order to identify the structural determinants of health inequalities. Nonetheless, these efforts are hindered by political resistance, financial problems, and poor allocation of healthcare resources. To succeed, there is a need to move away from the old-fashioned administrative framework and embrace one that appreciates the impact of social determinants of health and interconnectivity of communities[19]. Essentially, governance must be about promoting respectful maternity care and tackling the "quadruple burden of disease" in the region.

The legal framework for public health in the EAC is informed by national constitutions which enshrine the right to the highest attainable standard of health. For example, the Kenyan constitution of 2010 recognizes reproductive rights, while the country's Health Act of 2017 calls for legislative action to progressively realize such rights. In Uganda, the government has made it illegal to violate medical confidentiality in order to enhance trust within the clinical setting[20]. Despite the constitutional recognition of reproductive rights, their enforcement is hindered by institutional and procedural barriers. The courts at the regional level are instrumental in bringing out violations, but their solution tends to be in terms of compensation alone without any attempt at addressing structural factors[21]. This situation creates a gulf between "rights talk" on one hand and the reality of delivery of care in the marginalized communities. The attainment of reproductive justice in the EAC calls for

[17] Chukwuemeka L. Anyikwa, "Global Health and the Dialectics of Solidarity through Ubuntu and European Perspectives," *BMJ Global Health* 10, no. 12 (2025): e019259.
[18] Brenda Odero, David Nderitu, and Gabrielle Samuel, "The Ubuntu Way: Ensuring Ethical AI Integration in Health Research," *Wellcome Open Research* 9 (2024): 625.
[19] Nchangwi Syntia Munung, Jantina de Vries, and Bridget Pratt, "Genomics Governance: Advancing Justice, Fairness and Equity through the Lens of the African Communitarian Ethic of Ubuntu," *Medicine, Health Care and Philosophy* 24, no. 3 (2021): 377–388.
[20] Taurai Kachembere, "Rawlsian Ubuntucracy and the Prospect for a Political Philosophy for Failed African States," *Politikon* 53, no. 1 (2026): 21–47.
[21] Linda Maqutu, *African Principlism: A Southern African Approach to Bioethics* (PQDT-Global, 2023).

an approach that goes beyond violation of rights and tackles institutional logic and power dynamics that lead to violence within healthcare[22].

Among the emerging governance issues in the EAC region is the fast incorporation of AI and digital health research into the system. Nations such as Kenya, Uganda, and Rwanda have already developed AI strategies and introduced data protection legislation to ensure proper data management and citizen consent[23]. Nonetheless, most of these regulations fail to address health research, resulting in a policy vacuum that makes it easy for Global North researchers to exploit the situation through "ethics dumping". Such researchers take advantage of the relatively weak regulatory environment in Africa to use local populations to train their algorithms while offering little or no sustainability to the communities[24]. Additionally, algorithmic bias that results in the misinterpretation of the local health needs by algorithms trained using non-African data poses a considerable danger to health equality. Effective governance in this scenario necessitates the formation of regional ethics committees that include Ubuntu principles to ensure that technology is used for the common good. Through the inclusion of CHWs in the process, democratized science becomes possible[25].

Another crucial, but often neglected area, of health governance in the EAC is the involvement of African Traditional Medicine (ATM). The World Health Organization estimates that 80% of Africans use traditional medicine; however, such practices are rarely considered in the formal sector. The current governance is characterized by a lack of connection, where patients seek dual care but hide information from medical practitioners because of the negative attitude towards traditional healers[26]. Even though some countries acknowledge ATM through their Health Practitioners Acts, the EAC does not have efficient frameworks for cooperation between conventional health workers. In order to address this problem, governance should adopt "Contextual Relational Autonomy" that implies involving traditional healers and families in making health decisions. Such a policy will prioritize patient's safety and collecting a detailed medical history, thus eliminating the information deficit that results in harmful consequences[27]. By recognizing ancestral callings and monitoring plant-based medicines through special councils, the EAC will be able to incorporate ATM into its universal health care plan.

[22] Takudzwa Musekiwa, Tyanai Masiya, and Stellah N. Lubinga, *Integrating Ubuntu Philosophy in South African Legislation for Managing Public Sector Ethics* (Conscientia Beam, 2025).
[23] Lameck Mbangula Amugongo, Nicola J. Bidwell, and Caitlin C. Corrigan, "Invigorating Ubuntu Ethics in AI for Healthcare: Enabling Equitable Care," in *Proceedings of the 2023 ACM Conference on Fairness, Accountability, and Transparency* (2023), 583–592.
[24] Fazel Ebrihiam Freeks, "Driving the Ubuntu Philosophy and Moral Compass of Spiritual Families in Contrast to Religious Families: The Quest for Well-Being," *Dialogo* 12, no. 1 (2025): 139–149.
[25] Ibid
[26] Nchangwi Syntia Munung and Godfrey B. Tangwa, "Eco-Bio-Communitarianism and Its Application to Clinical Research, Global Health, Biotechnology, and Environmental Protection," *Journal of Bioethical Inquiry* (2026): 1–12.
[27] Gede Edi, Praditha Dewa, Rahayu Mella Ismelia Farma, I Ketut Sukewati Lanang Putra Perbawa, Paul Atagamen Aidonojie, and Adelowo Stephen Asonibare. "The Future of Bali's Kerauhan Tradition: Legal Pluralism, Reforms, and Conflict Adjudication Challenges." *Journal of Sustainable Development and Regulatory Issues* 4, no. 1 (2026): 118–137.

Incorporating the philosophy of Ubuntu within EAC public health governance would present a revolutionary shift from individualism in the West to relational justice. Ubuntu emphasizes health as an asset held in common rather than a commodity, recognizing that individuals' well-being depends on that of the group[28]. This calls for a transition of governance from merely addressing health emergencies with minimal ethicality to strong ethicality, which focuses on achieving human flourishing by addressing social determinants such as sanitation and nutrition. "Relational justice" allows the state to challenge systems of oppression and deprival by adopting policies that promote unity and solidarity[29]. One example includes Uganda's HIV/AIDS strategy that employed "social vaccines" and confidentiality to produce significant results due to communal efforts. An Ubuntu-based health system requires engagement of various stakeholders to reach consensus on health priorities. In summary, this approach would see the law become a place for dignity rather than discipline, as EAC develops a stronger global health village[30].

3.2. Individual Autonomy Model and Communal Justice in Public Health in East African Community

Firstly, the Individual Autonomy Model, derived from Western bioethics, defines the sovereign individual as the primary locus of moral consideration in the governance of public health. The principles of individual autonomy, non-interference, and informed consent have been used by Beauchamp and Childress (2001) to define the essence of the ethical practice of medicine[31]. Within the East African Community (EAC), such principles are enshrined in modern legal frameworks like the Constitution of Kenya in 2010 and the Health Act of 2017 that protect the right to reproductive health and bodily integrity. Historically, this perspective was instrumental in bringing down the "tyrannical regime of medical paternalism" in which only the physician determined the treatment protocol[32]. Nevertheless, supporters of the individual autonomy approach tend to make an assumption that individual choices are deeply rooted in a universal common morality, an assertion that fails to consider the different cultural contexts in Global South countries. While rights-based approaches create a platform for individual protection through litigation, they do not tackle the institutionalized inequalities that hinder marginalized groups from accessing health services[33]. Therefore, such individualistic approaches can result in "autonomy

The weaknesses associated with the concept of radical individual autonomy are best witnessed in the event of a health crisis regionally in the EAC, where a collective

[28] Dorothy Oluwagbemi-Jacob, "Communalism as a Theory of Justice and the Human Person in African Culture," *Philosophy Study* 4, no. 4 (2014).
[29] Ibid
[30] Jude Thaddaeus Buyondo, *The Critique of Bioethical Principlism in Contrast to an African Approach to Bioethics* (Eugene, OR: Wipf and Stock Publishers, 2024).
[31] Julena Jumbe Gabagambi, "*Ubuntu: A Comparative Study of an African Concept of Justice*, by Paul Nnodim and Austin C. Okigbo," *The International Journal of Restorative Justice* 8, no. 2 (2025): 370–373.
[32] Ibid
[33] Samuel Jonathan Ujewe, *Ought-onomy and African Health Care: Beyond the Universal Claims of Autonomy in Bioethics* (PhD diss., University of Otago, 2012).

defense becomes necessary in addressing an impending threat[34]. For example, the outbreak of Ebola in the neighboring regions demonstrated how an overemphasis on civil liberties may lead to negative consequences when it results in an unwillingness to comply with the recommended public health practices such as quarantining. The critics have argued that the Western approach considers individuals as isolated units and does not account for the inherent "Being-with-others" quality of human life[35]. This "tyranny of patient autonomy" creates a separation between an individual and the important relationships which will be affected by the medical decisions made. According to WHO and World Bank reports, almost half of the world's population, or 4.5 billion people, do not have complete access to basic services, which is a sign of stagnation in health improvement due to the failure of capitalist and individualistic models[36]. In EAC countries, prioritising the rights of elites can at times overshadow the importance of the common good to the sidelines, particularly in resource-constrained environments where health is naturally a shared, social asset rather than a mere private commodity.

Communal Justice, inspired by the philosophy of Ubuntu in Africa, provides a paradigm-shifting normative approach by emphasizing that health is a communal resource, not an individual good. Ubuntu, as expressed by the Nguni saying Umuntu ngumuntu ngabantu ("a person is a person through other persons"), holds that the identity and wellbeing of an individual are intrinsically tied to the wellbeing of the whole community[37]. Contrary to the Western emphasis on self-interest, this approach emphasizes solidarity, reciprocity and restorative justice. According to the philosophy of Ubuntu, an action is right because it brings about harmony and wrong when it promotes discord or ill-will[38]. The philosophy of Ubuntu is compatible with SDG 3 through its "global health village" approach, which entails that obligations and rights are towards a "we" community. Ubuntu necessitates that governance transcends "minimal ethicality" into a "strong ethicality," which involves human flourishing through social determinants such as nutrition and sanitation[39]. Law can be reframed from being about discipline to being about dignity to help achieve this goal in EAC.

[34] Dorine E. Van Norren, *African Ubuntu and Its View on Law, Human Rights and Sustainable Development Goals* (Newcastle upon Tyne: Cambridge Scholars Publishing, 2025).
[35] Abdoul Jalil Djiberou Mahamadou, Aloysius Ochasi, and Russ B. Altman, "Data Ethics in the Era of Healthcare Artificial Intelligence in Africa: An Ubuntu Philosophy Perspective," *arXiv preprint* arXiv:2406.10121 (2024).
[36] Samuel Jonathan Ujewe, "Mental Health Inequities and the Global South: Towards an Ethical Framework of Harmony," *Public Health Ethics* 18, no. 2 (2025): phaf006.
[37] Julia S. Rotzinger, Lene Arnett Jensen, and Amber Gayle Thalmayer, "Ubuntu in Namibia and Kenya: How Emerging Adults Live an Essential African Value Today," *Journal of Cross-Cultural Psychology* 56, no. 2 (2025): 194–213.
[38] Tariro Portia Tendengu, Francis Maushe, Lucia Kahomwe, Philemon Chihiya, Tariro Katsomba, and Tatenda Aneni Gambiza, "Criticisms of Delegation and Decentralization in Abdicating Authority and Upholding Ubuntu Philosophy in Social Welfare Organisations," *Explorations in Humanities and Social Sciences* 1, no. 1 (2025): 31–37.
[39] Bernardo Oliva Vieira, Adrian Colbath, and Beatrice Okyere-Manu, "Ubuntu and Social Choice Theory: An Ethical Interrogation of Group Decision-Making from an African Perspective," in *The Palgrave Handbook of Ubuntu, Inequality and Sustainable Development* (2025), 685–705.

The efficiency of communal models is evident based on the historical and current examples of health results in the EAC region[40]. For example, Uganda adopted the moderately African communitarian model in its approach to HIV prevention, which helped to bring down the HIV prevalence rate from the early 1990s to the early 2000s by 70%. The credit for this significant improvement in health goes to the implementation of "social vaccines" by means of chiefs' networks and village meetings, focusing more on persuasion and confidentiality than coercive laws[41]. Similarly, in Kenya, the Beyond Zero Campaign used the communal model to address maternal and child health issues in underprivileged communities[42]. Consequently, there was a decrease in the MMR from 488 per 100,000 live births in 2008 to 342 per 100,000 in 2017. Therefore, it can be said that improving population health outcomes is achieved by integrating the strengths of the community with individualism[43]. However, countries such as Botswana struggled with the adoption of the communitarian approach because of the helplessness of local chiefs to influence behavioral changes.

Table 1: Distinction between the Individual Autonomy Model and Communal Justice (Ubuntu)

Feature	Individual Autonomy Model	Communal Justice (Ubuntu)
Core Philosophy	Western Liberalism: Treats humans as "atomistic," solitary beings.	African Communitarianism: "I am because we are" (*Umuntu ngumuntu ngabantu*).
Primary Unit	The sovereign individual as the primary unit of moral concern.	The interdependent community and relational existence.
Ethical Values	Self-determination, non-interference, and informed consent.	Solidarity, reciprocity, and restorative justice.
Public Health Goal	Protecting individual rights and civil liberties.	Fostering a "Global Health Village" and human flourishing.
Key Statistical Evidence	4.5 Billion people globally lack access to services under individualistic models.	70% decline in HIV prevalence in Uganda via communal "social vaccines".
Health Practices	Medical Paternalism vs. Autonomy fetishism.	80% reliance on Traditional Medicine; dual care models.

[40] Ibid

[41] Richard Appiah, Giuseppe Raviola, and Benedict Weobong, "Balancing Ethics and Culture: A Scoping Review of Ethico-Cultural and Implementation Challenges of the Individual-Based Consent Model in African Research," *Journal of Empirical Research on Human Research Ethics* 19, no. 3 (2024): 143–172

[42] Overson Shumba, "Commons Thinking, Ecological Intelligence and the Ethical and Moral Framework of Ubuntu: An Imperative for Sustainable Development," *Journal of Media and Communication Studies* 3, no. 3 (2011): 84–96

[43] Ibid

EAC Performance	Reactive litigation for rights violations in Kenya.	Kenya's MMR fell from 488 to 342 via community-led outreach.

Sources: (Beauchamp & Childress, 2009; Constitution of Kenya, 2010; Health Act, 2017; Jecker et al. [44], Madaka [45], Maqutu [46], Wathuta [47],

The following table summarizes the key distinctions between the Individual Autonomy Model and Communal Justice (Ubuntu) in public health governance within the East African Community (EAC).

For public health law reform in the EAC to occur, there must be a shift from individual atomistic autonomy to ought-onomy, which is a blend of Kantian will and the nature of the human being[48]. Ought-onomy is a mediating principle that subsumes individual autonomy and communalism, and in this way makes sure that the medical decision is taken in relation to the social and cultural context of the patient. Public health law reform must therefore incorporate African Traditional Medicine (ATM) since it is the main source of treatment for a substantial number of people. Presently, failure to collaborate openly between the two types of health practitioners results in an information deficit and negative outcomes. There must be a governance strategy that incorporates Universal Health Coverage (UHC) through a social solidarity approach to ensure that the basic human capacities of the least advantaged members of society are protected. Through domestication of international health laws, such as the Maputo Protocol, in a way that considers relational justice, the EAC would be able to develop culturally meaningful laws that are also practically sound. Through such reforms, resilience of global health.

3.3. Ubuntu as an African normative response in Public Health Law Reform in East African Community

The incorporation of Ubuntu into the public health law reform of the East African Community (EAC) signifies an important normative transformation from Western bioethics to a more culturally grounded model. Ubuntu, based on the Nguni saying umuntu ngumuntu ngabantu ("a person is a person through other persons"), recognizes the community as the basic moral unit. In the EAC, this is expressed by Utu, which requires that all actions should contribute to the well-being of humanity and that one's identity is achieved by being part of the community. This normative framework transforms moral reasoning from the field defined by the Global North into the daily values and practices of the African people. While Western thinking

[44] Nancy S. Jecker, Caesar A. Atuire, and Nora Kenworthy, "Realizing Ubuntu in Global Health: An African Approach to Global Health Justice," *Public Health Ethics* 15, no. 3 (2022): 256–267, https://doi.org/10.1093/phe/phac022.

[45] Nontsikelelo C. Madaka, *Public Health Policy in Resource Allocation: The Role of Ubuntu Ethics in Redressing Resource Disparity between Public and Private Healthcare in South Africa* (master's thesis, Stellenbosch University, 2019).

[46] Lebohang Maqutu, *African Principlism: A Southern African Approach to Bioethics* (master's dissertation, University of Johannesburg, 2023).

[47] Joseph Wathuta, "A Look at Uganda's Early HIV Prevention Strategies through a Moderate 'African' Communitarian Lens," *Developing World Bioethics* 18, no. 2 (2018): 109–118, https://doi.org/10.1111/dewb.12139.

[48] Ibid

considers health as a private good, Ubuntu considers health as a shared resource, where the well-being of individuals depends directly on the well-being of the community[49]. Through the establishment of "ought-onomy," that is, a balance between personal values and responsibilities, the public health law reforms of the EAC may transcend the notion of "minimal ethicality" to achieve holistic human well-being. This framework offers an interesting benchmark for ethical problem-solving.

The idea of solidarity forms the foundation of Ubuntu, noting that human capability is dependent on others and that it is important to place the common good above selfish interests[50]. As far as public health is concerned, this principle is characterized by shared responsibilities, where the duty to assist increases in accordance with the capacity of the person while the right to assistance increases with vulnerability. The success of this concept can be seen from the way in which Uganda responded to the threat of HIV/AIDS at the beginning by employing social vaccines using village systems and moral appeal rather than mandatory actions[51]. This led to a reduction of 70% in HIV cases during the 1990s, thanks to the creation of a sense of "shared confidentiality" and viewing the disease as a patriotic enemy to the community. On the other hand, the concept of Harambee ("let us pull together") in Kenya shows how communal self-help is used to create infrastructure that laws alone cannot achieve[52].

Dignity among human beings within the Ubuntu worldview is not based on atomistic rationality but on participation in the life force and the "Being-with-others" nature of existence. While Western ontologies may remove the aspect of personhood from vulnerable individuals, African communitarian ontology holds that the dignity of a person emerges from interdependence. Ontology recognizes that human dependence is an "ineliminable residue" in our embodied existence and that each person is vulnerable and constantly needs his/her kind[53]. Within the EAC, the health system will be required to adopt Medical Ubuntuism in the way in which practitioners relate to patients. In this regard, the practitioner will identify with the pain of the patient in order to enhance the moral capacity of the community. For example, when an individual suffers from a contagious disease, he/she will appreciate being treated because of its moral value to others beyond self-healing. Interdependence ensures that no member falls below the level of dignity, as the community cannot be termed healthy without the well-being of its most vulnerable members[54].

Unlike the libertarian ideologies that advocate for distribution of wealth based on individual rights, Ubuntu advocates for distributive justice based on equality among

[49] Samuel J. Ujewe and Werdie C. van Staden, "Inequitable Access to Healthcare in Africa: Reconceptualising the 'Accountability for Reasonableness' Framework to Reflect Indigenous Principles," *International Journal for Equity in Health* 20, no. 1 (2021): 139.
[50] Ibid.
[51] Joel Mukwedeya, "Peace and Harmony through uBuntu in a Globalized World," in *Comparative Education for Global Citizenship, Peace and Shared Living through uBuntu* (2022), 221–241.
[52] Jonathan Bayuo, "An Overview of African Philosophy and Implications for Nursing and Midwifery Practice: An African Hermeneutic Analysis," *Medicine, Health Care and Philosophy* 29, no. 1 (2026): 25–37.
[53] Taurai C. Kachembere, "Rawlsian Ubuntucracy and the Prospect for a Political Philosophy for Failed African States," *Politikon: South African Journal of Political Studies* (2024).
[54] Ibid

humans and their interdependence. Distributive ethics are guided by the notion "From each according to ability[55]; to each according to need." This is exemplified by the practice of giving away excess milk from the second cow to poor neighbours rather than selling it. In public health law, this will help promote UHC through the "social solidarity approach," whereby national resources are pooled together to help the most disadvantaged. This is because there is an urgent need for such an approach since according to reports, 4.5 billion people across the world do not have access to essential health services owing to the capitalistic and individualistic approach[56]. By incorporating Ubuntu in its operations, the EAC will address issues like the 18 million healthcare workers deficit expected by 2030 through the concept of CSR and distribution of life-saving innovations.

The conflict between African communitarianism and liberal individualism explains the dilemma faced in EAC law reforms. According to liberalism, whose foundations are in Millian freedom and Cartesian philosophy (Cogito Ergo Sum), the individual constitutes the main unit while society is an artificial construction. Ubuntu, on the other hand, claims that "I participate, therefore I am," stating that society is the primary unit while self is secondary[57]. While principlism emphasises individual autonomy and non-interference in health matters, it does not take into account the existence of others in the process, creating the concept of "autonomy fetishism" that overlooks the social determinants of health. Communitarianism, however, acknowledges relational autonomy, where decisions are made in a context of social relations that are rich with wisdom and morality[58]. According to the critics of the Western model, humans cannot be viewed as atomised beings in the African setting because health decisions involve families. Incorporating the Ubuntu principles enables a "multiculturalization" of human rights through their universality achieved through positive social interactions.

Reform of public health laws within the EAC demands a shift from the existing laws to the new concept of a "global health village" that does not involve any relations of domination and oppression[59]. In this regard, reforming public health laws should entail domestication of international policies such as the Maputo Protocol using the concept of relational justice as a means of addressing health issues collectively. The reform should also involve authentication of ATM practices used by 80% of the African population through open engagement of both conventional doctors and traditional healers through the idea of Medical Ubuntuism[60]. In addition, in the context of growing use of AI and digital health technologies in the region, Ubuntu

[55] Diana Ekor Ofana, *Afro-Communitarianism, Social Architecture, and the Moral Education of Children as Strategies for Social Integration in South Africa* (master's thesis, University of Fort Hare, Faculty of Social Sciences and Humanities, 2019).
[56] Michael Onyebuchi Eze, *Ubuntu: A Communitarian Response to Liberal Individualism* (PQDT-Global, 2005).
[57] Leonard Tumaini Chuwa, *Interpreting the Culture of Ubuntu: The Contribution of a Representative Indigenous African Ethics to Global Bioethics* (PhD diss., Duquesne University, 2012).
[58] Lemohang Tebeli, *Suicide and Agency in African Communitarian Societies: A Philosophical Inquiry into the Basotho Culture* (PhD diss., University of KwaZulu-Natal, Pietermaritzburg, 2023).
[59] Leyla Tavernaro-Haidarian, *A Relational Model of Public Discourse: The African Philosophy of Ubuntu* (London: Routledge, 2018).
[60] Ibid.

plays an important role of protecting people from ethics dumping and algorithmic discrimination by ensuring that technology serves the common good rather than corporate interests[61]. In this way, by viewing law as an instrument for reconciliation, the EAC can establish a resilient legal framework where an injury to one person affects everyone (Andoh, 2016).

3.4. Challenges and Criticisms

One of the problems with incorporating Ubuntu in public health laws is the danger of the doctrine being misused due to its excessive communitarian nature. While it stresses unity, caring, and community spirit, it may be used improperly in such a way that individual rights will be subordinated to community interest[62]. Some public bodies or powerful members of society may decide what the common good is without any public input and oversight. Under such conditions, justice in a community can turn out to be a means of limiting individual rights such as those related to consent, integrity, and freedom of choice. Another important problem is the possibility of an excessive level of state paternalism in public health governance[63]. The rationale behind implementing public health interventions which have a negative impact on individual rights could be related to the need to protect collective well-being, despite the fact that these measures infringe upon individual rights. Quarantine measures, mandatory treatment of citizens, and various types of surveillance activities could be imposed without enough legislative protection, transparency, and involvement of the community[64]. This could erode trust, impede the process of self-regulation, and create resistance towards health interventions. Also, outside pressure exerted by development partners could lead to policy options that fail to take into account local culture and traditions.

Also, human rights issues pose great challenges to the inclusion of Ubuntu in public health law. Though the concept of Ubuntu encourages social solidarity and collective responsibility, its application may result in inequalities when not entrenched in a good constitutional system. Some social groups, such as women, people with disabilities, ethnic minorities, refugees, and other socially excluded communities, may be excluded from making decisions about the provision of health services[65]. Moreover, collective responsibility poses challenges in defining legal liability since it will be hard to define who is responsible when several bodies undertake the public health responsibilities. There is no way to identify legal liability when there are no legal standards for the responsibilities of both institutions and

[61] Francis Akpa-Inyang and Sylvester C. Chima, "South African Traditional Values and Beliefs Regarding Informed Consent and Limitations of the Principle of Respect for Autonomy in African Communities: A Cross-Cultural Perspective," *BMC Medical Ethics* 22, no. 1 (2021): 111.

[62] Wilfred Lunga, Mkhokheli Sithole, Charles Musarurwa, Eugene Nawanti Kombaté, and Tendayi Marovah, "Integrating Ubuntu: Embedding African Philosophy into Disaster Risk Reduction and Management," *Frontiers in Sociology* 10 (2025): 1637051.

[63] Onuk Bulus Ojem and Phemelo Olifile Marumo, "Ubuntu Philosophy and the Leadership Crisis in Africa," *African Journal of Development Studies*, special issue 1 (2025): 181.

[64] Mukhlis, Mukhlis, Raphael D. Jackson-Ortiz, Muwaffiq Jufri, Evis Garunja, and Paul Atagamen Aidonojie. "Rejection of Former Shia Community in Sampang Perspective on Human Rights Law: Discourse of Religious Rights and Freedom in Indonesia." *Lex Scientia Law Review* 7, no. 2 (2023): 959–994.

[65] Dorine Eva Van Norren, "The Nexus between Ubuntu and Global Public Goods: Its Relevance for the Post-2015 Development Agenda," *Development Studies Research* 1, no. 1 (2014): 255–266.

individuals. Ensuring that the principles of communal justice do not conflict with individual right to privacy and bodily autonomy poses yet another challenging task[66]. Ubuntu promotes strong involvement of one's family and community in the management of one's wellbeing and even medical decisions. However, in modern public health systems, confidentiality, informed consent, and protection of health information have been recognized to be extremely important. Public health interventions related to infectious diseases surveillance, mandatory reporting, health information technology, vaccination campaigns, or genetic research might lead to a conflict between the needs of communal health protection and individual privacy rights. The lack of legislative regulation of confidentiality and health information might make people unwilling to receive any medical assistance or to share their health information[67].

Institutional limitations further add another barrier to the adoption of Ubuntu in public health laws in the East African Community. Even though the states acknowledge the right to health and other human rights, legal enforcement is not consistent due to various issues like fragmentary laws, overlap of responsibilities, lack of proper enforcement mechanisms, poor financial resources, and poor administrative capacity. The judicial approach in addressing disputes is that of solving the specific problems rather than the weaknesses that exist in the healthcare institutions themselves[68]. Other factors include political manipulation, corruption, inequality in resource distribution, and differences in urban and rural areas of healthcare services.

Fourthly, technological advancements and the digital transformation of healthcare pose some legal challenges for the implementation of Ubuntu values. The current public health legal provisions in most East African nations offer little legal provision relating to issues such as artificial intelligence, health platforms, digitalized patient records, transboundary data exchange, and algorithmic decision-making[69]. Poor legal measures will increase the possibility of misuse of health data, the digital divide, algorithmic discrimination, and exploitation of community data by corporate firms. On the other hand, the traditional Ubuntu values were formulated within physical face-to-face community interactions and need to be properly adapted to the contemporary digital age. In the absence of appropriate legal reformations that embrace technological advancements, human rights, and community ethics, it will be difficult to establish a regulatory norm for the operation of modern health facilities in the East African Community.

4. CONCLUSION AND RECOMMENDATION

The study concludes that the contemporary prevalence of rights-based models of autonomy within the EAC frequently culminates in "autonomy fetishism," whereby

[66] Polycarp Ikuenobe, "African Communal Ethics," in *The Palgrave Handbook of African Social Ethics* (2020), 129–145.

[67] Lindani Sthembele Maphumulo and Nsizwazonke Ephraim Yende, "The Principles of Ubuntu in Enhancing the Sustainability of Local Economic Development (LED): Towards a Sustainable Collaborative Framework," in *Global Perspectives on Local Economic Development and Innovation* (2027), 369–392.

[68] Retha Visagie, Soné Beyers, and J. S. Wessels, "Informed Consent in Africa Integrating Individual and Collective Autonomy," in *Social Science Research Ethics in Africa* (2019), 165–179.

[69] David Lutz, "Ubuntu, Liberal Individualism, and," in *Ubuntu: A Comparative Study of an African Concept of Justice* (2024), 21.

the focus on individualism leads to alienation from the important communal ties and neglect of the social determinants of health. The findings of the study indicate that the use of Ubuntu values, founded on the idea that "a person is a person through other persons," provides an adequate normative foundation for public health governance, since it emphasizes solidarity, reciprocity, and relational justice. As proven by Uganda's experience in the field of HIV prevention, moderate communitarianism allows achieving positive results in terms of health at a population level without the use of coercive measures. Thus, Afrocentric legal reform is necessary to make the transition from litigious to systems-oriented health governance acknowledging health as a communal resource. The recommendations for policy changes include using "ought-onomy" as the mediating principle between individual rights and communal obligations as well as domesticating international health-related protocols from the relational perspective. In addition, the establishment of special councils for regulating African Traditional Medicine, introducing social solidarity into the framework of Universal Health Coverage, and establishing regional ethics committees to avoid "ethics dumping" in

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