

PART VII

*African Ethics and Political Transformation*



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## *African Moral Theory and Public Governance* *Nepotism, Preferential Hiring and Other Partiality*

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### INTRODUCTION

Most political philosophy in the English language is grounded in western moral theories, such as utilitarianism and Kantianism, which presume that the basic aim of a state should be to benefit and respect its citizens. What form might political philosophy take were it to appeal instead to an African moral theory that differed from those of the West?

This chapter describes an ethical principle, informed by sub-Saharan values, and applies it to how a state should allocate resources to its citizens. Suppose a person lives in a sub-Saharan country that has won its independence from colonial powers in the last 50 years or so. Suppose also that that person has become a high-ranking government official who makes decisions on how to allocate goods, such as civil service jobs and contracts with private firms.<sup>1</sup> Should such a person refrain from considering any particulars about potential recipients or might it be appropriate to consider, for example, family membership, party affiliation, race or revolutionary stature as reasons to benefit certain individuals at some cost to the general public? Which of these factors should be considered unjust, or even corrupt, as a basis on which to allocate state goods and which should not?

Impartialists answer these questions by saying that those working for a newly liberated African state should act only for the sake of the public as a whole. By contrast, partialists claim that civil servants may occasionally act for the sake of certain individuals, at some foreseeable cost to the general public. Impartialism is not a matter of degree; any time state officials favour particular interest over general,

they are no longer being impartial. But partialism is a matter of degree; it is possible to be more or less partial.

This chapter outlines an attractive moral theory with African content that forbids both impartialism and a strong form of partialism that would permit government officials to favour members of their families or political parties. Between these two extremes, a moderate partialism is prescribed. This permits government agents to occasionally favour veterans and victims of state injustices at some cost to the general public. This chapter seeks to provide a new, unified explanation of why sub-Saharan values permit some forms of partiality, such as the preferential hiring of those who struggled against colonialism, but prohibit other nepotistic forms of partiality. In so doing, this chapter implies that Africans need not appeal to western or other foreign moral systems for a principled foundation for good governance in modern African states.

This chapter also notes some interesting implications of African moral theory for political philosophy. For instance, the defence of affirmative action presented here differs from that presented in the West. It deserves to be taken seriously, particularly as it avoids strong criticisms facing the western defences. This chapter also explains that the reason African values prohibit strong partiality probably entails that the constituency-based democratic system predominant in the West is unjust.

This chapter draws on African moral theory to offer principled guidance on allocating resources to officials in sub-Saharan governments where African values might still have some dialectical influence. Corruption is a major reason why African societies have not developed as they might since independence. Sometimes African values are even invoked to justify behaviour this chapter deems unjust (Gyekye 1997: 196, 252–57; Ramose 2003: 329). For instance, believing in the African dictum ‘charity begins at home’, some officials rig tender processes so that extended family members who are in business win contracts with the state. Others award government jobs to candidates from the same political party. This chapter argues that, accurately interpreted, African morality forbids such strong partialism as corrupt but permits other milder forms of partiality.

African political philosophy sorely needs developing. Most discussion on the state published in English appeals basically to western ethical principles of utility and respect, with occasionally some Aristotelianism or feminism. African moral theory offers a useful, new and unjustly neglected way of evaluating political choice.

To demonstrate, this chapter provides a comprehensive resolution of the debate between impartialism and partialism with regard to state employment of domestic resources. It also indicates where African moral theory and its implications, such as for affirmative action and democratic polity, diverge quite dramatically from dominant western principles.

This chapter is a work of political philosophy not political science. It is a strictly normative enterprise, aimed at justifying certain state practices by appealing to a principle of right action informed by salient sub-Saharan values. It is not an empirical project attempting to explain the behaviour of any sub-Saharan states. Furthermore, while this is a work of applied ethics, it remains abstract at the level of the relevant principles to consider. Moreover, this work does not seek to make any public policy recommendations about how an African state should organise itself.

The chapter begins by defining in more detail the debate between impartialism and partialism. The second section contrasts these theories with related ones. The third part then describes an attractive African moral theory used to evaluate these perspectives. The favoured philosophical interpretation of African values is communitarian and places harmonious or friendly relationships at the heart of right action. The rest of the chapter applies this ethic of relating to issues sub-Saharan state officials encounter when allocating resources. The fourth part focuses on how senior civil servants should award jobs and contracts, arguing that African ethics forbids the favouring of people related to them. Part five shows, however, that it would be in principle permitted to favour individuals with certain relationships with the state, such as veterans or historically disadvantaged persons. The conclusion gives a brief summary highlighting key arguments of use for future theorising on African politics.

#### CLARIFYING THE DEBATE

Impartialism and partialism are competing answers to the question whether officials in a sub-Saharan African state may distribute resources so as to benefit certain individuals living within the state and at some cost to the general public. In focusing on such individuals, the discussion sets aside debate on whether the state should be internationalist in the sense of acting for the worst-off in the world wherever they may be. This chapter does not address the dispute between cosmopolitans,

who favour a state that ignores borders in its fundamental distributive policy, and nationalists, who favour a state that gives principled priority to the interests of residents. The key issues here are how domestic resources should be spent, not how big they should be compared with resources directed at foreign policy objectives.

Furthermore, this chapter ignores the debate on whether the state would best serve public interest by promoting a certain concept of the good life. It does not enquire whether the state should be neutral, in the sense of refraining from deliberately fostering a certain way of life and letting people choose their own lifestyles. This chapter ignores the culture war between political liberals, who reject a state that takes sides over religion or lifestyle, and conservatives (theocrats, moralists and paternalists) who favour a non-neutral state. Supposing this debate were decided, the question this chapter asks would still remain, as to whether government officials may distribute resources so as to promote the interests of individuals, especially in ways unlikely to advance the interest of the general public.

In referring to state or government officials and resources, this chapter addresses bureaucrats, such as the human resources officers who award government jobs and the procurement officers who award contracts to private firms on tender. A broader reading of government officials and resources for allocation might include legislators, who decide how to use taxpayers' money. Although the position developed here probably has implications for these government officials, it considers them only briefly, in the fourth section, and does not focus on them.

Finally, when resources are said to be distributed so as to benefit a group, this means that the end is to benefit the group and is likely to be realised. An impartial act is one that is expected to benefit the public as a whole. Impartiality does not imply that all in fact benefit or have an equal chance to do so. For instance, an impartial decision could award a job to the most talented candidate, providing it was reasonably believed that it would most benefit the general public in the long term. Conversely, since partiality involves taking decisions because one is trying to benefit particular individuals, it implies that actions that in fact benefit the public might nonetheless be partial. For example, a partial decision could award a job to a friend solely for his or her own good – even if hiring such a person happened to turn out best for the public.

The impartial position on which citizens government officials in sub-Saharan Africa should help is that they should act only for the sake of the general public.

The partial position is that a government official should act so as to benefit some individual or group that is a subset of the public. Strong partialism occurs when an official awards jobs or contracts to people related through family or political party. Moderate partialism occurs when officials award jobs or contracts to people in some way related to the state, such as veterans.

The rest of this chapter argues that a plausible African moral theory accepts moderate partialism and rejects both impartialism and strong partialism. It shows that acceptance of affirmative action and rejection of nepotism can both be put down to a certain philosophical interpretation of African values.

#### AFRICAN MORAL THEORY

In its appeal to African values, this chapter invokes an understanding of them in the form of a moral theory. A moral theory is a fundamental principle that accounts for what right actions, as distinct from wrong, have in common. It is a single principle that purports to entail and explain all permissible decisions, as contrasted with those that are not permitted. Key examples from western philosophy include: the principle of utility, that an act is wrong in so far as it fails to improve the average quality of life; and the principle of respect, that an act is wrong in so far as it degrades people's autonomy.

A moral theory counts as 'African' if informed by many of the firm ethical beliefs of a variety of sub-Saharan peoples. To deem a moral theory African does not therefore imply that all sub-Saharan societies have believed it or, indeed, that any has been aware of it. An African ethical principle is a philosophical construction unifying a wide array of the moral judgements and practices found among many of the black and Bantu-speaking peoples of the sub-Saharan region. Furthermore, it is possible for a moral theory to be defined as African yet resemble one found in the West. This chapter, however, appeals to an African moral theory that differs importantly from western moral theories, although no claim is made that it is utterly unique to Africa.

The following is a basic statement of the African moral theory this chapter employs to appraise the debate between impartialism and partialism: 'An act is right just insofar it is a way of prizing harmony with others, i.e., relationships in which people share a way of life and are in solidarity with one another. An action is wrong if and only if it fails to honour relationships in which we identify with

others and exhibit good-will toward them' (Metz 2007a). To unpack this terse statement, consider that in most traditional or indigenous sub-Saharan societies, morality is often summed up by the phrases, 'A person is a person through other persons', and 'I am because we are' (Mbiti 1969: 108–09; Menkiti 1979). To the foreign English speaker, these claims mean relatively little, initially suggesting banal ideas about how children are causally dependent on adults to survive. However, what they express is best interpreted as a rich and specific understanding of how people should treat one another. When Africans make these claims, they are indicating, in part, that the only way to develop moral personhood, to become a virtuous agent or lead a genuinely human life, is to interact with others in a certain way.

This assertion might sound trivial but notice how it differs from major western moral theories, such as Kantianism and utilitarianism. Imagine someone alone on an island. The Kantian believes that, in addition to duties to others, people have duties to themselves, specifically to protect and develop a capacity for autonomy. Hence, the lone islander, unable to relate to others, might still conceivably act morally or immorally. For instance, to sunbathe all day, instead of keeping healthy and using his rational faculties, would be immoral for many Kantians. Likewise with utilitarianism, a person entirely alone might fail to act to maximise his own well-being. If the lone islander failed to take precautions against harsh weather, then his long-term well-being would be compromised and he would have acted wrongly. By contrast, African ethics imply that morality is possible only through interaction with others. A person who is utterly alone might be more or less happy but not more or less dutiful. Morality, from a resolutely African perspective, arises only from relationships.

The question at this point is precisely what type of relationship is prescribed. How should people relate to others so as to confer goodness on their character or develop humanness? This chapter submits that, basically, people should relate to others in such a way that properly values a certain cohesive relationship. Archbishop Desmond Tutu, winner of the Nobel Peace Prize and renowned leader of South Africa's Truth and Reconciliation Commission, sums up one major strand of African ethical thinking this way: 'Harmony, friendliness, community are great goods. Social harmony is for us the *summum bonum* – the greatest good. Anything that subverts or undermines this sought-after good is to be avoided like the plague. Anger, resentment, lust for revenge, even success through aggressive competitiveness,



are corrosive of this good' (Tutu 1999: 35; see also Gbadegesin 1991: 65–67; Silberbauer 1991: 20; Verhoef and Michel 1997: 397; Khoza 2005: 58–59; Ikuenobe 2006: 128–38). For Tutu and many other Africans, harmony is valued highly for its own sake, not merely as a means to some other ultimate good, such as happiness.

Harmonious, cohesive or communal relationships are not merely those of any stable, peaceful group. A dictator whose subjects do not rebel because they are afraid does not have a harmonious, morally attractive relationship with them. The harmony to prize is that in which people both identify and exhibit solidarity with one another, which a dictator fails to do. Consider these elements in turn.

To identify with other people, or share a life with them, depends on two things. Sharing a common sense of self involves thinking as a member of a group. Instead of the self being 'I', distinct from others, the self becomes 'we', including others and included by others too. For example, a person who identifies with colleagues in a philosophy department speaks of 'us', thinking of himself as part of a group. However, that same person may not identify with the government of the country but consider it a completely separate entity. Conceiving of the self as in common with others also involves engaging in joint projects. Life is shared with other people when activities are co-ordinated for a common end. Again, a philosopher may strive together with other department members to mutually foster philosophical teaching and research, yet fail to engage in any interaction with the government and so fail to share a life with it. In contrast, defining self in opposition to others and subordinating them, as some leaders do, through coercion or the deception of innocents, for example, would be the opposite of identifying with others and count as divisive.<sup>2</sup>

A harmonious relationship consists, beyond identifying with others, in exhibiting solidarity towards them. This is a matter of demonstrating goodwill or being positively oriented towards others' interests. Such behaviour includes helping others and, furthermore, doing so for their sake. To benefit someone else merely for long-term gain does not exhibit genuine goodwill. Harming others exhibits ill will. Also important is to care about what happens to others. People exhibit goodwill in so far as they are happy when others flourish and sad when others flounder. If people's feelings and emotions are not affected by how others fare, they are not exhibiting full-blown goodwill. People who take pleasure in others' misfortune are manifesting downright ill will.

Although these two facets of harmony often co-exist, they are distinct in principle and sometimes come apart in practice. For example, people may identify with others but not exhibit goodwill towards them, as in the relationship between workers and management in many capitalist firms. Furthermore, people may exhibit goodwill towards others without identifying with them, as when making anonymous donations to charity. An African understanding of morality prizes the exhibition of both aspects at the same time, namely, to esteem relationships with others in which people not only think of themselves as a 'we' engaged in coordination but also behave in ways supportive of others. This combination of identity and solidarity is what many English-speakers mean by friendship or the broader sense of love. To have a friend or beloved is basically to share a sense of self and act for another's sake. African ethics can be understood, therefore, as requiring people to prize friendly relationships.

Conversely, this African moral theory forbids people from being unfriendly. It prohibits people not only from isolating themselves from others or, worse, defining themselves in opposition to or subordinating them, which is divisive, but also from not caring about others' interests or, worse, expressing ill will by trying to harm them. What makes it wrong to perform such acts as breaking promises and telling lies is that they consist of unfriendly behaviour. They involve thinking of oneself as I, subordinating others' ends, making them worse off, and failing to care.

To construe morality as the proper valuing of friendly relationships aptly reflects how many people south of the Sahara think and behave. For example, sub-Saharan Africans often think society should be akin to family. They tend to believe in the importance of greeting strangers. They typically refer to people beyond the nuclear family with titles such as sister and mama. They frequently believe that ritual and tradition have moral significance. They tend to think there is some obligation to wed and procreate. They usually do not believe that retribution is a proper aim of criminal justice, inclining toward reconciliation. They commonly think there is a strong duty for the rich to aid the poor. And, finally, they often value consensus in decision making, seeking unanimous agreement and not resting content with majority rule. The prescription to respect harmonious relationships entails living in such a way. This is not to suggest that this prescription is believed by all or even most sub-Saharan Africans. The claim is that it is an intrinsically attractive theory that reflects salient aspects of a communal lifestyle widespread south of the Sahara.

Some might like a full-blown defence of the principle articulated. They might want reason to think it the best possible articulation of an African perspective on ethics, or even the most attractive conception of morality. This chapter lacks the scope for either. Instead, it is merely articulating one plausible moral theory informed by African values. This section goes on to contrast this theory with the most influential perspectives used in western ethics to evaluate the state, namely, the principles of respect and utility.

Consider three major differences (there are others) between utilitarianism and the African ethic described. Firstly, utilitarianism places moral value solely on an action's long-term consequences on quality of life. African ethics requires agents to act for the well-being of one another. Although this might seem utilitarian, friendship also means helping others to become better people, not just better off. African moral theory therefore prescribes promoting people's happiness but also, unlike utilitarianism, their character. Secondly, a classic utilitarian requires an agent to succeed in benefiting others, whereas the African principle does not. For example, suppose a person dives into the ocean to rescue someone who is drowning. The diver does not know there is no way he might succeed, so all he achieves is to risk his own life and exhaust himself. A typical utilitarian would say the diver had performed a wrong act, whereas a friend of the African ethic would say he had identified with another, exhibited goodwill and hence acted correctly. Thirdly, utilitarians place no basic moral value on relationships in which people identify with one another. What matters for them is whether an action improves an individual life. This is not true for the friend of the African morality, who fundamentally values sharing a life with others.

Consider now some respects in which Kantianism contrasts with the African ethic as construed above. Part of identifying with others is not to subordinate them but to coordinate behaviour so as to avoid coercion and deception. Kantian ethics forbids degrading people's capacity to make choices, so that coercion and deception are generally not permitted. It might seem, therefore, that African ethics is Kantian. However, like the utilitarian, the Kantian places no fundamental moral value on identifying with others. A Kantian can respect others by being distanced and not including them in any 'we'. Furthermore, African ethics, unlike Kantian, requires agents to strive to improve other people's well-being, even if they fail. Kantians basically believe that people's welfare does not matter morally. What matters is to respect their capacity for autonomy. For instance, for a Kantian, the

role of the state is probably merely to protect people's ability to choose their own way of life, even if they do not choose wisely. A friend of African ethics, however, believes the state should foster ways of life that are good for people. So, while a Kantian state might distribute money to its poorer citizens, enabling them to make a wide array of choices, a state following African ethics might distribute something likely to contribute to a better life, such as recreational resources or marriage counselling.

This African moral theory must now be applied to how a civil servant should allocate resources such as government jobs or contracts. A utilitarian would do so in such a way as to best improve the citizens' well-being. A Kantian would do so while respecting people's capacity for autonomous decision making. These two principles would seemingly rule out nepotism and other intrinsically corrupt practices as either harmful to, or disrespectful of, the public. What, now, about African ethics? What does it have to say about the unjust allocation of resources? If close relations have greater moral weight, why should an ethic of harmonious relationships not permit nepotism?

#### AGAINST STRONG PARTIALISM

This chapter will establish that the African moral theory articulated above prescribes moderate partialism. This is the view that government officials should distribute resources so as to benefit the public as a whole, except in some cases where individuals have a certain relationship to the state, such as by having made great sacrifices for it (as veterans or freedom fighters) or having been seriously wronged by it (as historically disadvantaged individuals). It will now be argued that this African ethic rules out stronger partialism whereby government officials may act to the benefit of individuals related to them.

There is nothing in the favoured African moral theory to permit a government official to distribute resources so as to benefit himself. A demand to prize relationships of identity and solidarity with others clearly forbids a procurement official from awarding a contract to a firm to receive a kickback. However, even if African ethics forbids using state resources for private gain, such that 'people first' should be the motto of a civil servant,<sup>3</sup> it is not obvious which people should come first. As already mentioned, some interpret African ethics to allow and, perhaps, even require a civil servant to use state resources for the benefit of his

family. African values are commonly deemed to presume that family comes first or that charity begins at home, and even those sympathetic to other moral principles will find compelling the general idea that loved ones take priority over strangers. Why should an ethic that values close relationships forbid the preferential treatment of those closest?

To answer,<sup>4</sup> note first that the African moral theory sketched above is comprehensive, intended to provide a standard of correctness for individuals and also institutions. Thus, this theory can be used to morally appraise the decisions and policies of organisations such as corporations and schools. Supposing the theory was also used initially to recommend the political institution of a state itself,<sup>5</sup> what sort of state would it prescribe?

The straightforward answer is a state that is not strongly partial. A state that is not strongly partial would probably promote more harmony and less discord than a strongly partial state. A state which routinely distributed resources to benefit its officials' relatives, knowing that this would cost the public, would do a poor job of developing identity and goodwill. It would produce instead division and ill will. While such a state might consider itself bound up with the beneficiaries of its nepotistic or other partial decisions, it would fail to conceive of itself as part of a 'we' with the majority of the population. And these people would naturally come to view the state as apart from them. Such a state would not be subordinating the few people it was benefiting. But it would be coercing the majority of its citizens into paying taxes that would end up benefiting a few government officials' relatives. Such citizens would be inclined to undermine the state by protests and other forms of civil unrest. Finally, while such a state would be exhibiting goodwill towards a small, select group, it would be failing the greater population. Such behaviour by the state would not encourage citizens to act for the sake of the state or for the general public whom the state might aid. The conflict-ridden history of colonialism in Africa, particularly apartheid in South Africa, shows clearly how a strongly partial state fails to promote harmony and instead generates discord.

A strongly partial state fails then to produce harmony or reduce discord. But a state can avoid being strongly partial only if its officials are not strongly partial themselves when they make decisions on the state's behalf. It follows, therefore, that state officials must not make strongly partial decisions in their public lives. A procurement official who awards a contract to a member of his family or political party fails to secure the kind of state required by an ethic of harmony.

A civil servant's duty not to be strongly partial derives from the state's need to realise harmony. The state is much more likely to achieve harmony if it is not strongly partial. However, this section must also show that a civil servant's duty not to be strongly partial is stronger than the duty to favour loved ones. With regard to institutions, African moral theory requires civil servants not to be strongly partial. But at the individual level, this theory still appears to recommend being strongly partial. For example, one may and should save the life of one's child, should it be necessary to choose between rescuing one's child and a stranger. A civil servant might then appear to be in conflict as to his duty and in need of a clear reason why his duty to the public should outweigh that to his relatives.

State bureaucrats sometimes promise to serve the public or take an oath to do so. But even if this were not so, they would still have a duty not to be strongly partial in the use of state resources. A deeper reason for a civil servant not to be strongly partial turns on the proper way to value friendship and love. If absolutely necessary it would be acceptable to save a loved one before a stranger. But it would not be acceptable to save a loved one by killing a non-aggressive stranger. Imagine, for instance, that a loved one needed a new liver to survive but that the only way to acquire one was by kidnapping an innocent person to forcibly extract one. No African moral theory would permit such drastic action to promote the interests, even the urgent interests, of a loved one. The general principle would be that friendly relationships should not be promoted by unfriendly means.

If this were right, it would remain merely to point out that government officials who acted in a strongly partial way were using unfriendly means to help those related to them. This has, in effect, been done above when it was noted that a substantial degree of discord would be produced were a state to be strongly partial. Of course, if individual civil servants were strongly partial, the state as a whole would not necessarily be so. However, each civil servant has a duty to help ensure that the state is not strongly partial. If a civil servant shirks this duty he exploits those colleagues and their relatives who have upheld theirs. Exploitation, or benefiting from others' sacrifice as if they existed merely to serve a purpose, is not a friendly way to relate to others. This type of subordination is only practised by a person who feels separate from others, with no sense of togetherness or desire to coordinate activity in the pursuit of common goals. A civil servant's duty not to be strongly partial therefore outweighs any duty to favour loved ones. The proper valuation of friendship prohibits using unfriendly means to help friends, such as through being strongly partial.

This, therefore, is the central rationale for African ethics to forbid a government official from awarding contracts or jobs to members of the same family or political party. Before turning to why a certain kind of partiality would, however, be permitted, there are two objections. First, strong partiality might still be used as a tiebreaker between two candidates equally qualified to serve the public in a certain government post. Imagine one candidate is a friend of the human resources manager, or that the selection committee knows the candidate is such a friend. Would it be right for this to influence selection remembering that both candidates are equally equipped for the post so the general public does not stand to suffer either way?

African moral theory recommends using some random or other non-partial selection method. The reasons are twofold. A state's basic duty is to value harmonious relationships. But if it permits officials to favour relatives it might tempt them to make poor hiring decisions. In such a biased atmosphere, officials would tend, almost subconsciously, to deem their friends even more qualified than they were. Several studies show this kind of bias to be unconscious, systematic and almost unavoidable (Bazerman et al. 1997). The public might therefore stand to lose were officials permitted to use partiality to break ties, since partiality would tend to spread to other situations.

Even if officials confined partiality strictly to the tie-breaker situation, the public would quite reasonably suspect that they were not. To promote harmony the state should avoid strong partiality and should be perceived to be avoiding it. Permitting strong partiality would breed suspicion, thereby causing division and ill-will between government and general public.

It might be argued that a select few high-ranking officials should be secretly permitted to use strong partiality for tie-breaking. If lower-level officials and the general public did not know strong partiality was being used, surely no discordant consequences would arise.

But one requirement of friendship is transparency. A person cannot meaningfully share a life with others if the terms of interaction are not clear. For government to coordinate its behaviour with that of the general public, it must be forthright about its policies. Otherwise, its behaviour is unfriendly and therefore impermissible based on the principle that friendship should not be promoted through unfriendly means. Government, therefore, should not use strong partiality in combination with secrecy to break ties between equally well-qualified candidates for jobs and contracts.

The second objection to prohibiting strong partiality is that it might 'prove too much'. To extend the argument to law-making, it would be forbidden to adopt any law for the benefit of constituents, a constituency being a subset of the public specially related to a legislator and therefore falling within the forbidden realm of strong partiality.

This inference might be welcome. African ethics might embrace a kind of democracy in which legislators acted not for the sake of a particular constituency but for the public as a whole. Some African intellectuals have argued against the party-based systems of the United States, the United Kingdom, Europe and Australasia, favouring a different, consensus-based kind of democratic polity (Wiredu 1996: 4; Ramose 1999: 135–52). Consider a system in which legislators were not tied to any political party and sought instead unanimous agreement about which policies would most benefit the general public. Such a system would probably best realise harmonious relationships in two ways. Firstly, the search for unanimous agreement would demand identifying with others and acting for their benefit. Secondly, consensus decision making avoids minorities that repeatedly lose out to the majority until they become alienated. Much more remains to be said about the desirability and workability of this kind of democracy. The point here is that a democracy in which legislators did not act for the sake of constituents would not be altogether bad.

African moral theory therefore forbids not only nepotism but any allocation of state resources to those related in some way to human resources or procurement officials. However, that is not to conclude that officials may never be partial in the way they distribute government jobs and contracts. Certain kinds of partiality do not threaten harmony and may even respect it, or so the next section argues.

#### AGAINST IMPARTIALISM

The previous section argued that strong partialism is forbidden in the interest of the general public. But that does not mean that partialism has no place at all. This section maintains that there is a significant moral difference between awarding jobs and contracts to relatives of government officials or to individuals related to the state. It argues that, according to African ethics, people such as veterans and victims of state injustice may, in principle, be given some degree of preference in the awarding of government jobs and contracts. This would mean that impartialism



would be an inappropriate way to allocate state resources. Even to those already convinced that African values permit preferential hiring, this section should be of interest for two reasons. First, it brings out the unified basis, the ethic of friendly relationships, which forbids one kind of favouritism, namely, nepotism, but permits another, namely, affirmative action. Second, it clarifies how African defence of preferential hiring differs from influential western defences and suggests the African might be stronger than the western.

Consider the preferential treatment of veterans, those formally employed by the state to fight on its behalf, in the army and navy, for example, as well as those freedom fighters and leaders of the struggle who opposed the state on behalf of the public it was then oppressing. In both cases, individuals risked life and limb to aid the state or the general public. Friendly relationships include a desire to show gratitude to those who have worked for the benefit of others. A person who is able but not willing to thank someone who has provided above average service is not properly identifying with that person or exhibiting goodwill. Ingratitude reveals a person to consider that some people exist to serve others, which a friendly relationship would, of course, exclude. An ethic that values friendly relationships therefore requires the state to recognise those who have made great sacrifices for it or the general public.<sup>6</sup> That might mean giving some preference to veterans when awarding government contracts and jobs. 'Some' is the key word here, for all decisions should still be based largely on what would be good for the public as a whole. Those selected for a contract or job should, of course, be appropriately qualified.

Similarly, the state may show some preference to individuals from whom it demanded unjust sacrifices in the past. Here the relevant moral category is not gratitude but repentance. In a choice between making amends to a wronged friend or making two new friends, an ethic that values friendship would demand the wrong to be set right first, presuming this were feasible. A person's first duty should be to mend any discordant relationships before forging new ones. This applies not merely to individuals but to any state obligated to prize friendly relationships. If a state has systematically wronged any of its citizens, such as South Africa under apartheid, identifying and exhibiting solidarity with them would require an apology followed by a serious attempt to repair the broken relationship. One way for a state to express contrition and try to correct its mistakes would be to give preference for government jobs and contracts to applicants from the sector

it had wronged, even if slightly less qualified and at some cost, therefore, to the public.

Note some respects in which these justifications of affirmative action for victims of state injustice differ from standard ones in the western literature on the topic. Utilitarian arguments for affirmative action maintain that it is in society's long-term good. Some argue, for example, that black communities with little access to health care workers would benefit if more blacks were admitted to medical school, even if their marks were not the highest. Regarding government jobs and contracts, a likely argument would be that hiring somewhat less qualified blacks instead of somewhat more qualified whites would bring more wealth into the black community. This, in turn, might be expected to improve quality of life for blacks.

The appeal of this forward-looking type of argument is based solely on the future consequences of preferential hiring. It is, of course, vulnerable to consequence-based objections. Utilitarianism would not justify affirmative action if it caused a negligible amount of harm to the public overall. If it turned out, for example, that black self-esteem was unexpectedly harmed by preferential hiring, or that white resentment was great, even if irrational, it might be that adverse consequences marginally outweighed the good. One of the favoured rationales appeals in part to the probable consequences that preferential hiring should foster reconciliation between the state and those it wronged. But this rationale includes backward-looking elements by claiming that apologetic and restorative responses are appropriate to redeem past actions. Therefore, in a state that prizes friendly relationships, affirmative action is a means to express remorse for past injustices and to try to reconcile with those who have been wronged. Affirmative action is then worthwhile even if the results might fail to maximise average happiness in society.

The backward-looking argument most commonly used as a western defence for the preferential hiring of blacks is that it is a form of compensation for past injustice. This, however, differs from the argument put forward in the friendship-based rationale. This western defence is that wronged blacks deserve restitution for their losses. It is thus their right to be employed in positions they would have been in had they not been wronged and affirmative action is necessary or sufficient to accomplish this end. This is a very different rationale from that which claims affirmative action to be a way for the state to apologise to blacks and seek to mend the rift between them.

The compensatory rationale is vulnerable to the objection that preferential hiring sometimes awards benefits to those, such as foreign blacks, who were harmed little, if at all, by past injustice or who have already been compensated for it, such as those raised in wealthy environments. Moreover, preferential hiring removes opportunities from some who are not necessarily culpable for past injustice, such as those whites who did not benefit from colonialism. By contrast, the African rationales for preferential hiring, set out above, do not require that, at a level of principle, the benefits conferred on blacks precisely make up for burdens unjustly suffered. Nor do they require that the burden on whites offset exactly past benefits unjustly received. Expressing remorse, and doing what can be expected to foster reconciliation, does not imply a specific ratio of benefits and burdens.

Space does not permit a complete defence of preferential hiring but two objections based on the African ethic invoked in the third section should be considered. First, it might be argued that it is wrong to make up with those whom one has wronged by wronging others. Some might say that, even if preferential hiring would express contrition and foster reconciliation, it would be discordant with respect to whites. Not being considered equally for government jobs and contracts might be viewed as divisive and a manifestation of ill will by the state.

Supposing that, in adopting preferential hiring, the state would be unfriendly with regard to those whites who were neither responsible for, nor beneficiaries of, past injustice.<sup>7</sup> Then the degree to which preferential hiring wrongs whites should be compared with the degree to which blacks would be wronged were preferential hiring not adopted. It would be wrong not to apologise to those whom one had wronged, and also wrong not to try to mend a break in a relationship, were one at fault. Hence, the state might be doing an injustice regardless of whether it adopted affirmative action or not. If so, the state should minimise the injustice it does. It seems here that to adopt affirmative action would be the lesser injustice, given that the number of blacks wronged was great and the wrong serious, while the number of whites is small and the burden on them comparatively light (Van Roojen 1997).

Second, it might be argued that preferential hiring would foster discord long term in two ways, namely by worsening the public service offered by the state, and causing disaffection such as might result from a strongly partial state. Were the

state much less able to prevent aggression and implement welfare programmes as a result of affirmative action, and were it to alienate substantial portions of the public as a result of moderate partiality, then it would fail to promote the proper degree of identity and goodwill with regard to the public as a whole.

In response, a friend of African ethics would have to take seriously the effects of preferential hiring on the public. In the context of specific countries, the forward-looking rationales would have to be weighed against the backward-looking ones mentioned above. Despite being against impartialism, this chapter accepts the idea that the primary obligation of state officials is to act for the sake of the public. There might be cases where the long-term consequences of robust affirmative action policies would be so deleterious to promoting relationships of identity and solidarity that they should not be adopted. The point is that, at the level of principle, African moral theory allows state officials to take past sacrifice for the state, and past injustice by the state, as reasons to act for particular individuals or groups. They may do so even if it means not benefiting the public to the maximum available degree.

As for service delivery, state officials may sometimes provide somewhat less than the best possible to the public. This is permitted when it is necessary to be friendly to individuals with certain relationships with the state, specifically veterans and historically disadvantaged individuals. By giving the latter only 'some' preference for government jobs and contracts, and by requiring them to be adequately qualified, in many cases harm to public service would probably not be substantial.

With regard to disaffection, the public is not likely to feel alienated from a government that gives preference to veterans, especially those who struggled on its behalf and perhaps even those forced to fight by the state for an unjust cause. A largely black public in sub-Saharan Africa, for example, is, of course, unlikely to feel as divided from a state that adopts affirmative action for blacks as it would towards one awarding jobs and contracts to those arbitrarily related to state officials. Finally, even if whites felt alienated from a state that gave some preference to blacks, they would be largely unjustified had they benefited greatly from past injustice and the imposition upon them were small. The prospect of irrational disaffection does matter morally, for any disaffection means failure to identify with the state, but it does not matter greatly. In friendship, some allowance should be made for the irrationalities of a friend, and conflict grounded in unreasonable expectations or reactions avoided, but there is no obligation to indulge.

There are other possible objections to these arguments for preferential hiring. This chapter has not demonstrated, for example, that a necessary way to express gratitude to veterans, and to express remorse and mend rifts with those wronged during colonialism, would be to adopt preferential hiring. It has at best shown that preferential hiring would be one way to discharge these obligations. However, it is not the aim of this chapter to provide a complete defence of preferential hiring. Instead, it takes a certain interpretation of African ethics for granted and teases out some of its likely implications for how to allocate state resources. It argues that African ethics would in many cases permit preferential hiring of the sort described, and for reasons that are worth taking seriously.

#### CONCLUSION

This chapter has sought to answer the question of how human resources and procurement officials in a sub-Saharan African state should award government contracts and jobs. It has asked specifically whether they should do so impartially, invariably for the sake of the general public, or whether they may do so partially on occasion and, if so, in what respect. To answer, the chapter has appealed to a moral theory informed by African values that contrasts with utilitarian and Kantian approaches to justice. This moral theory requires prizing harmonious or friendly relationships between people, where such relationships are construed to be a matter of sharing a life with others and exhibiting solidarity towards them. It has argued that such a moral theory provides a unified way to account for the various duties binding on officials with regard to the use of state resources.

Specifically, African moral theory has been shown to forbid state officials from awarding resources to individuals because they are related to them through family or political party. This is because a state that is strongly partial in this way would promote substantial discord (division and ill will) rather than harmony (identity and goodwill). However, it also does not require state officials to award resources on an utterly impartial basis; on some occasions, they may favour individuals with certain relationships with the state, specifically, veterans and victims of state injustice, even when it would cost the public. The first reason is that the proper valuation of friendship requires displaying gratitude, expressing remorse and trying to reconcile with those who have been wronged, all of which the state

would achieve by preferential hiring. The second is that, in many cases, a moderately partial state of this sort would not promote substantial discord in society.

Several of the points made in this chapter should be useful in addressing additional economic, political, legal and social issues from an African perspective. For instance, it should be of value to understand the following distinctions: between an African moral theory that prizes harmony and a western one that values welfare or agency; between different facets of harmony, namely, identity and solidarity; between institutions and individuals as objects of moral appraisal; between valuing relationships with an institution and relationships with those within an institution; between the desirable end of a harmonious relationship and the impermissible means of a discordant one; and between the forward-looking and backward-looking facets of a harmony ethic. These theoretical resources will be useful when applying African moral theory to other domains, such as business, medicine, the media and criminal law. It is hoped that African moral and political philosophy will develop alongside African economies and societies. More strongly, it is hoped that African economies and societies will develop in part because of the development of African moral and political philosophy.<sup>8</sup>

#### NOTES

1. Although this chapter focuses on the case of liberated African states, the discussion applies to any state, if the ethic espoused in the third section is universally binding or widely deemed to be attractive.
2. Note, though, that relationships that included identity might be properly valued if one used, when necessary, coercion against aggressors and to protect the innocent.
3. In South Africa, *batho pele* (people first) has been a maxim promulgated to guide the behaviour of civil servants.
4. Pedro Tabensky has suggested in correspondence a different answer. He claims that nepotism is not prescribed by love of intimates since it is not in fact good for them. However, even if that were true in some respect, there are such clear benefits to being given a job or contract with the state (particularly in sub-Saharan Africa) that love of intimates probably does provide *pro tanto* reason for a government official to favour them when allocating state resources.
5. This is something that is not obvious and needs to be argued for elsewhere. There are non-statal ways of organising large groups of people that political and legal philosophers should take more seriously (see Wamba-dia-Wamba 1992; Morris 1998).
6. A different harmony-based argument for favouring veterans, suggested in correspondence by Pedro Tabensky, is that publicly recognising people's sacrifice for the public would encourage

more people to make such sacrifices and hence promote harmony in the long run. One reason to favour the backward-looking rationale above is that it is less hostile to the contingencies of future outcomes.

7. While it is said above that the logic of friendship does not involve any precise specification when it comes to the distribution of benefits and burdens, it probably does lend itself to some kind of fault-based account of liability. It is commonplace to hold, for instance, that African thinking about the permissible use of force is based on self-and-other-defence (see Kasenene 1998: 41; Ramose 1999: 120).
8. For written comments on a previous draft, thanks are due to Mfuniselwa John Bhengu, Stephen Kershner, Munyaradzi Felix Murove and Pedro Tabensky.

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