

# A Defence of Moderate Communitarianism: A Place of Rights in African Moral-Political Thought

**Motsamai Molefe**

<http://orcid.org/0000-0002-5030-6222>

University of the Witwatersrand

[Motsamai.molefe@wits.ac.za](mailto:Motsamai.molefe@wits.ac.za)

## Abstract

This article attempts to defend Kwame Gyekye's moderate communitarianism (MC) from the trenchant criticism that it is as defective as radical communitarianism (RC) since they both fail to take rights seriously. As part of my response, I raise two critical questions. Firstly, I question the supposition in the literature that there is such a thing as radical communitarianism. I point out that talk of radical communitarianism is tantamount to attacking a "straw-man." Secondly, I question the efficacy of the criticism that MC does not take rights seriously, given that there is no account of what it means to take rights seriously in the African tradition. This criticism, insofar as it does not specify a criterion of what it means to take rights seriously, remains defective. The central contribution of this article is to call our attention to the fact that the intellectual culture of rights will surely be affected by Afro-communitarianism, which emphasises our duties to all.

**Keywords:** moderate communitarianism; radical communitarianism; human nature; personhood; rights

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## Introduction

Professor Kwame Gyekye is one of the respected elders in African philosophy. He has made extensive contributions to moral-political philosophy in the African tradition. He is most famous for his defence of “moderate communitarianism” (MC). I understand MC as a normative political theory; it defends a consequentialist principle of right action grounded on the fundamental norms of the *common good* and *dignity*. This normative political theory is an attempt to proffer a plausible Afro-communitarianism that has a place for rights. MC is a response to what Gyekye considers an extreme form of communitarianism in the African tradition, which has no place for rights. He insists that a plausible communitarianism has to find a place for rights.

This article offers a defence of Gyekye’s attempt (see Gyekye 1992; 1995; 1997; 2004; 2010) to include rights in the African tradition. Specifically, it argues that the salient criticism against MC—that it ultimately fails to regard rights as important, as does radical communitarianism (RC)—is not tenable. The essence of my defence is that Gyekye’s project is not meant to be the last word about the place of rights in the African context. A more charitable reading of Gyekye’s project will construe it as at best heuristic insofar as it is an attempt to integrate a liberal culture of rights into an Afro-communitarian ethos that prizes communal values. Specifically, Gyekye’s project is an invitation to Afro-communitarian scholars to embrace a global culture of rights. This inclusion of rights in African political thought surely is an ambitious, complicated and yet necessary moral-theoretical project. Gyekye’s submission is a call for a *moderate* stance that can find a dynamic balance between the demands of a communitarian ethos and the liberal regime of rights in light of the demands of modernisation and modernity.

The Menkiti-Gyekye debate on moral-political theory, specifically whether a plausible Afro-communitarian vision has a place for rights, has been at the heart of African philosophy for over 25 years (Metz 2012). Ifeanyi Menkiti (1984; 2004), a Nigerian philosopher, first articulated what he considered to be an African notion of “personhood.” Gyekye (1992; 1995) responded by offering a trenchant criticism to Menkiti’s adumbrations on personhood by accusing him of defending a radical vision of communitarianism insofar as it does not

have a place for rights.<sup>1</sup> Gyekye's solution to RC, namely MC, has also been severely criticised in the literature. Here are some of the criticisms:

- Anthony Oyowe (2014) deems Gyekye's ontological account of a "self" to be implausible.
- Metz (2012) finds approaching moral-political theorisation through the lenses of the Menkiti-Gyekye debate to be restricting the growth of political philosophy in the tradition; and he propounds a vision of rights grounded on the value of community.
- Matolino (2009), Famanikwa (2010) and Oyowe (2014) criticise MC for failing to articulate an Afro-communitarian vision that reaches beyond the limitations of RC. They observe that Gyekye's MC is not moderate at all; in fact, they observe that it is as radical as RC since it fails to secure the primacy of rights. It is against this criticism that the present article seeks to defend Gyekye's MC.

Several aspects are worth noting in this particular debate about the concept of "rights" in African philosophy. None of the scholars mentioned above seem to question the relevance and importance of rights in the African philosophical tradition.<sup>2</sup> They all appear to share the moral intuition that rights ought to be a significant feature of a robust (African) political thought. It is, however, crucial for the reader to note that none of these scholars have adumbrated accounts to the effect of what it means to take rights seriously in the African tradition. The tendency, it appears, is to assume that rights ought to be taken seriously in the African tradition. The theoretical details and complexities inherent in specifying what it actually means to take rights seriously, are left unattended.

Theorising and debating about rights where there is no prior theory sensitive and responsive to an African milieu about rights and their status, strikes me as problematic.<sup>3</sup> This lack of theory about (the ontological status of) rights and what it means to take them seriously (in the African context) is even more concerning, given that there are some Western scholars who

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1 Recently, I have argued that Menkiti never advocated anything radical in his analysis of the notion of personhood (Molefe 2016).

2 Even Menkiti (1984, 174) himself does not appear to reject rights per se; he simply relegates them to a status lower than that of duties.

3 I consider that working with such an unclarified commitment to rights and what it means to take them seriously to be problematic, because anyone familiar with the literature on rights will know that scholars differ in their definition of moral rights. They also differ in terms of how to philosophically justify their existence and function in society and also in terms of why they are special (Donnelly 1982; Feinberg 1970; Sen 2004).

consider them to be spurious inventions of the enlightenment project (MacIntyre 1982). We also get historical reports to the effect that rights were absent to traditional Africa (Donnelly 1982). So, the ontological assumptions about the existence of rights and what it means to take them seriously championed by my colleagues are not as obvious, at least to me as they are to them.

This article defends MC by challenging the assumption that taking rights seriously in the African tradition will be the same as in the Western one. In other words, my aim is to defend Gyekye from criticisms by Matolino (2009), Famanikwa (2010) and Oyowe (2014) that accuse his analysis to amount to radical communitarianism. My argument is predicated on the assumption that when rights come into contact with the Afro-communitarian axiological orientation, they will surely be affected. It is in light of impact that happens to the culture of rights in Afro-communitarianism that Gyekye calls for a *moderate* version of communitarianism that has a place for both the common good and rights. The dynamic interplay between our duties to promote the common good and recognise the rights of individuals will tend to take the shape of a bent communitarianism, which emphasises the common good without jettisoning rights.

I do not address myself to all the criticisms against MC in this article; I limit myself to the one that accuses it of amounting to the same conclusions as RC. What I wish to emphasise is that my defence of MC is not so much presented from the perspective of its commitment to rights as such, but rather from the perspective of its attempt to stimulate critical discussion of the normative force of rights in an African context. My submission is that Matolino (2009), Famanikwa (2010) and Oyowe (2014) err in their assumption that rights in Afro-communitarian context ought to have the same normative status as they typically do in a Western context, where their peremptory status is taken to be almost absolute (Feinberg 1970).

To defend MC, I structure this article in the following fashion. In order to ground this deliberation, I briefly discuss Gyekye's moderate communitarianism. I then consider Matolino (2009) and Famanikwa's (2010) criticism of Gyekye's MC.<sup>4</sup> I offer three responses to this criticism. Firstly, I indicate that it is a "straw man" to believe that Menkiti ever

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4 I omit Oyowe largely because he makes similar observations made by these two scholars.

advocated RC. If Matolino's argument is that Gyekye's stance also amounts to RC, then it fails since Menkiti is no radical communitarian.<sup>5</sup> Secondly, I explore the debate between radicals and moderates, and thirdly I submit that the unsubstantiated assumption that the normative force of rights will be the same—even in an African context—is problematic. I conclude this article by constructing what I consider to be the crucial contribution by Gyekye: his difficult task of unifying seemingly intractable values of rights and duties without necessarily aiming to be exhaustive with regards to issues of rights in Afro-communitarianism.

### **Moderate Communitarianism**

This idea of MC emerges as a response to what Gyekye calls an “unrestricted communitarianism” that is allegedly defended by Menkiti (1984; 2004), among others (Gyekye 1992). MC, as a moral-political theory, is a dualistic principle, which is grounded on two fundamental moral norms, namely: 1) the common good; and 2) dignity. The first norm, common good, grounds our duties to secure the wellbeing of all; the second, the idea of rights, captures the basic moral respect due to individuals as such.<sup>6</sup>

The communitarianism that Gyekye (2004, 41) explicitly advocates makes the wellbeing (or welfare) of all people the most fundamental moral consideration. However, I argue that a more accurate and systematic articulation of Gyekye's ethics demands of us to read Gyekye as taking the *common good* and *dignity* as chief goods; particularly when MC is under consideration. I say so because a careful consideration of Gyekye's moral-political writings will notice a disjuncture between those that are *dualistic* insofar as they invoke the common good and dignity as primary moral values (Gyekye 1992; 1997); and one that is *monistic* insofar as it invokes wellbeing as the “master-value” (Gyekye 2004, 41). In this article, I limit myself to MC since it is the one under scrutiny in the literature. To begin unfolding MC, I will contrast it against RC, the view Gyekye is rebutting.

“Radical communitarianism”, according to Gyekye (1992, 108), “is a view that gives an exaggerated conception of the community, wherein the community is construed as always

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5 I do not imply that African leaders, whom Gyekye accuses of advancing RC, also do not hold this view. I limit my comments to Menkiti.

6 Gyekye takes a naturalist stance to rights (Donnelly 1982). In other words, he grounds rights in some understanding of human nature.

prior to the individual and this conception of the community fails to recognise the individuality of the individual and the rights that naturally belong to a human person insofar as a person is essentially autonomous.” He further states: “But here I want to point out that in as much as all the scholars referred to *do not appear to have fully recognised the status and relevance of individual rights*, their views patently model the notion of radical and unrestricted communitarianism” [own italics] (Gyekye 1997, 39).

The project of defending MC is critical for Gyekye because it moves beyond merely stating that a community is an outstanding feature of an African culture; rather it aims to give a plausible conception of the role played by the community in the African moral and political philosophy. Among other things, at least, a correct conception of a communitarian ethics is that, Gyekye insists, it must recognise some of the goods that belong to an individual as such. Among these, he thinks the idea of dignity secures certain rights for the individual. The concern that Gyekye has against radical communitarianism is that it over-estimates the relevance and role of the community in its conception of a robust and just human society to the point where it perpetually promises to undermine the individual and her intrinsic worth. Gyekye’s defence of MC is, therefore, an attempt to balance this excessive emphasis on the community, to find a complex and dynamic balance between the individual and community.

Moderate communitarianism counts as moderate *inter alia* because it opens room for individual rights. On this score, Gyekye says:

The restricted communitarianism offers a more appropriate and adequate account of the self ... in that it addresses the dual features of the self: as a communal being and as an autonomous, self-determining ... (Gyekye 1992, 113)

He also states:

The view seems to represent a clear attempt to come to terms with the natural sociality as well as the individuality of the human person. It requires the recognition of communality and individuality ... I think the most satisfactory way to recognize the claims of both communality and individuality is to ascribe to them the *status of equal moral standing* [own italics]. (Gyekye 1997, 41)

The analysis offered by Gyekye begins by submitting that a plausible Afro-communitarianism must be characterised by a correct understanding of personhood. The notion of “personhood” can be ambiguous, it can be used ontologically or normatively (Ikuenobe 2006; Wiredu 2009). In this instance, Gyekye is somewhat after a philosophical anthropological account, which offers us an account of what features constitute human nature. Specifically, Gyekye understands human nature to be ontologically constituted by two features, namely: 1) the individualistic; and 2) communal properties.<sup>7</sup> He further submits that a plausible African moral-political theory must reflect these defining features of a human nature.

This dualistic conception of a human nature, constituted by individuality and sociality, informs Gyekye’s moral-political theory, which seeks to accommodate the social facets of human existence and the intrinsic value of each individual. A viable moral scheme, according Gyekye, must straddle its moral-theoretical corpus to negotiate and engage the tensions and potentials entailed by the simultaneous individuality and sociality of a human being to ground a more promising Afro-communitarianism. The social nature of a human person grounds the fundamental value of the common good; and individuality grounds the value of dignity, which in turn grants a person her rights.

Gyekye operates on the basis of the assumption that political morality is a function of some ontological understanding of human nature. If human nature is constituted by the individual and social features, a viable moral theory must accommodate these facets of human nature. I proceed now to elucidate on the ideas of the common good and dignity that constitute Gyekye’s normative political theory.

The “common good” is the idea that the “good of all determines the good of each or, put differently, the welfare of each is dependent on the welfare of all. This requires that the individual should work for the good of all, which of course includes her good” (Gyekye 1995, 156). In another place, he states that “Such a good [common good] can be said to be commonly ... shared by all human individuals, and to be essential for the ordinary or basic functioning of the human person in a human society” (Gyekye 2004, 54). He also observes that “communalism [teaches] that the individual can find the highest good—materially,

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<sup>7</sup> Here, I say “somewhat” because Gyekye believes that these ontological properties are also morally valuable in the sense of recognition respect as adumbrated by Stephen Darwall (1977).

morally, and spiritually [psychologically]—in relationships with others and in working for the common good” (Gyekye 1995, 156, 158). In this sense, the pursuit of the highest good for a human being can be achieved by working for the common good.

Furthermore, the notion of common good refers to the “basic goods that every individual person needs in order to function satisfactorily,” where promoting it is a matter of advancing such goods for everyone in the community (Gyekye 2004, 54). It follows then that individual self-realisation is contained in the promotion or working towards the common good. Thus, it is not surprising to read Gyekye as saying that “the community [common good] is a *fundamental* human good” [own italics] (Gyekye 1997, 67), or, as he puts it in another place—“the common good, then, is identical with human good” (Gyekye 2004, 57).

Summing up, Gyekye’s conception of the common good is predicated on the following ideas. Firstly, Gyekye insists that we should understand that being human is something all human beings share in common. The human project, in this thinking, is a project that is common to all human beings. Secondly, to function properly or ordinarily as human beings, certain basic material, spiritual, political and psychological needs or conditions must be met. As such, his concept of the common good can best be explained by appeal to the idea of common basic human needs, that is, a basket of needs that must be met if a human being is to live a proper (ordinary) human life (Gyekye 2004, 41; 2010). In this sense, if these common needs are not met, one’s humanity is crippled and unfortunate. His ethical theory, therefore, implies that we are all morally obligated to help each human being to at least live in conditions that are suitable for her human life; to function ordinarily and even to flourish.<sup>8</sup> In other words, we have other-regarding duties that are meant to assist each individual human being to lead a life of dignity, i.e. a life truly befitting a human person (Donnelly 1982). We can now turn to our discussion on the idea of dignity.

The idea of “dignity” refers to that feature usually possessed by human persons in recognition of which they are all equally worthy of moral respect or rights (Darwall 1977, 33–34). Though Gyekye does not overtly commit to a particular conception of dignity, in some parts of his work he appeals to a supernaturalist conception of dignity (Gyekye 1992, 130); and, in

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<sup>8</sup> Another useful way to make sense of this idea of the common good is by appeal to a Siamese crocodile with one stomach and two heads (Gyekye 2010; see also Wiredu 1992; 2009).

his naturalist moments, he grounds it on the autonomous nature of a self (Gyekye 1992, 130). But, to build his theory (MC) he grounds dignity on autonomy, a natural property. He avers:

The capacity for self-assertion which the individual can exercise presupposes, and in fact derives from, the autonomous nature of the person. By autonomy, I ... [mean] ... having a will, a rational will of one's own ... it means, self-governing, self-directing ... the actions emanate from his or her rationale will. (Gyekye 1992, 112)

In another place, he even goes to an extent of stating that “Autonomy must be a fundamental feature of personhood ... Autonomy is, thus, valuable in itself” (Gyekye 1997, 54). In this reading, Gyekye is unequivocal that the property of autonomy which characterises a human being as such, is *intrinsically* valuable. Autonomy generally refers to one's ability to self-govern or rule. In other words, what makes a human being most valued in the natural realm is the fact that they can self-govern. On Gyekye's thinking, individual rights are a moral package designed to ensure that we respect individuals in virtue of their abilities to self-govern.

Thus, I believe we have come to terms with Gyekye's dualistic ethic that grounds morality on the basic values of the common good and dignity. We can reduce this political theory into the principle of right action:

An action is right insofar as it maximally promotes [as a consequence] the common good without violating human dignity; and is wrong, if it does not maximally promote the common good and/or violates human dignity.<sup>9</sup>

This principle as it stands, is grounded on our obligation to ensure the quality of life for all human beings—the common good; but in our quest to promote such a life, we should never trample the dignity of a human being. We can never promote the good of all human beings in ways that violate the dignity of some human beings. In this sense, dignity serves as a

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<sup>9</sup> It is to be noted that Gyekye's moral theory is consequentialist, that is, it requires agents to maximise a certain state of affairs (2010).

constraint (MacNaughton and Rawling 2006). Dignity also serves to ground rights. In this light, Gyekye (1992, 114) observes:

Yet, the supposition that communitarianism will have no place or very little, if at all, for rights will be false ... especially in the case of ... moderate communitarianism.

Gyekye unequivocally states that moderate communitarianism has a place for rights—and this place is a significant one—without implying that there are no limitations to rights within this Afro-communitarian system.

### **Criticism of Moderate Communitarianism**

Bernard Matolino's 2009 article, "Radicals versus Moderates: A Critique of Gyekye's Moderate Communitarianism" and J. Famanikwa's 2010 "How Moderate is Kwame Gyekye's Moderate Communitarianism?" offer critical reflections to MC. Since these scholars make a more or less similar objection, I will mainly focus on Matolino to articulate the criticism. In his article, Matolino (2009, 161) intends to argue that "moderate communitarianism is not only inconsistent but not sufficiently different from radical communitarianism." Famanikwa (2010, 65) also makes a similar observation that "The article also seeks to show that the gap which Gyekye claims exists between moderate ... and unrestricted communitarianism is not as wide as he suggests." Both these thinkers hold the position that MC is not different from radical communitarianism, or at least amounts to it. As such, their criticism questions MC's attempts to secure rights as a fundamental role in African moral-political thought. To negate this promise of MC, Matolino (2009) attempts to demonstrate that MC is internally inconsistent insofar as Gyekye treats rights as things that can be set aside in certain circumstances. He demonstrates this inconsistency of MC by citing two assertions made by Gyekye. The first:

With all this said, however, it must be granted that *moderate communitarianism cannot be expected to be obsessed with rights*. The reason, which is not far to seek, derives from the logic of the communitarian theory itself: it assumes a great concern for values, for the good of the wider society as such. The communitarian society, perhaps like any other type of human society, deeply cherishes the social values of

peace, harmony, stability, solidarity, and mutual reciprocities and sympathies [own italics]. (Gyekye 1997, 65)

The second:

Individual rights, the exercise of which is meaningful only within the context of human society, must therefore be matched with social responsibilities. In the absence of the display of sensitivity to such responsibilities, the community will have to take the steps necessary to maintain its integrity and stability. *The steps are likely to involve abridging individual rights, which, thus, will be regarded by the moderate communitarian as not absolute, though important* [own italics]. (Gyekye 1997, 65)

With regards to the first quotation, Matolino (2009) observes that it plunges Gyekye in an inconsistency. On the one hand, Gyekye wants an account that takes rights seriously; but, on the other, he does not expect moral agents to be obsessed with rights. He further notes that if MC obsesses about socio-communal values then it is the same as radical communitarianism. With regards to the second quotation, Matolino (2009) is taken aback by the assertion that rights may be abridged if they undermine the communal good.

This very possibility of rights being superseded by the common good, under certain circumstances, renders Gyekye as a radical communitarian, Matolino believes. Matolino (2009) is quick to remind us that Menkiti, whom Gyekye accuses of being a radical communitarian, does not necessarily reject rights per se; but simply gives them a secondary status relative to our duties and responsibilities to others. Thus, we can summarise Matolino's criticism in this fashion. If MC does not regard rights as moral properties that we ought to be obsessed about; and if MC treats them as trump-able by our social duties to promote the common good, then it is not sufficiently different from radical communitarianism, which it seeks to reject and to serve as a viable alternative (Famanikwa 2010, 153–154).

### **A Response to Criticism**

I offer a three-pronged response to Matolino's criticism of MC. Firstly, I note that the major weakness of Matolino's (2009) argument is that it assumes there is indeed a debate between what he refers to as "radicals" and "moderates," as suggested by Gyekye in the African tradition (Matolino, 2009). Secondly, I submit that Matolino (2009), Famanikwa (2010) and

Oyowe (2014) appear to be working on the assumption that Gyekye's MC operates on the intuition that taking rights seriously is tantamount to considering them as having absolute normative force—a view I consider to be unattractive. Lastly, I will conclude the article by challenging these thinkers to imagine what happens to rights when they come into contact with an African moral culture that values community by way of promoting other-regarding as a way of life.

### **The Debate between “Radicals” and “Moderates”**

The submission on rights by Gyekye makes sense if one already believes Menkiti (1984) had advanced a radical stance with regards to rights in his analysis of the notion of personhood. The literature has tended to assume that indeed Menkiti's (1984) analysis manifests an extreme form of communitarianism, which has no place for rights. Matolino's (2009) criticism and conclusion with regards to MC also seem to function on the assumption that Menkiti is a radical communitarian. Hence, the force and success of Matolino (2009), Famanikwa (2010) and Oyowe's (2014) criticism depend crucially on the truth of Menkiti's (2004) analysis of the notion of personhood ultimately leading to radical communitarianism. Remember Matolino's (2009) conclusion is that there is no discernible difference between Menkiti and Gyekye with regards to rights; and, as such, both are instances of radical forms of communitarianism. But is it really true that Menkiti is a radical communitarian?

I am personally not convinced that Menkiti's (2004) analysis on personhood amounts to anything radical.<sup>10</sup> Firstly, I advise the reader to note that Menkiti and Gyekye are actually analysing two distinct concepts of “personhood” in their elucidations of communitarianism. On the one hand, it appears that Menkiti (2004) is after the normative notion of personhood; whereas Gyekye (1992) is concerned with the ontological conception of a personhood, which is typical in the naturalist tradition of rights (Donnelly 1982). The “normative” notion of a person refers to the respect an individual human being earns relative to her performance in the moral arena (Menkiti 1984; Wiredu 1992). The “ontological” notion identifies some facet of human nature that grounds respect due to all human beings merely because they possess the relevant descriptive properties like rationality. On the part of Gyekye, the relevant ontological properties constitutive of human nature are the *social* and *autonomous* nature of a human being, and the latter grounds rights (Darwall 1977).

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<sup>10</sup> Elsewhere, I have defended this position at length (Molefe 2016).

It is crucial to note that the normative notion of personhood is not concerned about the question of human nature; it takes this for granted. It is concerned rather with what is to count as an ideal human life (Metz 2010). Here, African scholars draw a distinction between being merely human an invariable property—a biological category; and, being a person a variable property—a moral category (Menkiti 1984). The one is a fact of birth; and the other of performance. In Menkiti’s analysis, it is not enough to be merely human; one is expected to become a moral being, exuding excellences and virtues befitting a human life (Menkiti 1984).

Another way to make sense of the normative idea of personhood is by appeal to Stephen Darwall’s (1977, 34) idea of “appraisal respect.” This idea refers to a kind of respect an individual *earns* relative to her moral performance. One thing to note is that this kind of respect is not due to every human being, it is a reserve of some human beings: those whose deportment embodies relational virtues prized by communitarianism like friendliness, hospitality, generosity, harmony, mutual aid and so on (Tutu 1999).

That Menkiti is after the normative notion of personhood is not in dispute in the literature (Behrens 2013; Ikenobe 2006; Metz 2010; Molefe 2016; Wiredu 1992; 2008; 2009). Wiredu comments rather approvingly on Menkiti’s analysis of the notion of personhood: he refers to it as the “*locus classicus*” and as “an article of superlative beauty” (Wiredu 2008, 17; 2009, 16). He observes that Menkiti was the first one to articulate this notion of personhood in the African philosophical tradition, though it had been suggested by anthropologists in the 1940s (Wiredu 2009). Wiredu is unequivocal that he construes Menkiti’s talk of personhood to amount to a performance-based kind of a respect. In this regard, Wiredu avers:

One major point of doctrinal disagreement is, actually, between the two editors of this volume, namely, Gyekye and myself. Gyekye in chapter 5: “Person and Community in Akan Thought” strongly disputes the view, advanced by a Nigerian philosopher Ifeanyi Menkiti, that personhood, as conceived in African thought, is not something one is born with but rather an ideal one may or may not attain in life. I happen to have independently arrived at basically the same view as Menkiti ... (Wiredu 1992, 8)

We observe that Menkiti is considered to be after the normative notion of personhood that is concerned essentially with assessing how moral agents conduct their lives, whether in ways

that produce virtuous or defective characters. Those human beings that do well are considered to be persons, a commending term; and, those that fail are blamed or frowned upon (Wiredu 2009). It is, therefore, not presumptuous to register here that this notion of personhood does not seem to have any reference or connection to rights.

In Gyekye's case, however, the notion of personhood under analysis appears to be intrinsically connected with rights. Gyekye's analysis of "personhood" can rightly be construed as belonging to a naturalist tradition of rights, wherein some descriptive human features are specified in virtue of which human beings are considered to be bearers of rights (Donnelly 1982b). This interpretation of Gyekye is suggested by this assertion:

The restricted communitarianism offers a more appropriate and adequate account of the self ... in that it addresses the dual features of the self: as a communal being and as an autonomous, self-determining ... (Gyekye 1992, 113)

Here, Gyekye is concerned with delineating features that constitute human nature. He understands human nature to be constituted by features of sociality and autonomy, and then he grounds the enterprise of rights on the human capacity for autonomy (dignity). It is to be noted that talk of rights invokes the kind of respect that belongs to all human beings *qua* human, regardless (all things being equal) of their moral conduct. One does not earn rights and one cannot lose dignity; dignity and rights are things a human being has merely because she is human (Toscano 2011).

This brief analysis of these disparate notions of personhood in the debate between Menkiti and Gyekye is enough, I believe, to show that these two scholars are talking about two moral ways of thinking about value and respect. Menkiti's notion imagines respect that tracks performance (conduct). Gyekye imagines respect that responds to human nature. It is safe to observe that these two thinkers are actually talking past each other insofar as they are talking to different notions of "personhood." Further, Menkiti's talk of personhood does not immediately appear to be related to rights. The notion (of personhood) that Gyekye has in mind is riveted on the naturalist tradition of dignity/rights.

On the basis of these two disparate notions of personhood at play in the debate between Menkiti and Gyekye, it strikes me as philosophically questionable for Matolino (2009) to

simply assume that there was anything radical from Menkiti's analysis of personhood. In fact, Wiredu, rather interestingly, notes: "I do not believe that Menkiti said anything extremely radical" (Wiredu in an interview with Eze and Metz 2016, 76). So, if there is nothing radical in Menkiti's analysis of the agent-centred notion of personhood, how did Gyekye, Matolino and Famanikwa, among others, arrive at the conclusion that Menkiti advocated a radical version of communitarianism?

If my analysis is true that Menkiti is no radical communitarian, then it seems that Gyekye's and Matolino's (2009) criticism is actually addressing a straw man. Moreover, if this is the case, it surely should follow that Matolino's (2009) contention that Gyekye is as radical as Menkiti fails, since both are speaking to a straw man. I imagine that Matolino may here interject and suggest that I consider this assertion by Menkiti (1984, 180):

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.

Here, it is clear that Menkiti is ranking duties higher than rights; and it may, in light of this assertion, be reasonably supposed that he truly is a radical communitarian. So, here, Matolino may concede that Menkiti's notion of personhood does not amount to radical communitarianism in and of itself. However, he may insist that Menkiti may be a radical communitarianism even without necessarily connecting this position to a particular conception of personhood. Menkiti's assertion that rights take a secondary consideration to duties is enough to render him a radical communitarian.

I submit that the mere fact that Menkiti regards rights as secondary in a communitarianism system does not necessarily imply that he is a radical communitarian. Such a case cannot be merely stated; it needs to be demonstrated, supposing one already has a theory that explains the place of rights in the African axiological system. Or, put differently, we can only say that Menkiti's position is *radical* supposing we already have an account of what is to count as a proper or a moderate position. The criterion we have at our disposal, as suggested by Gyekye, does not warrant interpreting the priority of duties over rights to amount to radical communitarianism.

Such an interpretation will amount to overstating Menkiti's position with regards to rights. The standard proffered by Gyekye defines what is to count as moderate. A *moderate* stance, according to MC, is one that balances or equalises duties and rights. It appears to be overreaching to label a position that relegates rights to a secondary status as radical. A radical position is one, I submit, that rejects rights entirely. But an account that accords rights a secondary status, in its axiological scale, should in all consistency and fairness be described as either *limited* or *partial* in its commitment to rights; but never radical. There must surely be a difference between an account that has no place at all for rights and one that gives rights a secondary status.

Furthermore, I think there are progressive ways to construe Menkiti's thinking about the secondary status of rights. It is possible that Menkiti is pointing us to the idea that Afro-communitarianism offers an alternative vision for advancing the common good without necessarily rejecting or elevating rights to a higher status, as is common in Western political theories. This line of reasoning is more appreciable, given that Donnelly (1982, 307) informs us that the rights are *foreign* to Afro-axiological vision; in fact, he observes that Africans typically emphasised duties to secure a dignified life. So, if truly Menkiti is no radical communitarian then we can safely accuse Gyekye and Menkiti of being partialist and never radical communitarian.<sup>11</sup> They both want rights to feature in the Afro-communitarian system, but it should not be the final arbiter in the pursuit of a dignified life.

### **Normative Force of Rights**

I proceed to my second response to Matolino. In this part, I consider his unstated assumptions about the normative force of rights in the African context. Matolino's (2009) accusation that MC is not different from radical communitarianism stems from the fact that rights are things that we ought not to obsess about or the fact that they may be set aside when they clash with the common good. It must be noted that in all fairness, Gyekye did not specify what it means to take rights seriously in Afro-communitarianism. Matolino (2009), Famanikwa (2010), Oyowe (2014) and others, so far as I am aware, do not tell us what it means to take rights seriously. Such a specification of the content of what it means to take rights seriously is crucial since it would have buttressed their criticism. In light of this theoretical content

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<sup>11</sup> I trust that this enlightens the reader regarding the distinction between Menkiti's partialism towards rights and Gyekye's moderateness towards them. For Menkiti, rights are always secondary to duties. For Gyekye, rights, under certain circumstances may take a secondary status; but all things equal, rights are as fundamental as duties.

concerning what it means to take rights seriously, it appears to me that it is overreaching to accuse Gyekye of inconsistency when he admits of instances where rights might be set aside. Further, the view expressed by Gyekye that rights “are *likely* to be abridged [own italics]” is not as unattractive as Matolino (2009) makes it to appear.

Note, in the Western moral-political tradition rights are taken to be at the heart of what is to count as a just or even a robust society—i.e., rights are taken seriously. The language employed to signify this important status occupied by rights is that they have a *trumping* property, thus they tend to take priority over other competing claims in the case of a clash. In other words, all things being equal, rights take priority over other social and moral considerations in the case of a trade-off (Sumner 2000, 289). This trumping property of rights is what makes them special in the Western tradition.

However, many Western scholars do not take rights to be strictly absolute. They take rights to be relatively absolute; in other words, under most circumstances they will trump other competing moral and non-moral considerations (Donnelly 1982). Donnelly (1982, 395), informs us that there is a tendency to overstate the normative force of rights by representing them as strictly absolute. He continues to observe that “such a conception is neither defensible nor a necessary part of a natural rights theory” (Donnelly 1982, 395). Admitting that rights are *relatively* absolute appears to be cushioning Gyekye from being construed as treating rights as if they matter less. It is for this reason that he states:

The steps are likely to involve abridging individual rights, which, thus, will be regarded by the moderate communitarian as not absolute, though important. (Gyekye 1997, 65)

In keeping with the sentiment shared by some scholars like Donnelly, Gyekye thinks that rights are important but they are not absolute—as some seem to think they are. In other words, there is nothing necessarily radical in imagining circumstances under which rights may be superseded by considerations of the common good. It is crucial to note that Gyekye does not explicitly assert that rights will *always* be set aside for the sake of the community. He uses a language that is not as stringent as his critiques would have us think; this is indicated by him merely stating the *likelihood* of their abridgement and not a necessity (Gyekye 1997).

Instead of accusing Gyekye of under-appreciating rights; the author contends that Gyekye (1997) reveals to us the complexity of an Afro-communitarian theory. MC has to balance both the potential and tension entailed by the dual norms that inform it, the good of all and the dignity of each individual. Whereas we have a duty to deliver conditions necessary for each human being to achieve an ordinary human life, we cannot do so by employing means that violate the dignity of human beings in the utilitarian style (Nozick 2002). The idea of dignity serves as crucial guiding and constraining norm in our quest to promote the good of each and every human being (MacNaughton and Rawling 2006). The same also applies to the idea of rights; whereas we have an obligation to take individuals' rights seriously, this obligation is equally limited by what Gyekye (1997) refers to as the "stability and integrity" of the community—the concern goes both ways. In other words, dignity constrains what strategies and routes communitarians may employ to promote the common good; and, the good of all also constrains some individual rights, which may threaten the community and its continuance that is necessary for the exercise of rights. Unchecked obsession with the common good may threaten the dignity of individuals; and unchecked obsession with rights may threaten the good of all. The superlative beauty of MC is a function of its call for moderation; that is, a creative way to manage excesses inherent in obsessing about either the common good or rights.

The foregoing reflection mainly focuses on the tension entailed by this dualistic moral-political theory. The other side of this theory is its potential to enrich an Afro-communitarian axiological by recognising rights. It is to be noted that rights and the common good are not necessarily opposed, though they may be at times. In fact, rights and the common good are different approaches to securing a life of dignity. Rights refer to an individualistic regime for securing a dignified life by empowering an individual to claim or demand what she is entitled to (Feinberg 1970; Donnelly 1982). The common good refers to a regime of other-regarding duties and obligations that revolve around individuals to secure the wellbeing of all individuals (Gyekye 2004). If an individual is a being of dignity then certain ways of treating her are completely unacceptable and certain conditions/forms of a life do not correspond to her superlative value. Thus, Gyekye's (2004) attempt to bring together these two visions of securing a life of dignity is daring and worth unpacking for both the tensions and potential it promises. Instead of appreciating this dynamic tension created by the complexity of social life and individuality that may pit rights against duties, colleagues merely see a theoretical

inconsistency. The author contends that Gyekye's (2004) account offers a daring integration of rights and duties that does not shy away from dynamic tensions which are intrinsic in any moral regime that attempts to account for a life of dignity.

Another useful way to think about the tension and potential entailed in this integration of rights and the common good, is in terms of an analogy of a continuum. Rights are at the left end of the continuum and the common good on the other. We must bear in mind, however, that when we say some communities are individualistic and others are communitarian, we are only talking in degrees (Gyekye 1997; Wiredu 2008). No society is completely individualistic and no society is completely communitarian. The reason for this is because both facets are necessary and crucial for facets of human existence.

There are certain pitfalls to a society that is overly communitarian. It may be authoritarian; it may choke individuality, uniqueness, innovation and creativity, which are crucial for advancing a robust individual life and a healthy community. Gyekye (2004) emphasises the facet of autonomy to capture the fact that it is individuals' will, exertion/effort, courage and perseverance that bring about civilisations and progress in societies. Equally, there are certain pitfalls associated with unrestricted individualism. Some people are more talented than others, more socially connected than others and have a history of privilege more than others. If the wellbeing of individuals is left in the hands of each individual's self-interest, then some people's lives may be seriously handicapped. Communitarianism, therefore, addresses these limitations by emphasising social relationships laden with other-regarding duties.

The continuum model is an attempt to balance these two facets of moral-political thought without shying away from the point of departure being communitarian. Hence, Gyekye will go to the trouble of pointing out that in the moderate communitarian scheme, there won't be an obsession with rights, but that does not render them less important. In other words, though moderate communitarianism is located somewhere in the middle of the continuum, where individualism and communitarianism meet; in the case where things are not equal, however, the political system will tilt towards the community taking priority only to self-correct and then tilt to its equalising position in the continuum. This is a more promising interpretation of Gyekye, I submit; and it must appreciate this dynamic interplay that I suspect is inherent in his analysis.

I conclude this article by registering my last concern that those who criticise Gyekye appear to overlook certain aspects in their criticism. I will also motivate why we must take Gyekye's moderate communitarianism seriously.

### **Rights in the Afro-communitarian Context**

One of the surprising facets of the criticism offered by Matolino (2009), Famanikwa (2010) and Oyowe (2014), is that they do not expect rights to be affected by an African axiological system that prioritises the good of all as the point of departure. This is surprising, given that scholars of rights have insisted that though rights are universal they are not so stringent as not to be affected by varying particular contexts in which they have to be practised and realised (Cobbah 1987; Deng 2004). Why can't it be a viable possibility that rights in the African axiological tradition may lose some of their normative force in certain contexts where they clash with some of the high ranking goods in the Afro-communitarian cultural context? Why should a possibility of rights losing some normative force in the African context be considered radical?

The very edifice of communitarianism engenders a particularly other-regarding moral attitude captured by the idea of "personhood" (Gyekye 1997; Menkiti 1984; Wiredu 1992). The idea of personhood does not deny that human beings have dignity. In fact, human beings are thought to be characterised by a divine spark, *Okra*, in virtue of which they deserve an ineliminable minimum respect (Gyekye 1992; Shutte 2001; Wiredu 2009). A human being is expected to realise the ideal life befitting a human being and she can only achieve such a status by exercising duties to others, by way of promoting the good of all (Molefe 2017; Wiredu 2008). This very idea of personhood that corresponds with other-regarding duties and obligations implied by the idea of the common good, surely should have an impact on how rights ought to be imagined and practised in this tradition. It is this reflection between the interplay of a human being as a bearer of rights and a bearer of duties that has not been fully explored, which the author contends is at the heart of the contribution of MC.

The moral-theoretical contribution that Gyekye (2004) makes is a sophisticated one and should be criticised with this understanding. It is both practical and theoretical. Practically, Gyekye is burdened by widespread violation of human rights in Africa (Gyekye 1992, 104). He is also equally alive to the fact that rights are now adopted as a measure of civilisation and

a good life (Gyekye 1992, 104). Moreover, he is cognisant that Africa is not in a position where it can simply ignore or reject rights wholesale—given the unfortunate history of colonialism that connects us to the West and how foreign aid also comes with rights as part of the “aid” (Ake 1987, 5–6). These practical considerations impel African scholars to think about the important place that rights should have in an African context.

Theoretically, Gyekye is equally concerned by “unbridled individualism” that characterises the culture of rights (Metz 2007, 326). He is aware that rights have a tendency to threaten group-morality, which is a distinctive feature of Afro-communitarianism (Gyekye 1992, 101). Rights have a tendency to undermine “the vitality of all groups that held an intermediate position between the individual and the state: the sovereignty of the state and the sovereignty of the individual” (Cobbah 1987, 315). Moreover, should we leave matters to the sovereignty of the individual and the state unchecked, we would have threatened the very paramount African-communitarian project of at least securing the basic needs necessary for ordinary functioning of each and every individual (Cobbah 1987, 314; Gyekye 2004, 99).

Hence, Gyekye’s thesis that attempts to equalise rights and duties is born out of these practical and theoretical considerations. Therefore, criticism of Gyekye must imagine the difficulty of marrying these two together. Generally, criticism of MC does not fully appreciate these considerations.

## **Conclusion**

This article set itself the task of defending MC as a progressive moral-theoretical attempt to philosophically include and defend rights as a plausible feature of Afro-communitarianism. I formulated a response against the criticism that MC is ultimately no different from RC in its failure to embrace the culture of rights. Central to my argument was the idea that MC offers a creative way to accommodate rights in the Afro-communitarian milieu, without compromising the group-morality characteristic of African moral thought. I believe it is crucial for literature concerned with the topic of rights in African philosophy to think about the criticism made against MC. Is it the case that MC is rejected because it is not a plausible attempt to introduce rights in Afro-communitarianism? Or, is it rejected because rights ought not to feature in Afro-communitarianism? In this article, I have demonstrated that MC offers

a promising way to think about rights. I have challenged the literature to seriously reflect about the place and relevance of rights, taking a cue from moderate communitarianism.

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