

*Applied Ethics :
Burning Issues*



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Chapter – 1

AN INTRODUCTION TO APPLIED ETHICS

Recently ethics and ethical principles are applied to contemporary issues whose repercussions on society are enormous. They range from societal problems to political ones, national problems to international ones. So, Applied Ethics is the branch of ethics which consists of the analysis of specific controversial moral issues such as abortion, animal rights, or euthanasia. In recent years applied ethical issues have been subdivided into convenient groups such as medical ethics, business ethics, environment ethics and sexual ethics.

Generally speaking, two features are necessary for an issue to be considered an “applied ethical issue”. First, the issue needs to be controversial in the sense that there are significant groups of people both for and against the issue at hand. The issue of drive-by shooting, for example, is not an applied ethical issue, since everyone agrees that this practice is grossly immoral. By contrast, the issue of gun-control would be an applied ethical issue since there are significant of people both for and against gun control.

The second requirement for an issue to be an applied ethical issue is that it must be a distinctly moral issue. On any given day, the media presents us with an array of sensitive issues

such as affirmative action policies, gays in the military, involuntary commitment of the mentally impaired, capitalistic versus socialist business practices, public versus private health care systems, or energy conservation. Although all of these issues are controversial and have an important impact on society, they are not all moral issues. Some are only issues of social policy. The aim of social policy is to help make a given society run efficiently by devising conventions, such as traffic laws, tax laws and zoning codes. Moral issues, by contrast, concern more universally obligatory practices, such as our duty to avoid lying, and are not confined to individual societies. Frequently, issues of social policy and morality overlap, as with murder which is both socially prohibited and immoral. However, the two groups of issues are often distinct. For example, many people would argue that sexual promiscuity is immoral, but may not feel that there should be social policies regulating sexual conduct, or laws punishing us for promiscuity. Similarly, some social policies forbid residents in certain neighborhoods from having yard sales. But, so long as the neighbors are not offended, there is nothing immoral in itself about a resident having a yard sale in one of these neighborhoods. Thus, to qualify as an applied ethical issue, the issue must be more than one of mere social policy: it must be morally relevant as well.

In theory, resolving particular applied ethical issues should be easy. With the issue of abortion, for example, we would simply determine its morality by consulting our normative principle of

choice, such as act – utilitarianism. If a given abortion produces greater benefit than disbenefit, then, according to act – utilitarianism, it would be morally acceptable to have abortion. Unfortunately, there are perhaps hundreds of rival normative principles from which to choose, many of which yield opposite conclusions. Thus, the stalemate in normative ethics between conflicting theories prevents us from using a single decisive procedure for determining the morality of a specific issue. The usual solution to this stalemate is to consult several representative normative principles on a given issue and see where the weight of the evidence lies.

1.1 Normative Principles in Applied Ethics

Arriving at a short list of representative normative principles is itself a challenging task. The principle selected must not be too narrowly focused, such as a version of act-egoism that might focus only on an action's short – benefit. The principles must also be seen as having merit people on both sides of an applied ethics issue. For this reason, principles that appeal to duty to God are not usually cited since this would have no impact on a non – believer engaged in the debate. The following principles are the ones most commonly appealed to in applied ethical discussions:

1.1.1 Personal benefit

Acknowledge the extent to which an action produces beneficial consequences for the individual in question.

1.1.2 Social benefit

Acknowledge the extent to which an action produces beneficial consequences for society.

1.1.3 Principle of benevolence

Help those in need.

1.1.4 Principle of paternalism

Assist others in pursuing their best interests when they cannot do so themselves.

1.1.5 Principle of harm

Do not harm others.

1.1.6 Principle of honesty

Do not deceive others.

1.1.7 Principle of lawfulness

Do not violate the law.

1.1.8 Principle of autonomy

Acknowledge a person's freedom over his/her actions or physical body.

1.1.9 Principle of justice

Acknowledge a person's right to due process, fair compensation for harm done and fair distribution of benefits.

1.1.10 Rights

Acknowledge a person's rights to life, information, privacy, free expression and safety.

The above principles represent a spectrum of traditional normative principles and are derived from both consequentialist and duty based approaches. The first two principles, personal benefit and social benefit, are consequentialist since they appeal to the consequences of an action as it affects the individual or society. The remaining principles are duty-based. The principles of benevolence, paternalism, harm, honesty and lawfulness are based on duties we have towards others. The principles of autonomy, justice and the various rights are based on moral rights.

An example will help illustrate the function of these principles in an applied ethical discussion. In 1982, a couple from Bloomington, Indiana gave birth to a baby with severe mental and physical disabilities. Among other complications, the infant, known as baby Doe, had its stomach disconnected from its throat and was thus unable to receive nourishment. Although this stomach deformity was correctable through surgery, the couple did not want to raise a severely disabled child and therefore chose to deny surgery, food and water for the infant. Local courts supported the parents' decision and six days later baby Doe died. Should corrective surgery have been performed for baby Doe? Arguments in favour of corrective surgery derive from the infant's right to life and the principle of paternalism which stipulates that we should pursue the best interests of others when they are incapable of doing

so themselves. Arguments against corrective surgery derive from the personal and social disbenefit which would result from such surgery. If baby Doe survived, its quality of life would have been poor and in any case it probably would have died at an early age. Also, from the parent's perspective, Baby Doe's survival would have been a significant emotional and financial burden. When examining both sides of the issue, the parents and the courts concluded that the arguments against surgery were stronger than the arguments for surgery. First, foregoing surgery appeared to be in the best interests of the infant, given the poor quality of life it would endure. Second, the status of baby Doe's right to life was not clear given the severity of the infant's mental impairment. For, to possess moral rights, it takes more than merely having a human body: certain cognitive functions must also be present. The issue here involves what is often referred to as moral personhood and is central to many applied ethical discussions.

1.2 Issues in Applied Ethics

There are many controversial issues discussed by ethicists today, some of which will be briefly mentioned here:-

Biomedical ethics focuses on a range of issues which arise in clinical settings. Health care workers are in an unusual position of continually dealing with life and death situations. It is not surprising, then, that medical ethics issues are more extreme and diverse than other areas of applied ethics. Prenatal issues arise

about the morality of surrogate mothering, genetic manipulation of fetuses, the status of unused frozen embryos and abortion. Other issues arise about patient rights and physician's responsibilities, such as the confidentiality of the patient's records and the physician's responsibility to tell the truth to dying patients. The AIDS crises has raised the specific issues of the mandatory screening of all patients for AIDS, and whether physicians can refuse to treat AIDS patients. Additional issues concern medical experimentation on humans, the morality of involuntary commitment and the right of the mentally disabled. Finally, end of life issues arise about the morality of suicide, the justifiability of suicide intervention, physician assisted suicide and euthanasia.

The field of business ethics examines moral controversies relating to the social responsibilities of capitalist business practices, the moral status of corporate entities, deceptive advertising, insider trading, basic employee right, job discrimination, affirmative action, drug testing and whistle blowing.

Issues in environmental ethics often overlap with business and medical issues. These include the rights of animals, the morality of animal experimentation preserving endangered species, pollution control, management of environmental resources, whether eco-systems are entitled to direct moral consideration, and our obligation to future generations.

Controversial issues of sexual morality include monogamy versus polygamy, sexual relations without love, homosexual relations and extramarital affairs.

Finally there are issues of social morality which examine capital punishment, nuclear war, gun control, the recreational use of drugs, welfare rights and racism.

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Chapter - 2

THE ETHICAL QUESTION OF MERCY-KILLING OR EUTHANASIA

2.1 Introduction

One of the pertinent questions of 21st century is whether one has the right to die; whether one can be allowed to die or not. This question becomes significant in cases where the patient is terminally ill and in no case he can be treated and when he is undergoing unbearable pain. Now, when such a situation arises, can the doctor often consulting his relatives withdraw the life-supporting devices and allow him/her to die. In some cases, where such situations of terminal illness arise, can the doctor with the consent of the patient or his relatives inject deadly poison to the patient and allow him to die?

Such questions are raised on humanitarian grounds and are not based due to any ill will about the patient. To illustrate this point, after seeing long periods of suffering, those patients of terminal illness for undergoing tumults of unbearable pain, his relatives and parents are forced to think that their misery should be ended. They no longer want the patient to groan in pain.

Similarly, when one finds that his patient can be treated no more, and he (the patient) will have to suffer such pain and be bed-ridden for a long period until death knocks at his door and takes

his life away, then out of affection, the relative wants that the patient should get rid of such pain and terminal illness.

In the present century, when medical advancement has been so much so that it is now possible to keep the patient's heart functioning with the help of all sorts of life-supporting devices even when the brain dies away; it is equally true that it does not make any sense to keep the patient alive only through any of life-supporting devices. But then, if life – supporting devices are withdrawn, and subsequently the patient is allowed to die, the question arises that has it become a case of killing or not? And for that, is the doctor liable to get capital punishment or not, for taking life of anyone is still a serious offence.

All these questions come under the debate of Euthanasia, or Mercy killing in simpler words, which has its legal, societal and medical aspects as well. Now, we will discuss Euthanasia etymologically, to its definition and involve ourselves in the debate which will contain arguments in favour and against it. But before that a few examples and incidents we have to come across as has happened in different parts of the world.

Jeet Narain, a marginal farmer from Uttar Pradesh's Mirzapur district, filed a mercy death plea for his four sons aged between 10 and 16, all suffering from muscular dystrophy (MD). Families fighting the debilitating condition empathized with the farmer's economic and emotional plight but they wholeheartedly rejected end-of-life as a solution to their suffering. Muscular

dystrophy (MD) is a group of over 30 genetic conditions where skeletal muscles, which control movement, degenerate progressively. While some variants don't appear till middle age or later, Duchenne MD, which Narain's children suffer from is the most vicious. It affects boys by the time they are five, damaging the lower limbs first, moving upward. Rapid degeneration follows and a child can be confined to a wheelchair by the age of 12. Once MD affects the diaphragm, the patient's respiration is compromised, followed by cardiac arrest.

Former chess champion K. Venkatesh, who was terminally ill, died on December 17 after a futile wait for the courts to accept his plea for euthanasia so that he could donate his organs. His eyes were donated after his death but no other organ could be transplanted as the 25 year old had been on a ventilator for a long period. Quoting Venkatesh's case, experts have said the severe paucity of organ donors is one reason why euthanasia should be legalised.

Petitioner Nancy Beth Cruzan was rendered incompetent as a result of severe injuries sustained during an automobile accident. Co-petitioners Lester and Joyce Cruzan, Nancy's parents and co-guardians sought a court order directing the withdrawal of their daughter's artificial feeding and hydration equipment after it became apparent that she had virtually no chance of recovering her cognitive faculties. The Supreme Court of Missouri held that because there was no clear and convincing evidence of Nancy's

desire to have life-sustaining treatment withdrawn under such circumstances, her parents lacked authority to effectuate such a request.

One of the most notorious news stories of 1976 centered on New Jersey, where Karen Ann Quinlan's physicians disconnected artificial life-sustaining equipment from her body. For nearly three years, Karen's parents had sought permission to have the equipment turned off. Drama and conflict had surrounded the case, partly because Karen had been in her photogenic twenties and partly because the Quinlans were fighting the full weight and authority of the hospital which as a matter of custom, practice and prevailing social policy refused to allow withdrawal of life support, characterized as passive euthanasia. But by the time comatose Karen Ann Quinlan died in 1985, if the withdrawal of artificial life support was not an ordinary hospital protocol, it was nonetheless a more usual practice in hospitals around the country.

Now, after knowing about some of the incidents of mercy-killing the world around, now we try to define Euthanasia.

2.1.1 Meaning and Definition

Euthanasia, also known as assisted suicide and mercy death, is the intentional killing by act or omission of a dependent human being for his or her alleged benefit. Euthanasia is a Greek word meaning 'good death' and refers to the practices of ending life in a painless manner. The victim of mercy killing is normally

in the vegetable state or has an injury or illness that cannot be cured as he/she is usually in its last stage. The victim experiences immensely painful last days just before his or her death. For a voluntary case of mercy killing to take place, the killer must first obtain the consent of the victim, but there have been recorded cases of mercy killing against the wishes of the victim as well.

It is harder morally to justify letting somebody die a slow and ugly death, dehumanized, than is to justify helping him to escape from such misery. This is the case at least in any code of ethics which is humanistic or personalistic, i.e. in any code of ethics which has a value system that puts humanness and personal integrity above biological life and function. It makes no difference whether such an ethics system is grounded in a theistic or naturalistic philosophy. We may believe that God wills human happiness or that man's happiness is, as Protagoras thought, a self-validating standard of the good and the right. But what counts ethically is whether the ultimate sanction is transcendental or secular.

What follows is a moral defense of human initiatives in death and dying. Primarily, it is meant active or direct euthanasia, which helps the patient to die, not merely the passive or indirect form of euthanasia which "lets the patient go" by simply withholding life-preserving treatments. The plain fact is that indirect or negative euthanasia is already a fait accompli in modern medicine. Everyday in a hundred hospitals across the land

decisions are made clinically that the line has been crossed from prolonging genuinely human life to only prolonging life.

2.1.2 Arguments in favour and against Euthanasia

Proponents of euthanasia believe that it is everyone's right to die at a time of their own choosing, and in a manner of their own choosing, when faced with terminal illness rather than suffer through to the bitter end. Opponents argue that euthanasia cannot be a private matter of self-determination and personal beliefs, because it is an act that requires two people to make it possible and a complicit society to make it possible and a complicit society to make it acceptable. They consider euthanasia the equivalent of murder, which is against the law everywhere in civilized society. It maintains that medicine and law are the principal institutions that maintain the respect for human life in a secular pluralistic society. Somerville accuses euthanasia proponents of wanting to make death a purely technical issue, of stripping it of all its humanity, and allowing us to control the time, place and manner of our death to make it as cheap and efficient as possible.

However, it is interesting that she makes a distinction between euthanasia as an active process designed to end life, yet she does not consider withdrawing life-saving treatment in the same light. It has come to light that doctors kill over 1000 patients in Oregon each year who have not asked for euthanasia. Smith claims that not much is known about the actual practice of assisted

suicide since it is practised in darkest secrecy. Physician assisted suicide has been legal in Oregon since 1997 (Rollin 127-131).

The physician is not permitted to administer the lethal dose. The physician can be present while the patient ends his life, but may not physically assist in the death, otherwise it becomes euthanasia, which is still illegal in every state in the U.S. Contrary to what euthanasia and assisted suicide opponents would have us believe, since passage of the Death with Dignity Act in Oregon four years ago, only 140 people have asked for prescriptions for lethal medication, and to date, only 91 of them have used these medications to hasten their death. Predictions that the law would be used to coerce elderly poor patients to die have proved false.

This discussion of euthanasia now enables us to distinguish between active and passive euthanasia, the most important part of the discussion on which its legalisation or vice-versa depends.

The distinction between active and passive euthanasia is straightforward. Active euthanasia occurs when someone actively brings about someone's death, as in through an injection of a toxic substance. Passive euthanasia on the other hand, occurs when someone refuses to intervene actively in order to prevent someone else's death. For example in a real life hospital setting, a DNR (do not resuscitate) code, or order is a typical means of passive euthanasia. Indeed the differences between active and passive euthanasia could be stated as; in active euthanasia, something is

done to end the person's life; in passive euthanasia, something is not done that would have possibly saved the person's life.

Voluntary euthanasia is conducted with the explicit or written consent of the patient when the patient is still able for it. But in some cases, as in the cases of children and infants involuntary euthanasia is conducted with the consent of the parents. Involuntary euthanasia, so, is euthanasia conducted without the explicit consent of the patient concerned. In the modern world, the term is usually applied to medical situations, such as the terminations of new-babies born with severe spina-bifida.

In this connections Groningen Protocol has come up in Netherlands. Though since its publication in 2005, it has been under fire both in the Netherlands and outside it, the purpose of the protocol is to set a standard of practice for doctors to responsibly end the lives of severely impaired newborns. It also lays out procedures for reporting doctors' decisions to authorities. Doctors who end the life of baby must report the death to the local medical examiner, who in turn reports it to both the district attorney and to a recently created review committee (the procedure differs in this respect from the black-letter law governing voluntary euthanasia. There, the medical examiner sends the report only to the regional review committee, which alerts the district attorney only if it judges that the physician asked improperly.)

The protocol was created by a committee of physicians and others at the University Medical Center. Groningen in consultation with the Groningen district attorney and has been ratified by the National Association of Pediatricians, but it does not give physicians unassailable legal protection. Case law has so far protected physicians from prosecution as long as they act in accordance with the protocol but no black-letter law exists in this area.

The protocol stands accused of various crimes:-

1. It is aimed primarily at babies with spina bifida, many of whom could lead satisfactory lives.
2. It fails to distinguish with clinical precision between babies whose prognosis of death is certain and those who could continue to live.
3. It allows parents to commit infanticide as a means of escaping an unwanted burden of care.
4. It lets doctors decide what is an acceptable quality of life.
5. It lets doctors determine the morality of their own actions.
6. It provides a purely procedural response to the problem of measuring subjective suffering.
7. It condones infanticide rather than preventing spina bifida or promoting its early detection via fetal ultrasound followed by abortion and
8. It offers an incoherent criterion for deciding whether to end an infant's life it requires that the infant experience

“hopeless and unbearable suffering” but neonates cannot suffer because they lack the ability to realize intentions, desires and hopes for the future.

Many of these claims rest on a serious misunderstanding and, together they give a highly distorted picture of the protocol. Some of these misunderstandings are due to Dutch words in which the protocol was written and these misunderstandings also pertain to the Dutch cultural and social background that make these words intelligible.

2.1.3 Dutch Experience with Euthanasia

The repercussions of the above protocol on euthanasia and whether or not to legalise it are questions that are difficult to answer. Before we deal with it we should know Dutch experience with euthanasia. Holland is widely regarded as one of the world’s most civilized countries. Active euthanasia is legal there, but for the past decade the government has not prosecuted doctors who report having assisted their patients to commit suicide.

A recent Dutch government investigation of euthanasia has come up with some disturbing findings. In 1990, 1030 Dutch patients were killed without their consent. And of 22500 deaths due to withdrawal of life support, 63% (14,175 patients) were denied medical treatment without their consent. Twelve percent (1,701 patients) were mentally competent but were not consulted.

These findings were widely publicized before the November 1991 referendum in Washington State and contributed to the defeat of the proposition to legalize lethal injections and assisted suicide.

The Dutch experience seems to demonstrate that the “right to die” can soon turn into an obligation. This concept is dangerous and one could find oneself the victim if euthanasia becomes legal in North America.

We have all heard and some of us have experienced, moving stories of elderly people in great pain, unable to perform even the most basic human functions, who have asked to die, or perhaps brought about their own deaths.

What these stories overlook is that today, in almost all cases, it is possible to kill pain without killing the patient. When someone’s pain is relieved that person usually wants to go on living. We need to reflect carefully on the consequences of legalizing active euthanasia. If we enshrine the absolute right to die, will it then become illegal to intervene to obstruct would be suicide? Will pharmacists be obligated to sell a lethal dose of hemlock to anyone who is temporarily depressed?

2.1.4 Potential for Abuse

We need to think of the potential for abuse if mercy killing becomes legal. What if someone stands to inherit one million dollars when Aunt Gladys dies? Might the heir not find in tempting

to nudge her in the direction of accepting a lethal injection? On, if she didn't get the hint, to make her miserable enough to want it?

If voluntary euthanasia is made legal for "persons of sound mind" there will inevitably be tremendous pressure to provide it for those who "would request it if they were able to" – the mentally ill or handicapped, the senile etc.

Finally despite genuine compassion for the suffering of dying people, does there not also lurk in hearts a less admirable motive? Few people are so tasteless as to link euthanasia and health care costs in the same breath, but there are a widespread few that medical care for it is elderly costs more than we can afford. These financial pressures will multiply in the coming years as our population ages.

Many elderly people are already responding to this not-so-subtle message by declaring their willingness to die when their lives are no longer productive. Their reluctance to be a financial burden on the young is admirable, but the long term consequences can be brutal.

What will happen to the trust that people still feel towards their doctors if our country follows Holland? What emotions will elderly or seriously ill patients feel when the nurse approaches them with a full syringe? How soundly will they sleep in the hospital?

To sum up the present discussion, there can be four ways in which the lives of the terminally ill can be brought to an end

(Quill, Lo and Brock, 1997 p. 2009). The patients can voluntarily stop eating and drinking, and die from dehydration or starvation. This is considered acceptable by many, but can also lead to abuses if family members deprive those who are ill of nourishment against their will. Terminal sedation is also quite acceptable, and renders the patient unconscious and thus also susceptible to death by dehydration or starvation. Physician-assisted suicide occurs when the physician gives the patient a lethal dose of some medication, not the patient or him/herself. Euthanasia occurs when the physician carries out the final act.

The generally agreed upon care for the terminally ill is palliative, but for some patients intolerable suffering still exists. Voluntary cessation of eating and drinking does not challenge current laws, and so is considered by many to be the best alternative. The National Association of Social Workers' code of ethics defines the ethical responsibility of social workers as making "every effort to foster maximum self-determination on the part of the clients" (Wesley, 1996). The issue of self-determination is central to the debate regarding end-of-life decisions.

In terms of end of life decisions, Wesley believes social workers should advocate for public policy and practice strategies that respect the client's right to self-determination, and support the common good. Social workers are uniquely positioned, she says, for advocating respect for the individual and also for the common good. She believes they should foster a socially just public policy

that promotes quality of life for all periods of the life cycle so that “death with dignity” can flow naturally from a life with dignity. A 1996 survey of critical care nurses found that some had given drugs to hasten a patient’s death; but the questionnaire used unclear terminology.

2.2 The Alternative to Euthanasia

The alternative to legalized, euthanasia is not extraordinary, futile treatment to hopelessly dying patients. The alternatives are appropriate medical care including:-

1. The withdrawal of treatment upon patient request, or if that treatment serves no therapeutic purpose.
2. Dispensing drugs as necessary to control pain. No doctors, laws, or organizations oppose ceasing care when the time to die has arrived.

2.2.1 What Can One do

Each of us should talk to our loved ones openly about these subjects. One should talk to his/her doctor and if he/she is not comfortable with the doctor’s approach, then he should change the doctor. One must find out about palliative care and Hospice programs in his community. These emphasize care and comfort for the dying. One must support their growth, as this will reduce the attractiveness of legalized euthanasia. One should be keep himself informed about the issue of euthanasia and make his views known

to politicians and the media. Our actions can help shape the way we and our loved ones will be treated in the last days.

All this discussion on euthanasia or mercy-killing enables us in a position to say that euthanasia is a complex social, moral and legal issue that is made even more so because of our attitudes towards death and dying. The advent of new medical technologies, catastrophic illness (like AIDS) and the enormous costs involved in caring for those who are terminally ill have put pressure on society to define laws that are more clear about whether or not it is morally ethical to allow euthanasia. There are different forms of euthanasia but the two main distinctions made are whether the physician takes an active role in the process (known as active euthanasia), or if he opts for a passive role (passive euthanasia). In active euthanasia the physician administers a lethal dose of drugs which ends the patient's life.

This type of euthanasia is generally not sanctioned by law, but passive euthanasia is generally sanctioned by law and by many within the medical community and health care services. Passive euthanasia involves withdrawing life support from a patient or ending a type of therapy that prolongs life so that death can occur naturally.

Allowing a deadly process to continue without intervention generally is accepted when a patient is not responding to treatment and there is not possibility that the patient will benefit from additional treatment. This concept is often seen as more ethical and

in line with some religious sentiments about euthanasia because it is viewed as allowing the patient die naturally.

2.2.2 Religious Aspect

Most Christians argue that our individual spiritual mission is to help the most needy without distinction as to whether their lives are meaningful or meaningless. The most difficult aspect of the dilemma is whether or not the creator has invested in humans the power and right to make such decisions, even if the euthanasia is performed because of love or care. To most Christians good motives are not enough to answer the question. However, many who favour euthanasia see their actions in ending the life of a terminally ill individual who is suffering to an extreme degree the correct action because it stops more pain and misery than if they chose not to take such an action. This kind of consequential argument is soundly rejected by the Catholic Church. In one encyclical, Pope John Paul II wrote, “Human acts are moral acts because they express and determine the goodness or evil of the individual who performs them. They do not produce a change merely in the state of affairs outside of man...”

Humphry and Wickett pose questions faced by one who might perform an act either enabling or causing a death that is requested by the dying:-

1. Do my religious and philosophical beliefs permit to participate in this requested death?

2. Am I upholding the dying persons autonomy – his free choice in life’s decisions – by helping?... Am I playing God? What about the patient’s responsibility to his family? (Humphry and Wickett 296). Saying life is intolerable does not make it so, and judgements about others competence in self-determination are not necessarily valid – even when the one saying so is the patient, even when the patient is believed. But it is one thing to say that voluntary active or passive euthanasia if made, makes for others a moral dilemma or creates a risk that unscrupulous persons will manipulate a dying person’s fate; we start there. But it is quite another, and much more problematic. One more difficulty with discussing euthanasia is that moral debate overlaps into law, medicine and public policy.

Burkhardt and Nathaniel argue in ‘Ethics and Issues in Contemporary Nursing,’ (1998) that “the cosmology of a culture indirectly determines specific beliefs about the origin of disease and healing. Cosmology describes the structure, origin and processes of the universe and includes beliefs about the gods of the culture. The nature of the gods worshipped in any culture directly affects prevailing health beliefs.” The same is true whether we are discussing ancient cultures or contemporary ones when we look at the complex global issue of euthanasia.

Cosmology is perhaps most important with respect to bioethical issues like euthanasia. This is because religious

philosophy typically underlies different culture's perspectives on euthanasia. In the fractured, individualistic U.S. culture where religious differences abound, some states have legalized euthanasia while others have criminalized the practice. Globally we see similar distinctions with countries like Colombia who have legalized euthanasia and those such as Australia who have recently recriminalized the practice. Globalization has spread democratic principles and erased borders but it has also spread new ethical values in the wake of commerce and industrialization. As Larace (2002) argues "Good ethics has been described as beginning where the law ends. The moral law is the precursor to the development of legal rules for social order. Law and medical ethics thus share a goal of creating and maintaining social good and have a symbiotic relationship."

Such a three dimensional model of ethics is perfectly suited to global euthanasia because of the complex issues involved on a global scale. For example, many faith groups within Christian, Muslim, Jewish and other religions argue that God gives life and is the only one who can take it away. For others, some who wish to die may only desire death because of clinical depression which makes the legal requirement of "sound mind" a very significant consideration. With respect to patient autonomy, some terminally ill patients are in intractable pain or suffer from intolerably poor quality of life. Should the law or religion have a right to deny them a wish for euthanasia?

2.2.3 Euthanasia in the Netherlands

The experience with euthanasia in the Netherlands has coloured the debate around the world regarding euthanasia and death with dignity and whether physician – assisted suicide and euthanasia should be legalized. Some believe it offers a model for the rest of the world to follow, while others believe it represents danger and that it provides the definitive answer why these practice should not be legitimized. The Dutch understanding of euthanasia is more direct than that of other countries. Other places distinguish between active and passive euthanasia, between direct and indirect euthanasia and between voluntary and involuntary euthanasia. The Dutch are more straightforward the term to them means the intentional taking of someone’s life at his or her explicit request. Legally in the Netherlands only a competent patient’s request for euthanasia can be accepted.

What is termed euthanasia in the Netherlands is termed active euthanasia in other parts of the world. Withdrawal of care is not considered euthanasia in the Netherlands, but elsewhere it is considered passive euthanasia. According to Dutch law, any treatment that has no clear medical benefit for the patient is regarded as futile, and argues that no patient is regarded as futile, and further argues that no patient should be subjected to useless medical interventions and that these treatments should not be offered as option Mak Elwyn and Finlay (2003) suggest that

legislation of euthanasia should not be passed until more exploration is carried out on why patients want euthanasia and whether end-of-life care would change these views. They say that qualitative, experiential and patient -based research is needed to help define the complexity of the patient's subjective experiences and determine the influences and meanings that lay beneath the desire for death. Justification for euthanasia, they say, has pivoted itself on unbearable suffering, respect for autonomy and dignity in death. Proponents have argued that competent patients with an incurable illness and intolerable suffering should be able to determine the time and manner of their death They make the claim that this view is gaining support within an increasingly secular society with an individualistic and utilitarian ethos – which is a little biased and restrictive reasoning.

2.3 Brain Death

Like many other medical issues, the issue of mercy killing is very controversial, equally in the scientific or religious domains, especially that the word 'brain was not used in the religious texts which talked about the heart. The Glorious Quran did not analyze the organic or physiological tasks of the mind. It did not explain whether the brain is where the human being stores the information. The mind in our view is similar to the spirit in being an energy, that man stores to organize the information it gets and studies them to produce a feeling here and a thought there.

Thus the mind is not an organic matter. It is rather an unseen energy, a spiritual energy that develops through the information and experiences it processes by thinking. If modern science has associated all the activities, awareness, thoughts and convictions with the brain, the Quran considers them some of the capacities of the heart. Sayyed Muhammed Husein Fadlullah, the Religious Authority, feels that the jurisprudential meaning of death is problematic, since there is no precise definition of death. When does a person die? Is it when his heart stops or when brain dies? Does the heartbeats after the death of the brain? All these questions are the subjects of the ongoing debate.

The naive public opinion considers death to be the cessation of the heart. Many doctors too, when they want to know if a person is dead or alive, they would take his pulse. If there is no pulse then he is dead. This is the human experience of death that everyone knows. As for the brain death, it is only known by specialists. Thus we ask: Is death the death of the brain, since all body systems have stopped, and therefore, the body is no longer alive? We also ask about the pulse: where does it come from? Does it come from the respiratory system, or because the heart still has some cellular life on its own? Some jurists say if the pulse is a result of artificial respiration, it means that the person is dead. This point is still a controversial one.

Another point is: the person might die and some cells may stay alive. For example when we take out the eye and provide for it

the necessary requirements it will stay alive for a long time. Another example is the snake that dies but the tail continues to move. This is cellular life or “plant life”. It is an artificial life and not a normal one. But if we leave this dispute aside, we still have to ask: Is death the death of the brain or the death of both the brain and the heart? Here a jurisprudential issue is raised: what is it that compels me to install the support system? And what makes it prohibited to remove it? It might be said that I should install the support system because it is a duty to preserve the life of living person. And when I see a person’s life in danger I have to save his life.

Why is it prohibited to remove the support system? Because this is considered killing. There are some jurists who say that there is evidence in the Shariah that there is a duty to preserve life. What is meant here is the life of the body, the life of the human being even if he is paralyzed. But this form of life that depends on the support system, in such a way that if we remove it, the person will die is not the life that we should save therefore removing the support system is not killing. Killing is the killing of stable life, even if only in half of the body if the other half is paralyzed. That is why we do not rule that the support system should be installed and we do not rule that it is prohibited to remove it.

Of course, there are many reservations among some jurists. But when we study the issue and from what we understand of the

medical information available we find that it is not a duty to install the support system if we are 100 percent sure that the person concerned is in a state of brain death, and the life he is living is a cellular life. In such case, the installation of the support system is not a duty and removing it is not prohibited, since installing it will not be an act of saving life and removing it will not be an act of killing.

There is difference between this death and the so-called mercy killing. There might be a man who is suffering from great pains and could die in 6 months or even a month. In this case, it is impermissible to kill him even if he or his family asks us to. We do not have an authority over a man's life, and the man himself is not authorized to end his life, for medicine can discover after an hour or day something that can ease his pains or save his life. Therefore, mercy killing is meaningless in such a case. It might be merciful at one particular moment if not judged by the entire life. It could even be the opposite of mercy.

As for the end of life, and the cessation of treatment in fatal illness, we say that this means to leave the sick person to die without saving him. However, it contradicts the theory of respecting human life. You have to leave life to defend itself or terminate itself. And you do not have the right to end a human life whether you were a doctor or the patient.

The point I'd like to make concerning mercy killing from the point of view of medical ethics is that: In the Islamic ethical

theory, and probably in Christianity as well, Religion not only protects man from others but also from himself. As it is impermissible to kill someone else, it is impermissible to kill yourself. The principle is the same: To respect life in both the cases. we are talking about dead people or even plants; we are talking about life. It is impermissible to kill a human being because it is impermissible to kill life. Therefore, there is no difference between the life of the other and my own life.

I do not own this life, which is a gift from Allah that He has entrusted me with. Not only I do not have the permission to end my life, but also to cause myself any harm, physical or otherwise. This is what we explained in our Fatwa of prohibiting smoking that may cause cancer, even if after several years. Morals cannot be divided. It is not only what you practice with others but also with yourself. Thus when you do not treat a person of fatal illness, you are killing him in a negative way. And there is no difference between negative killing and positive killing. You have to preserve the life of the others as you preserve yours.

Thus opponents of mercy killing say the following version: I cannot understand how could killing be merciful. Death is by its physical nature cruel, because it takes your life and turns you into a thing. It confiscates your life and your existence. Therefore you do not have the right to kill yourself, because suicide is a sin. It has been told in the Genesis:

Nor kill (or destroy) yourselves 4:29 and make not our own hands contribute to your destruction 2:195.

It is impermissible for the patient to ask his doctor for a shot to end his life, just as it is impossible for the doctor to respond to his plea, for he has no authority over his patient's life. Then, when those who talk about mercy killing justify it by the physical pains of the patient. If we legalize this we should also legalize it for those who have psychological pains and believe that death to them is better than life. We also have to legalize for a girl who experiences an emotional shock or for the businessman who might be bankrupt farmers who fail to repay their bank loans etc. When we accept the principle we cannot confine it to one circle. A man who has physical pains is much the same as the one who has spiritual or psychological pains. Moreover, psychological pains might inflict greater suffering than physical pains. Can we then legalize what ends the life of man.

On the other hand why do we prejudge the potentials of medicine? Is it not possible that just one hour after a person's death, it will discover a treatment for the illness that caused his death, since all medical discoveries, before they were put in practice, were much needed by many fatally sick people. Let us leave life to defend itself. If we live pain, we can resort to the spiritual values that would support us and ease our pains.

2.3.1 Euthanasia in the Pediatric age group

Euthanasia in the pediatric age group involves a constellation of issues that are materially different from those of adult euthanasia. The difference lies in the somewhat obvious fact that infants and young children are not able to decide about their own future and thus are not persons in the same sense that normal adults are. While adults usually decide their own fate, others decide on behalf of young children.

Although one can argue that euthanasia is or should be a personal right, the sense of such an argument is obscure with respect of children. Young children do not have any personal rights, at least none that they can exercise on their own behalf with regard to the manner of their life and death. As a result, euthanasia of young children raises special questions concerning the standing of the rights of the children, the status of parental rights, the obligation of adults to prevent the suffering of children and the possible effects on society of allowing or expediting the death of seriously defective infants. What we will refer to as the euthanasia of infants and young children might be termed by others infanticide, while some cases might be termed the withholding of extraordinary life prolonging treatment.

2.3.2 Conclusion

As we acknowledged from the outset, active voluntary euthanasia is a notoriously complex and controversial issue. On the basis of the analysis in the foregoing paragraphs, certain

conclusions can be drawn. It is clear from the analysis of the criminal law that there is a sharp distinction in the law's approach to passive and active euthanasia. While the law recognizes the patient's right to refuse treatment and permits passive euthanasia in certain circumstances, active voluntary euthanasia is unequivocally prohibited in most jurisdictions as murder regardless of the special mitigating circumstances usually existing in such cases.

Further, it has become clear that a doctor who actively assists a patient to commit suicide will be criminally liable for the offence of assisting suicide irrespective of the special circumstances. However a doctor may lawfully comply with a patient's request for withholding or withdrawing life-saving treatment which will result in death. Although the patient's conduct may in fact constitute a form of suicide by omission, the courts have rejected this characterization albeit on spurious grounds. Thus the courts have been able to hold that the issue of assisted suicide is not implicated in these circumstances.

Thirdly, notwithstanding the present legal prohibition on active voluntary euthanasia and doctor assisted suicide, substantial evidence has been put forward from all common law jurisdictions under consideration which indicates that doctors are already involved in these practices. However, this conduct is largely hidden and doctors are very rarely prosecuted for performing active voluntary euthanasia or assisting the suicide of their patients. From the experience to date, there is every possibility that

if a prosecution does arise in a genuine case, the doctor would escape the full rigours of the criminal law. In common law, a person who committed suicide was regarded as a self-murderer or *felo de se* (felon against himself). Consequently, anyone who instigated or aided another to commit suicide was guilty of murder as an accomplice.

In England, the Suicide Act of 1961 abrogated the crime of committing suicide and created a new offence of 'aiding abetting, counselling or procuring the suicide of another. Under Scottish law, no specific offence of assisting suicide exists but such conduct may be treated as culpable homicide. In the U.S.A. suicide is no longer a crime, but in most states, assisting suicide has been made a specific statutory offence. Similarly, in Canada all Australian jurisdictions and New Zealand, suicide and attempted suicide are no longer unlawful, but a statutory offence of assisting suicide has been established.

2.3.3 Conclusion of a British Medical Association Review of Guidelines on Euthanasia

The council of the BMA has approved 'The Euthanasia Report' prepared by a working party, which was chaired by Sir Herry Yellowless. The conclusions in the report are reproduced here. Some patients see death as fitting conclusion to the events of their life. These people may wish neither to hasten their death nor to delay it. For them, death is a mystery which they approach with

tranquility. There are limits to medical science and it is in appropriate for doctors to insist on intruding in these circumstances.

There is a distinction between an active intervention by a doctor to terminate life and a decision not to prolong life (a non treatment decision). In both of these categories there are occasions or which a patient will ask one of these courses of action to be taken and times when the patient could say he does not. There are also occasions where the patient is incompetent to decide.

An active intervention by anybody to terminate another person's life should remain illegal. Neither doctors nor any other occupational group should be placed in a category which lessens their responsibility for their actions.

2.3.4 Vitalism v. 'Sanctity/inviolability of life' v. 'Quality of life'

Three competing views about the value of human life are 'vitalism', the sanctity/inviolability of life and 'Quality of life' Vitalism holds that human life is an absolute moral value. Because of its absolute worth, it is wrong either to shorten the life of a patient or to fail to strive to lengthen it. Whether the life be that of a seriously disabled new-born baby or an elderly woman with advanced senile dementia, vitalism prohibits its shortening and require its preservation. Regardless of the pain, suffering or expense that life-prolonging treatment entails, it must be

administered. In short, the vitalist school of thought requires human life to be preserved at all costs.

2.3.4.1 The Value of autonomy or the ‘right to choose’

The belief that in some circumstances death is better than life, that life is no longer worth living, is an important strand in the argument for VAE. Another stand, hardly less central, is that VAE respects a patient’s right to autonomy or self-determination. The bulk of those campaigning for relaxation of the law weave the two stands together. They stress that they support only voluntary euthanasia. Euthanasia is only ever justifiable at the request of the patient as no one but the patient is in a position to judge the worthwhileness of his own life by giving the consent to it. Finally, euthanasia against the wishes of a competent patient is often referred to as involuntary euthanasia (IVAE). Some commentators lump together the last two categories and classify all euthanasia without request as ‘involuntary’. Others (including the authors) think that it is preferable to keep the two categories distinct, at least because it helps to avoid unnecessary confusion.

2.3.5 Intended v. Foreseen life-shortening (Distinguishing intention from foresight)

In both ordinary, language and human experience intention is different from mere foresight. Aiming to bring about a consequence is not the same as simple awareness that it may or will occur. The difference between two states of mind is easily

illustrated. There can, first be foresight without intentions. To take an example given by the former Law Lord, Lord Goff: When Montgomery ordered his troops to invade France on D-Day, he foresaw that many of them would be killed but he obviously did not intend that any of them should be killed. Again the tipsy guest at the wedding reception who drinks too much of the free flowing fizz foresees the inevitable hangover but hardly intends it. The discomfort of having a tooth extracted by the dentist is always foreseen, never intended.

Conversely there can be intention without foresight. An assassin may intend to shoot a political leader who is giving a speech hundreds of yards away without foreseeing that you will be. You can buy a ticket intend to make you interested in this sentence without foreseeing that the bullet will find its mark. One can buy a ticket intending to win the lottery without foreseeing that he will.

2.4 Moral Difference

No less importantly, whether a bad consequence is intended or merely foreseen can make a major difference to the morality of one's conduct. Consider the actions of two dentists, the kindly Mr. Fill and the cruel Mr. Drill. Mr. Fill drills out decay in your tooth and fills the cavity in accordance with good dental practice even though you and Mr. Fill foresee that you will suffer from some pain. The following week Mr. Drill drills another tooth with the intention the cause cavity in the future and make money by it.

2.4.1 Physician – assisted suicide

Whereas in VAE (Voluntary Active Euthanasia) it is the doctor who terminates the patient's life, in PAS (Physician assisted suicide) he assists the patient to take his or her own life. Assistance may take the form of giving the patient the means to commit suicide, such as supplying a lethal pill to be swallowed or a plastic bag to be put over the head. On it may take the form of advice about methods such as which are the most effective. Laws against assisted suicide tend to prohibited not only facilitating suicide (Here's a plastic bag to put over your head) but also encouraging suicide (Go on put the plastic bag over your head and breathe deeply).

A contemporary and striking example of PAS is provided by the bizarre activities of Dr. Jack Kevorkian (or 'Dr. Death as the media have dubbed him) in the USA. Dr. Kevorkian, a retired pathologist assisted over forty people to commit suicide in the recent years in circumstances which were somewhat removed from regular medical practice. There people travelled to Kevorkian from all over the USA to seek his assistance in suicide. He assisted them sometimes by attaching in the back of his rusting Volkswagen van to his machine which injected them with lethal drugs when they activated it.

Despite being prosecuted for assisted suicide on several occasions, Kevorkian escaped connection and continued his

personal campaign for relaxation of the law in his peculiar way. It was only when he moved from assistance in suicide to euthanasia that he was finally convicted. He filmed himself administering a lethal injection, and the film helped secure his conviction for murder.

The focus of the Kevorkian's activities and the debate he has helped fuel in the USA, is PAS rather than VAE. In recent years campaigners for relaxation of the law in the USA have shifted their focus from VAE to PAS. For example, in the early 1990s, proposals to decriminalize PAS were put to voters in the states of Washington and California but were narrowly defeated.

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Chapter - 3

RACIAL DISCRIMINATION

3.1 Introduction

We are coming across incidents of racial discrimination everyday. An AIR France crew on the flight from Paris to Mumbai, allegedly mistreated the passengers and returned the flight to Paris on Monday. According to reports, the plane developed a technical snag after flying for 3:45 hours and had to return to Paris in another four hours. But the passengers have alleged that they were not informed and blamed the crew for racial discrimination. Passengers, mostly Indians, also informed media that they were made to wait for 28 hours on airport and were not given any food or water.

The incident occurred almost at the same time when former Indian Cricket player Ajay Jadeja disclosed racial discrimination in the IPL team Kolkata Knight Rider camp. The former player broke news to media that he has personal proof that Indian players in the KKR are being mistreated by the support staff headed by former Australian Coach John Buchanan. He said, "I am an Indian player. I know so many players in the team. (Kolkata Knight Riders Team) One player was asked to come off the field and when he came off the field he asked 'Why did you want me to come off the field?' One of the coaches in KKR says 'You Indian, you do want I ask you to do'," he said. Jadeja insisted he had the information from

players themselves, “There is definitely a divide. I know it from the source himself. So the players are not feeling comfortable. There is divide between Indian and foreign players and there is a divide between thought processes.”

It is shocking to see that despite the tall claims of globalization, right to equality is yet to sink into the hearts of people. In spite of the fact that world’s strongest democracy has chosen a black to represent has (Obama). People across other parts of the globe still need to learn their lesson. .

Similarly, a news flashed the other day. Renowned actress Shilpa Shetty had to undergo racial discrimination and abuse by one of her co-actors (Jade Goody). However, Jade Goody lost the popular British reality show Big Brother for her racial comments against the Indian actress Shilpa, who won the show with much fanfare.

June 4, 2009 – The continuing spate of attacks and violence against Indians and Indian students in particular in Australia. It has once again exploded the much – touted myth that globalization promotes and respects pluralism and multiculturalism. The response of the Australian government has been shockingly muted, trying to cover up and even deny the racist dimensions of the attacks, terming them as just routine robberies and muggings. If so, why do Indians constitute a disproportionate share of the victims 30% in Melbourne?

Commentators have dubbed the recent developments as the “present day Pauline Hanson phenomenon”. Pauline Hanson was the conservative politician who got elected to the Australian parliament in 1996, openly speaking of the “swamping of Australia by people from Asia and the consequent unemployment of “Aussie battlers”.

So, racism is a simmering phenomenon not just in Australia, but also in other countries like the US and the UK which are championing globalization. For them, globalization means the free mobility of capital to usurp the land and livelihood of people of developing countries. It has never meant the free movement of labour to their countries. Predictably, in the wake of the current economic recession spawned by their disastrous policies, we are seeing a renewed offensive of racism against migrant workers from the Third World in these countries – from attacks on sikh cab drivers and retrenchment of Asian teachers in the US; to Britain’s Prime Minister Gordon Brown’s call for “British jobs for British people”. The drum of racism is clearly being beaten by the ruling class to divert and mislead, the anxiety of the working class in the face of recession.

3.2 Racism, Nationalism, Tribalism and the Caste System

These are mainly the variants of racial discrimination, the incidents and occurrences that we come across daily all over the

world. Now, we will try to have a look about all these viz racism, nationalism, tribalism and the caste system and what they have done to the world in the last 100 years. Some statistics and facts are as follows.

Despite the “progress” in culture, science and technology, racism, tribalism, colonialism and the caste system have been mainly responsible for the death of over 62 million human beings in the last 100 years. These numbers, however, do not tell the full story since no numbers are available for the colonial period. And one cannot really imagine the misery of so many millions who suffered through it although they were not killed. Today, there are about 22 million refugees in our world who were forced to abandon, their homes essentially because of nationalistic wars.

Here are some frightening statistics that should leave no doubt in anyone’s mind about the destructive nature of all of these diseased ideologies.

3.2.1 The Colonialism – 1500s – late 20th century

Colonialism was such a powerful force that by 1900, for instance, 90.4 percent of Africa was under European colonial control. This was a political economic phenomenon that began in 1500s whereby various European nations “discovered” conquered, and exploited large areas of the world. The last century began with almost all countries of the world enslaved under European colonial control whose effects are still felt in the shape of neo – colonialism

and the exploitative power of the few nations of the world. Slavery became a science in the colonial era in which tens of millions of people were killed or enslaved because of their race and colour.

3.2.2 National and Racial Wars

The nationalism based wars of Europe resulted in World War I (1914 – 1918). Over 8 million were killed and over 21 million wounded.

World War II (1939 – 1945) killed 52 million worldwide. This was marked by the rise of Germany's fascist dictator Hitler and his Nazi party. Over 20 countries took part in World War II and suffered not only death, but also destruction of homes and infrastructures. The Nazi genocide against a number of groups: Jews, Gypsies and non – whites to name just a few were a clear example of racism.

3.3 Racism of last century

Racism is defined as the belief that one race of people are superior to another because of the race they are born into. The virus of racism may exist in the hearts and minds of millions around the world but when racism is acted upon, especially by a group of people, things don't just become dangerous, they become deadly. Here are two specific instances, which come to mind in relation to racism – related conflicts and casualties:-

3.3.1 South Africa's apartheid era (1948 – 1994)

With the enactment of apartheid laws in South Africa in 1948, racial discrimination was institutionalized in the country. Race laws touched every aspect of social life, including a prohibition of marriage between non – whites and whites and allowing for “white – only” jobs. In 1950, the Population Registration Act required that all South Africans be racially classified into one of the three categories – white, black or coloured (of mixed decent and Asians). Initially, the aim of apartheid was to maintain white domination while extending racial separation. Starting in the 1960’s a plan of “Grand Apartheid” was executed. This put emphasis on territorial separation of the three groups and police repression. All blacks had to carry “pass books” with their fingerprints, photo and information on access to non – black areas.

All political rights, including the right to vote, held by African were restricted to the designated homeland. They would be citizens of their homeland, but lose citizenship to their country: South Africa and any right to be involved with the South African Parliament. This body was in complete control of all of the homelands. In 1993 a new constitution gave blacks and other racial groups the right to vote, and all – race national elections in 1994 produced a coalition government with a black majority. While this indicated the end of legislated apartheid, it did not eradicate apartheid social and economic effects.

3.3.2 The treatment and tragedies of African – Americans

African – Americans, even today, over 30 years after the civil rights movement, are oppressed in many ways. African – American numbered about 34.2 million in 1997, making up 12.8 percent of the total U.S. population, according to tabulations released by the Commerce Department’s Census Bureau (Feb 7, 2000). The income of 2.1 million African – American families (26 percent) was below the poverty level. Incidents of racial hate crime reported to the police, by bias motivation in 1998 was 4,468. The highest number was reported by African – Americans: 2,901. Between 1975 and 1997, African – Americans had the highest unemployment rate. African – Americans aged 12 and up are the most victimized group in America. 41.7 over 1000 of them are victims of violent crimes compared with whites (36.3 over 1000). This does not include murder.

3.4 Nationalism continued to play the killing role throughout the last century

Countries which fought colonialism, fought it on the basis of nationalism learned from the colonial masters. The result is the perpetuation of tragedies based on this ideology. Muslim countries also suffered through this phase of delayed nationalism. Here are several examples:-

1. The destruction of the Ottoman Khilafa because of Arab and Turkish nationalism – 1924. This fervent Turkish nationalism under the leadership of Mustafa Kemal came into power in Ankara (Turkey's capital today). The Ottoman Empire's last Sultan, Mohammad VI, fled in 1922 after the Sultanate had been abolished. Every member of the Ottoman Empire was expelled from the country two years later. Turkey was proclaimed a republic, with Ataturk, as its first president. Arab nationalism affected the fall of the Caliphate with the view that Arabs, not Turks should be rulers. This nationalism conveniently exploited by the Lawrence of Arabia, led to a push to wrest control from the Turks of the Ummah's leadership hence expediting the end of Khilafa for the first time in the 1300 year history of Islam.
2. India attacks and controls Kashmir since 1947. One Indian soldier for every seven Kashmiris is used to further India's nationalist claim on Kashmir. More than a million refugees, produced in these wars and hundreds of thousands have been killed as a result.
3. Israel's Zionism expelled Palestinians from their land (1948). Palestinians still constitute the largest refugee population of the world.
4. Bangladesh (formerly East Pakistan) – 1971 Bangladesh was once East Pakistan, following partition from India in

1947. But after seething under a number of grievances against West Pakistan (which is the Pakistan today) war erupted and the fight for separation from West Pakistan began. As many as 300,000 people were thought to have lost their lives in this civil war.

5. Iran – Iraq war of the 1980's was a nationalistic war which killed 1 million people.
6. 1992 – 1995 the genocide of Bosnians at the hands of Serb nationalism resulted in 200,000 killed 2 million refugees.
7. 1997 – 1999 expulsion of approximately one million Albanian Kosovars from Kosava.
8. Chechnya is suffering right now through the fifth genocide by Russians in last one hundred years along with the Tatars.
9. Over a million Iraqis have been killed as a result of the 1991 Gulf war and the continuing US sanctions against Iraq reaching the genocidal proportions.
10. Tibet

3.4.1 The Untouchables of India

The least challenged racism remains that of Indian Caste system. Indo – Aryans started the caste system in India after they conquered to preserve their racial purity in India. Now the caste system is a part of Hinduism. The Hindu religious name for the caste system is Varna. Varna literally means colour system. Dark –

skinned people, Dravidians, who were defeated by Aryans, became outcaste or untouchables of the Verna system. The following list gives a broad idea of what untouchability means:-

- a) Denial or restriction of access to public facilities, such as well, schools, roads, post office and courts.
- b) Denial or restriction of access to temples where their presence might pollute the deity as well as the higher caste worshippers and from rest houses, tanks and shrines connected to temples. Untouchables are forbidden to learn the Vedas.
- c) Exclusion from any honourable and most profitable, employment and relegation to dirty or menial occupations.
- d) Residential segregation by requiring them to remain outside the village.
- e) Denial of access to services such as those provided by barbers, laundrymen, restaurants, shops, and theaters or requiring the use of separate utensils and facilities within such places.
- f) Restrictions on style of life, especially in the use of goods indicating comfort or luxury. Riding on horseback, use of bicycles, umbrellas, footwear, the wearing of gold and silver ornaments, the use of palanquins to carry bridegrooms.
- g) Requirements of deference in forms of address, language, sitting and standing in presence of higher castes.

- h) Restrictions on movement. Untouchables might not be allowed on roads and streets within prescribed distance of the houses or persons of higher castes.
- i) Liability to unremunerated labour for the higher castes and to performance of menial services for them.

According to the Indian census, of 1980, there were 200 million “Untouchables” of the lowest castes. These 200 to 300 castes are subjected to very inhuman treatment? based on practices advocated in the Hindu religious manual Manu Smriti. The life, property and honour of untouchables still remain threatened by the higher castes. Pollution and purification are key concepts in the caste system. They are based on Hindu beliefs that each caste group can maintain its status by restricting contact with the “polluting” effects of the lower castes and by regulating its contact with objects thought to be inherently impure. Caste members marry only members of their own caste. There are about 3,000 castes and more than 25,000 sub – castes in India, some with only several hundred member and others with millions. The tragedy is that with the rise of Hindu religious nationalism now a days, the Caste system is regaining its power, shaken a bit by modernization. Most wealth and power is by and large in the hands of the top three per cent of castes in India.

3.4.2 Tribalism

Tribalism also remains a source of death and destruction.

There are two notable examples from this century:-

1. Rwanda (Central Africa) 1994. Over a period of 100 days, beginning April 6, 1994 upto 800,000 members of the Tutsi tribe were killed by another tribe, Hutus.
2. Afghanistan – 1989 present 1.2 million killed due to civil war, 2 million permanently disabled. When the last of the colonial empires, the former Soviet Union, invaded Afghanistan in 1979, most Afghans were united in their fight against this oppressor. However with the withdrawal of the former Soviet Union from Afghanistan in 1989, things have worsened with bitter warfare amongst the country's various tribes. The Taliban group controls the capital of Kabul and approximately two – thirds of the country including the predominantly ethnic Pashtun areas in southern Afghanistan. Opposing factions have their strong hold in the ethnically diverse north. May Allah help human beings live in peace with each other.

The previous paragraphs and facts must have given some idea about racial discrimination as to what it is. To have a proper understanding of it we shall try to define and discuss as done by the various authorities on it.

3.5 Definitions

Racism is the belief that race is a primary determinant of human traits and capacities and that racial difference produce an inherent superiority of a particular race. Or, on the opposite side, racism can be described as the belief that a certain race or races portray undesirable characteristics. In the case of institutional racism, certain racial groups may be denied rights or benefits, or receive preferential treatment. Racial discrimination typically points out taxonomic differences between different groups of people, although anyone may be discriminated against on an ethnic or cultural basis, independently of their somatic differences. According to the United Nations conventions, there is no distinction between the term racial discriminations and ethnic discrimination.

Although the term racism usually denotes race – based prejudice, violence, dislike, discrimination or oppression, the term can also have vying and contested definitions. Racialism is a related term, sometimes intended to avoid these negative meanings. According to the Oxford English Dictionary, racism is a belief or ideology that all members of each racial group possess characteristics or abilities specific to that race, especially to distinguish it as being either superior or inferior to another racial group or racial group. The Merriam – Webster’s Dictionary defines racism as a belief that race is the primary determinant of human traits and capacities and that racial differences produce an inherent superiority or inferiority of a particular racial group and that it is

also the prejudice based on such a belief. The Macquarie Dictionary defines racism as “the belief that human races have distinctive characteristics which determine their respective cultures, usually involving the idea that one’s own race is superior and has the right to rule or dominate others” The concept that discrimination can be based on “race” presupposes the existence of “race” itself. However, the US Government’s Human Genome Project has announced that the most complete mapping of human DNA to date indicates that there is no distinct genetic basis to racial types. Based on this evidence, “racial characteristics logically cannot exist either, such as group differences in eye colour or human hair colour.

According to the Human Genome Project skin colour does exist as a matter of science. So that which is commonly referred to as “racism” could be more scientifically referred to as “skin colour – aroused discrimination”. The term “skin colour aroused discrimination” has the benefit that it is based on verifiable science, is not based on disproved notions of science, and does not perpetuate a false belief in the disproved concept of biological “race”.

According to Charles V Hamilton and Kwame Ture it (racism) is the predication of decision and policies on consideration of race for the purpose of subordinating a racial group (ethnicity) and maintaining control over that group.

3.5.1 Legal Aspect

The UN does not define “racism” however it does define “racial discrimination”. According to the United Nations Convention on the elimination of All forms of Racial Discrimination, “the term” racial discrimination” shall mean any distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

This definition does not make any difference between prosecutions based on ethnicity and race, in part because the distinction between the two remains debatable among anthropologists. According to British law, racial group means “any group of people who are defined by reference to their race, colour, nationality (including citizenship) or ethnic or national origin”.

3.5.2 Sociological Aspect

Some sociologists have defined racism as a system of group privilege. In ‘Portraits of White Racism’, David Wellman has defined racism as “culturally sanctioned beliefs, which regardless of intentions involved, defend the advantages whites have because of the subordinated position of racial minorities”.

Sociologists Noel A. Cazenave and Darlene Alvarez Maddern define racism as “a highly organized system of ‘race’ – based group privilege that operates at every level of society and is held together by a sophisticated ideology of colour/’race’, supremacy.

Sellers and Shelton (2003) found that a relationship between racial discrimination and emotional distress was moderated by racial ideology and public regard beliefs. That is, racial centrality appears to promote the degree of discrimination African, American young adults perceive, whereas racial ideology may buffer the detrimental emotional effects of that discrimination. Racist systems include, but cannot be reduced to racial bigotry.” Sociologist and former American Sociological Association president Joe Feagin argues that the United State can be characterized as a “total racist society – because racism is used to organize every social institution.

“Police harassment and brutality directed at black men, women and children are as old as American society, dating back to the days of slavery and Jim Crow segregation. Such police actions across the nation today reveal important aspects. The common place discriminatory practices of individual whites.... (and) white dominated institutions that allow or encourage such practices.

More recently, Feagin has articulated a comprehensive theory of racial oppression in the US in his book ‘Systemic Racism. A theory of Oppression (Routledge 2006) Feagin examines how major institutions have been built upon racial

oppression which was not an accident of history, but was created intentionally by white Americans. In Feagin's view, white Americans laboured hard to create a system of racial oppression in the 17th century and have worked diligently to maintain the system ever since.

While Feagin acknowledges that changes have occurred in this racist system over the centuries, he contends that key and fundamental elements have been reproduced over nearly four centuries, and that U.S. institutions today reflect the racialized hierarchy created in the 17th century. Today, as in the past racial oppression is not just a surface – level feature of this society, but rather pervades, permeates and interconnects all major social groups, networks, and institutions across the society. Feagin's definition stands in sharp contrast to psychological definitions that assume racism is an "attitude" or an irrational form of bigotry that exists apart from the organization of social structure.

Barbara Trepagnier's research shows that virtually all whites hold some negative stereo types and assumptions about African-Americans and other racial – ethnic minorities what she calls silent racism. In her book, 'Silent Racism: How Well – Meaning White People Perpetuate the Racial Divide (2006), Trepagnier demonstrates how the negative stereo types and assumptions of whites reproduce institutional racism, also known as systematic racism. She argues that the oppositional categories commonly used to think about racism – Racist and Not Racist –

hide silent racism and other insidious such as colour – blind racism. Replacing the outdated categories with a continuum labeled More Racist and Less Racist would expose, these subtle forms of racism that are more closely linked to racial injustice than outright bigotry is.

Colour blind racism as developed by Eduardo Bonilla – Silva in ‘Racism Without Racists: Colour – Blind Racism and the Persistence of Racial Inequality (2003) refers to the claim by some whites that racism is no longer an issue since passage of the 1960s civil rights legislation. According to Bonilla – Silva colour – blind racism is an attempt to maintain white privilege without appearing racist.

3.5.3 Types of Racial Discrimination

Racial discrimination is treating people differently through a process of social division into categories not necessarily related to races. Racial segregation polices may officialize it, but it is also often exerted without being legalized. Researchers, including Dean Karlan and Marianne Bertrand at the MIT and the University of Chicago found in a 2003 study that there was wide spread discrimination in the workplace against job applicants whose names were merely perceived as “sounding black”. These applicants were 50% less likely than candidates perceived as having “white-sounding names” to receive callbacks for interviews. In contrast, institutions and courts have upheld

discrimination against whites when it is done to promote a diverse work or educational environment, even when it was shown to be to the detriment of qualified applicants. The researchers view these results as strong evidence of unconscious bias rooted in the United States long history of discrimination. (i.e. Jim crow laws etc).

3.5.4 Institutional Racism

Institutional racism (also known as structural racism, state racism or systemic racism) is racial discrimination by governments corporations religions, or educational institutions with the power to influence the lives of many individuals Stokely Carmichael is credited for coining the phrase institutional racism in the late 1960s. He defined the term as “the collective failure of an organization to provide an appropriate and professional service to people because of their colour, culture or ethnic origin.

Maulana Karenga argued that racism constituted the destruction of culture, language, religion and human possibility. The effects of racism were “the morally monstrous destruction of human possibility involved redefining African humanity to the world, poisoning past, present and future relations with others who only know as through this stereotyping and thus damaging the truly human relations among peoples.”

3.5.5 Economic Racism

Historical economic or social disparity is alleged to be a form of discrimination which is caused by past racism and historical reasons, affecting the present generation through deficits in the formal education and kinds of preparation in the parents generation and, through primary unconscious racist attitudes and actions on members of the general population (e.g. A member of race Y. Mary has her opportunities adversely affected (directly and/or indirectly) by the mistreatment of her ancestors of race Y).

A hypothesis embraced by classical economists is that competition in a capitalist economy decreases the impact of discrimination. The thinking behind the hypothesis is that discrimination imposes a cost on the employer and thus a profit – driven employer will avoid racist hiring policies. Although this hypothesis may be accurate in some parts of the world in other it is the opposite. Although capitalist economy would avoid discrimination in order to avoid extra cost, this can be avoided in other ways. A capitalist company for example may use racist hiring policies as it deviates towards the “cultural norm”. These “norms” albeit unquestioned are evident within society.

In a predominantly white society when hiring a person of colour into a position of management this may then cause disputes and damage communications between other employers. Thus the company would be economically put in a deficit because of the discrimination of other companies as they invoke discrimination and isolate that company. Although this may be a radical, over

exaggerated point of view, it portrays how pervasive racism is and how company will sometime deviate towards racist hiring policies in order to hence forth be not isolated, thus preventing the company from going into an economic deficit.

3.5.6 Declarations against racial discrimination

In 1950, UNESCO suggested in ‘The Race Questions’ – a statement signed by 21 scholars such as Ashley Montagu, Claude Levi Strauss, Gurnar Myrdal, Julian Huxley, etc – to “drop the term ‘race’ altogether and instead speak of ethnic groups”. The statement condemned scientific racism theories which had played a role in the Holocaust. It aimed at both at debunking scientific racist theories, by popularizing modern, knowledge concerning “the race question,” and morally condemned racism as contrary to the philosophy of the Enlightenment and its assumption of equal right for all. Along with Myrdal’s *An American Dilemma: The Negro Problem and Modern Democracy* (1944), the *Race Question* influenced the 1954 U.S. Supreme Court desegregation decision in “*Brown V. Board of Education of Topeka.*” The United Nations uses the definition of racial discrimination laid out in the ‘International Convention on the Elimination of All Forms of Racial Discrimination’ adopted in 1966.

“any distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic origin which has the purpose of or effect of nullifying or impairing the recognition,

enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in political, economic, social, cultural or any other field of public life” (Part1 of Article 1 of the U.N. International Convention on the Elimination of All forms of Racial Discrimination).

3.5.7 Ideology

As an ideology, racism existed during the 19th century as “scientific racism”, which attempted to provide a racial classification of humanity. Although such racist ideologies have been widely discredited after World War II and the Holocaust, racism and of racial discrimination have remained wide spread all over the world. Some examples of this in present day are statistics including, but not limited to, the ratio of black men in prison to free black men vs other races, physical abilities and mental ability statistics and other data gathered by scientific groups. While these statistics are accurate and can show trends, it is inappropriate in most countries to assume that because of particular rate, has a high crime or low literacy rate that the entire race a people automatically are criminals or unintelligent.

It was already noted by Dubois that, in making the difference between races it is not race that we think about, but culture “a common history, common laws and religion, similar habits of thought and a conscious striving together for certain ideals of life.” Late nineteenth century nationalists were the first to

embrace contemporary discourses on “race”, ethnicity and “survival of the fittest” to shape new nationalist doctrines. Ultimately, race came to represent not only the most important traits of the human body, but was also regarded as decisively shaping the character and personality of the nation.

According to this view, culture is the physical manifestation created by ethnic groupings, as such fully determined by racial characteristics. Culture and race became considered intertwined and dependent upon each other, sometimes even to the extent of including nationality or language to the set of definition. Purity of race tended to be related to rather superficial characteristics that were easily addressed and advertised, such as blondness. Racial qualities tended to be related to rationality and language rather than the actual geographic distribution of racial characteristics.

In the case of Nordicism, the denomination “Germanic” became virtually equivalent to superiority of race. Bolstered by some nationalist and ethnocentric values and achievements of choice, this concept of racial superiority evolved to distinguish from other cultures that were considered inferior or impure. This emphasis on culture corresponds to the modern mainstream definition of racism: “Racism does not originate from the existence of ‘races’. It ‘creates’ then through a process of social division into categories: anybody can be radicalized, independently of their somatic, cultural, religious differences.

This definition explicitly ignores the fiery polemic on the biological concept of race, still subject to scientific debate. In the words of David C. Rows “A racial concept, although sometimes in the guise of another name, will remain in use in biology and in other fields because scientists, as well as lay person, are fascinated by human diversity, some of which is captured by race.” Until recent history this racist abuse of physical anthropology has been politically exploited. Apart from being unscientific, racial prejudice became subject to international legislation. For instance, the Declaration on the Elimination of all Forms of Racial Discrimination, adopted by the United Nations General Assembly on November 20, 1963 address racial prejudice explicitly next to discrimination for reasons of race, colour or ethnic origin (Article 1).

Racism has been a motivating, hate social discrimination, racial segregation, hate speech and violence (such as pogroms, genocides and ethnic cleansings). Despite the persistence of racial stereo types, humour and epithets in much everyday language, racial discrimination is illegal in many countries. Ironically, anti – racism has also become a political instrument of abuse. Some politicians have practiced ‘race baiting’ in an attempt to win votes. In a reversal of values, anti – racism is being propagated by despots in the service of obscurantism and the suppression of women. Said philosopher Pascal Bruckner: “Anti – racism in the

UN has become the ideology of totalitarian regimes who use it in their own interests.”

3.5.6 Ethnic nationalism

After the Napoleonic Wars, Europe was confronted with the new “nationalities question” leading to ceaseless reconfigurations of the European map; on which the frontiers between the states had been delimited during the 1648 Peace of Westphalia. Nationalism had made its first striking appearance with the invention of the *levée en masse* by the French revolutionaries, thus inventing mass conscription in order to be able to defend the newly – founded Republic against the ‘Ancien Regime’ order represented by the European monarchies. This led to the French Revolutionary Wars (1792 – 1802) and then to the Napoleonic conquests, and to the subsequent European – wide debates on the concepts and realities of nations, and in particular of nation – states. The Westphalia Treaty had divided Europe into various empires and kingdoms (Ottoman Empire, Holy Roman Empire, Swedish Empire, Kingdom of France etc) and for centuries wars were waged between princes (Kabinettskriege in German).

Modern nation – states appeared in the wake of the French Revolution, with the formation of patriotic sentiments for the first time in Spain during the Peninsula War (1808 – 1813 – known in Spanish as the Independence War). Despite the restoration of the

previous order with the 1815 Congress of Vienna, the “nationalities question” “became the main problem of Europe during the Industrial Era, leading in particular to the 1848 Revolutions, the Italian unification completed during the 1871 Franco – Prussian War, which itself culminated in the proclamation of the German Empire in the Hall of Mirrors in the Palace of Versailles, thus achieving the German unification.

Meanwhile, the Ottoman Empire, the “sick man of Europe” was confronted with endless nationalist movements which, along with the dissolving of the Austrian – Hungarian Empire, would lead to the creation after World War I of the various nation states of the Balkans, with “national minorities” in their borders. Ethnic nationalism, which advocated the belief in a hereditary membership of the nation, made its appearance in the historical context, surrounding the creation of the modern nation – states.

One of its main influences was the Romantic nationalist movement at the turn of the 19th century, represented by figures such as Johann Herder (1744 – 1803), Johan Fichte (1762 – 1814) in the “Addresses to the German Nation (1808), Friedrich Hegel (1770 – 1831), or also, in France, Jules Michelet (1798 – 1874). It was opposed to liberal nationalism, represented by authors such as Ernest Renan (1823 – 1892), who conceived of the nation as a community which, instead of being based on the ‘Volk’ ethnic group and on a specific, common language, was founded on the

subjective will to live together ('the nation is a daily plebiscite', 1882) or also John Stuart Mill (1806 – 1873).

Ethnic nationalism quickly blended itself with scientific racist discourses as well as with "continental imperialist", Hannah, Arendt 1951 discourses for example in the pan – Germanism discourses, which postulated the racial superiority of the German Volk. The Pan – German League (Alldeutscher Verband) crated in 1891, promoted German imperialism, "racial hygiene" and was opposed to intermarriage with Jews. Another, popular current, the Volkisch movement, was also an important proponent of the German ethnic nationalist discourse, which it also combined with modern anti-Semitism Members of the Volkisch movement, in particular the Thule Society, would participate in the founding of the German 'Worker' Party (DAP) in Munich in 1918, the predecessor of the NSDAP Nazi Party Pan Germanism and played a decisive role in the interwar period of the 1920s – 1930s.

These currents began to associate the idea of the nation with the biological concept of a "master race" (often the "Aryan race" or "Nordic race") issued from the scientific racist discourse. They conflated nationalities with ethnic groups, called "races", in a radical distinction from previous racial discourses which posited the existence of a "race struggle" inside the nation and the state itself. Further more, they believed that political boundaries should mirror these alleged racial and ethnic groups, thus justifying ethnic

cleansing in order to achieve “racial purity” and also to achieve ethnic homogeneity in the nation – state.

Such racist discourses, combined with nationalism, were not however limited to pan Germanism. In France, the transition from Republican, liberal nationalism, to ethnic nationalism, which made nationalism a characteristic of far – right movements in France, took place during the Dreyfus Affair at the end of the 19th century. During several years; a nationwide crisis affected French society, concerning the alleged treason of Alfred Dreyfus, a French Jewish military officer. The country polarized itself into two opposite camps, one represented by Emile Zola, who wrote ‘Jaccuse’ in defense of Alfred Dreyfus, and the other represented by the nationalist poet Maurice Barres (1862 – 1923), one of the founders of the ethnic nationalist discourse in France. At the same time, Charles Maurras (1868 – 1952), founder of the monarchist ‘Action française’ movement, theorized the “anti France” composed of the “four confederate state of Protestants, Jews, Freemasons and foreigners” (his actual word for the latter being the pejorative ‘meteques’) Indeed, to him the first three were all “internal foreigners”, who threatened the ethnic unity of the French people

3.5.9 Ethnic conflicts

Debate over the origins of racism often suffers from a lack of clarity over the term. Many use the term “racism” to refer to

more general phenomena, such as xenophobia and ethnocentrism, although scholars attempt to clearly distinguish those phenomena from racism as an ideology or from scientific racism, which has little to do with ordinary xenophobia. Others conflate recent forms of racism with earlier forms of ethnic and national conflict. In most cases, ethno – national conflict seems to owe itself to conflict over land and strategic resources. In some cases ethnicity and nationalism were harnessed to rally combatants in wars between great religious empires (for example, the Muslim Turks and the Catholic Austro – Hungarians).

Notions of race and racism often have played central roles in such ethnic conflicts. Historically when an adversary is identified as “other” based on notions of race or ethnicity (particularly when other is construed to mean “inferior”), the means employed by the self –presumed “superior” party to appropriate territory, human chattel, or material wealth often have been more ruthless, more brutal and less constrained by moral or ethical consideration. According to historian Daniel Richter, Pontiac’s Rebellion saw the emergence on both sides of the conflict of “the novel idea that all Native people were ‘Indians’, that all Euro Americans were ‘Whites’ and that all on one side must unite to destroy the other” (Richter, ‘Facing East from Indian Country’, p; 208) Basil Davidson insists in his documentary, ‘Africa: Different but Equal’, that racism, in fact, only just recently surfaced – as late as 1800s, due to the need for a justification for slavery in the Americas.

The idea of slavery as an “equal – opportunity employer” was denounced with the introduction of Christian theory in the West. Maintaining that Africans, were “subhuman” was the only loophole in the then accepted law that “men are created equal” that would allow for the sustenance of the Triangular trade. New peoples in the Americas, possible slaves, were encountered, fought and ultimately subdued, but then due to European diseases, their population drastically decreased. Through both influences, theories about “race” developed, and these helped many to justify the difference in position and treatment of people whom they categorized as belonging to different races (wide, Eric Wolf’s *Europe and the People without History*).

Juan Gines de Sepulveda argued that during the Valladolid controversy in the middle of the 16th century, the Native Americans were natural slaves because they had no souls. In Asia, the Chinese and Japanese Empires were both strong colonial powers, with the Chinese making colonies and vassal states of much of East Asia throughout history; and the Japanese doing the same in the 19th – 20th centuries. In both cases, the Asian imperial powers believed they were ethnically and racially preferred too. Owen Alik Shahadah comments on this racism by stating: “Historically Africans are made to sway like leaves on the wind, impervious and indifferent to any form of civilization, a people absent from scientific discovery, philosophy or the higher arts. We

are left to believe that almost nothing can come out of Africa, other than raw material.”

Scottish philosopher and economist David Hume said: “I am apt to suspect the Negroes to be naturally inferior to the Whites. There scarcely ever was a civilized nation of that complexion, nor even any individual, eminent either in action or in speculation. No ingenious manufacture among them, no arts, no sciences.” German philosopher Immanuel Kant stated: “The yellow Indians do have a meagre talent. The Negroes are far below them, and at the lowest point are a part of the American people.” In the nineteenth century, German philosopher George Wilhelm Friedrich Hegel declared that “Africa is no historical part of the world.” Hegel further claimed that blacks had no “sense of personality; their spirit sleeps, remains sunk in itself, makes no advance and thus parallels the compact, undifferentiated mass of the African continent.” (On Blackness without Blacks Essays on the Image of the Black in Germany, Boston. C.W. Hall 1982 p 94).

Fewer than 30 years before Nazi Germany started World War II, the German Otto Weininger, claimed: “A genius has perhaps scarcely ever appeared amongst the negroes, and the standard of their morality is almost universally so low that it is beginning to be acknowledged in America that their emancipation was an act of imprudence” (Sex and Character, New York: G.P. Putnam 1906 p 302). The German conservative Oswald Spengler remarked on what he perceived as the culturally degrading

influence of Africans in modern Western Culture in ‘The Hour of Decision’ Spengler denounced “the ‘happy ending’ of an empty existence, the boredom of which has brought to jazz music and Negro – dancing to perform the Death March for a great Culture (The Hour of Decision, pp 227 – 228) During the Nazi era, German scientists rearranged academia to support claims of a grand “Aryan” agent behind the splendors of all human civilizations, including India and Ancient Egypt.

3.5.10 Scientific Variants

The modern biological definition of race developed in the 19th century with scientific racist theories. The term ‘scientific’ refers to the use of science to justify and support racist beliefs, which goes back to at least the early 18th century, though it gained most of its influence in the mid – 19th century, during the New Imperialism period. Also known as academic racism, such theories first needed to overcome the Church’s resistance to positivist west accounts of history and its support of monogenism, that is that all human beings were originated from the same ancestors, in accordance with creationist accounts of history.

These racist theories put forth on scientific hypothesis were combined with unilineal theories of social progress which postulated the superiority of the European civilization over the rest of the world. Further more, they frequently made use of the idea of “survival of the fittest”, a term coined by Herbert Spencer in 1864,

associated with ideas of competition which were named Social Darwinism in the 1940s. Charles Darwin himself opposed the idea of rigid racial differences in ‘The Descent of Man (1871) in which he argued that humans were all of one species, sharing common descent. He recognized racial differences as varieties of humanity and emphasized the close similarities between people of all races in mental faculties, tastes, disposition and habits, while still contrasting the culture of the “lowest savages” with European civilization.

At the end of the 19th century, proponents of scientific racism intertwined themselves with eugenics discourses of “degeneration of the race” and “blood heredity” Hence forth, scientific racist discourses could be defined as the combination of polygenism, unilinealism, social darwinism and eugenism. They found their scientific legitimacy on physical anthropology, anthropometry, craniometry, phrenology, physiognomy and others now discredited disciplines in order to formulate racist prejudices.

Before being disqualified in the 20th century by the American school of cultural anthropology (Franz Boas etc.) the British school of social anthropology (Bronislaw Malinowski, Alfred Radcliffe – Brown etc), the French school of ethnology (Claude Levi-Strauss etc) as well as the discovery of the neo – Darwinian synthesis, such sciences, in particular anthropometry, were used to deduce behaviors and psychological and psychological characteristics from outward, physical appearances.

The neo – Darwinian synthesis, first developed in the 1930s, eventually led to a gene – centered view of evolution in the 1960s. It seemed at first to be sufficient proof of the inanity of the “scientific racist” theories of the 19th centuries, which based their conception of the 19th centuries, which based their conception of evolution on “races”, a concept which first appeared to lose any sense at the genetic level. However, the modern resurgence of racist theories, in particular those related to the race and intelligence controversy, seems to show that genetics could also be used for ideological, racist purposes.

3.5.11 Heredity and eugenics

The first theory of eugenics was developed in 1869 by Francis Galton (1822 – 1911), who used the then popular concept of degeneration. He applied statistics to study human differences and the alleged “inheritance of intelligence” foreshadowing future uses of “inheritance testing” by the anthropometry school. Such theories were vividly described by the writer Emile Zola (1840 – 1902), who started publishing in 1871 a twenty – novel cycle, ‘Les Rougon – Macquart’, where he linked heredity to behaviour. Thus, Zola described the high – born Rougons as those involved in politics (Son Excellence Engene Rougon) and medicine (Le Docteur Pascal) and the low born Macquarts as those fatally falling into alcoholism (L’Assommoir), prostitution (Nana); and homicide (La Bete humaine).

During the rise of Nazism in Germany, some scientists in Western nations worked to debunk the regime's racial theories. A few argued against racist ideologies and discrimination, even if they believed in the alleged existence of biological races. However in the fields of anthropology and biology, these were minority positions until the mid – 20th century. According to the 1950, UNESCO statement, 'The Race Question', an international project to debunk racist theories had been attempted in the mid – 1930s. However, this project had been abandoned. Thus in 1950, UNESCO declared that it had resumed:

“up again after a lapse of fifteen years a project which the International Institute for Intellectual Co – operation has wished to carry through but which it had to abandon in deference to the appeasement policy of the pre – war period. The race question had become one of the pivots of Nazi ideology and policy. Masaryk and Benes took the initiative of calling for a conference to re – establish in the minds and consciences of men everywhere the truth about race. Nazi propaganda was able to continue its baleful work unopposed by the authority of an international organization.

The third Reich's racial policies, its eugenics programs and the extermination of Jews in the Holocaust, as well as Romani people in the Porrajmos (the Romani Holocaust) and other minorities led to a change in opinions about scientific research into race after the war. Changes within scientific disciplines, such as the rise of the Boasian school of anthropology in the United States

contributed to this shift. These theories were strongly denounced in the 1950 UNESCO statement, signed by internationally renowned scholars, and titled 'The Race Question'.

3.5.12 Polygenism and Typologies

Works such as Arthur de Gobineau's 'An Essay on the Inequality of the Human Races' (1853 – 1855) may be considered as one of the first theorizations of this new racism, founded on an essentialist notion of race, which opposed the former racial discourse, of Boulainvilliers for example. These former racial discourse saw in races a fundamentally historical reality which changed over time. Gobineau thus attempted to frame racism within the terms of biological differences among humans, giving it the legitimacy of biology. He was one of the first theorists to postulate polygenism, stating that they were, at the origins of the world, various discrete "races".

Gobineau theories would be expanded, in France, by Georges Vacher de Lapouge (1854 – 1936)'s typology of races. It was published in 1899 'The Aryan and his Social Role' in which he claimed that the white, "Aryan race", "dolichocephalic", was opposed to the "brachycephalic" race, of whom the "Jew" was archetype. Vacher de Lapouge thus created a hierarchical classification of races, in which he identified the "Homo europaeus (Teutonic, Protestant, etc) the "Homo alpinus" (Auvergnat,

Turkish etc), and finally the “Homo mediterraneus” (Neapolitan, Andalus etc).

He assimilated races and social classes, considering that the French upper class was a representation of the Homo europaeus, while the lower class represented the Homo alpinus. Applying Galton’s eugenics to his theory of races, Vacher de Lapouge’s “selectionism” aimed first at achieving the annihilation of trade unionists, considered to be a “degenerate”; second, creating types of man each destined to one end, in order to prevent any contestation of labour conditions. His “anthroposociology” thus aimed at blocking social conflict by establishing a fixed, hierarchical social order.

The same year then Vacher de Lapouge, William Z. Ripley used identical racial classification in ‘The Races of Europe (1899), which would have a great influence in the United States. Other famous scientific authors include H.S. Chamberlain at the end of the 19th century (a British citizen who naturalized himself as German because of his administration for “Aryan race”) or Madison Grant, a eugenicist and author of ‘The Passing of the Great Race (1916).

3.5.13 Human Zoos

Human zoos (called “People shows”), were an important means of bolstering ‘popular racism’ by connecting it to scientific racism. They were both objects of public curiosity and of

anthropology and anthropometry. Joice Heth, an African American slave, was displayed by P.T. Barnum in 1836, a few years after the exhibition of Saartjie Baartman, the “Hottentot Venus”, in England. Such exhibitions became common in the New Imperialism period, and remained so until World War II. Carl Hagenbeck, inventor of the modern zoos, exhibited animals beside humans who were considered as “savages”.

Congolese pygmy Ota Benga was displayed in 1906 by eugenicist Madison Grant, head of the Bronx Zoo, as an attempt to illustrate the “missing link” between humans and orangutans. Thus racism was tied to Darwinism ideology which tried to ground itself in Darwin’s scientific discoveries. The 1931 Paris Colonial Exhibition displayed Kanaks from New Caledonia. A “Congolese village” was on display as late as 1958 at Brissel’s World Fair.

3.5.14 Evolutionary Theories about the Origins of Racism

Biologists John Tooby and Leda Cosmides were puzzled by the fact that race is one of the three characteristics most often used in brief descriptions of individuals (the others are age and sex). They reasoned that natural selection would not have favoured the evolution of an instinct for using race as a classification, because for most of human history, humans almost never encountered members of other races. Tooby and Cosmides hypothesized that modern people use race as a proxy (rough – and – ready indicator)

for coalition membership, since a better – than – random guess about “which side” another person is or will be helpful if one does not actually know in advance. Their colleague Robert Kurzban designed an experiment whose results appeared to support this hypothesis. Using the Memory confusion protocol, they presented subjects with pictures of individuals and sentences, allegedly spoken by these individuals, which presented two sides of a debate. The errors which the subjects made in recalling who said what indicated that they sometimes misattributed a statement to a speaker of the same race as the “correct” speaker, although they also sometimes misattributed a statement to a speaker “on the same side” as the “correct” speaker. In a second run of the experiment, the team also distinguished the “aides” in the debate by clothing of same colours. In this case the effect of racial similarity in causing mistakes almost vanished, being replaced by the colour of their clothing. In other words, the first group of subject, with no clues from clothing, used race a visual guide to guessing who was on which side of the debate. The second group of subjects used the clothing colour as their main visual clue, and the effect of race became very small.

Some research suggests that ethnocentric thinking may have actually contributed to the development of cooperation. Political scientists Ross Hammond and Robert Axelrod created a computer stimulation wherein virtual individuals were randomly assigned one of a variety of skin colours, and then one of a variety

of trading strategies: be colour – blind, favour those of your own colour, or favour those of other colours. They found that the ethnocentric individuals clustered together, then grew until at the non – ethnocentric individuals were wiped out.

3.5.15 As state – sponsored activity

State racism – that is institutions and practices of a nation – state that are grounded in racist ideology – has played a major role in all instances of settler colonialism, from the United States to Australia to Israel. It also played a prominent role in the Nazi Germany regime and fascist regimes in Europe, and in the first part of Japan’s Showa period. The politics of Zimbabwe promotes discrimination against whites, in an effort of ethnically cleansing the country.

State racism contributed as well to the formation of the Dominican Republic’s identity and violent actions encouraged by Dominican governmental xenophobia against Haitians and black “Haitian looking people. Currently the Dominican Republic employs a de facto system of separation for children and grandchildren of Haitians and Dominicans, denying them birth certificates, education and access to health care. These government advocated and implemented policies that were racist, xenophobic and in case of Nazism, genocidal.

3.6 In History

3.6.1 In Antiquity

According to the Indo – Aryan migrations theory, Indo – Aryans migrated from Central Asia to India sometime after the collapse of the Indus Valley civilization. They are believed to have been related to Indo – European – speaking people from the Near – East, Anatolia, the Caucasus and Europe. Following the discovery of the Indo – European languages in the 19th century, British historians put forth the Aryan invasion theory which argued that it was “Aryans” who established the caste system, an elitist form of social organization that (according to British) separated the “light skinned” Indo – Aryan conquerors from the “conquered dark – skinned” indigenous Dravidian tribes through enforcement of “racial endogamy”. This claim was used by the British, defining themselves as “purely Aryan” to justify British Rule in India. Much of this was simply conjecture, fueled by British imperialism. Since the independence of South Asia from British rule, the Aryan invasion theory and subjugation of the dark skinned Dravidians in India” has become a staple polemic in South Asian geopolitics, including the propaganda of Indophobia in Pakistan.

According to Genesis chapter 30 – 31, God supported the descendants of Abraham against “White” (Laban). King David collected Phillistine’s foreskins, Chouki EL Hamel has cited the Babylonian Talmud, which divides mankind between the three sons of Noah, stating that “the descendants of Ham are cursed by being black and (it) depicts Ham as a sinful man and his progeny as degenerates.” Bernard Lewis has cited the Greek philosopher

Aristotle who, in his discussion of slavery, stated that while Greeks are free by nature, ‘barbarians’ (non – Greek) are slaves by nature, It is because it is in their nature to be more willing to submit to despotic government though Aristotle does not specify any particular race, he argues that people from Asia are more prone to this than those from Europa. Some authors have suggested that a form of ‘proto – racism’ had existed in classical antiquity, particularly in the Greco – Roman world.

3.6.2 Middle Ages and Renaissance

Racial opinions occurred in the works of some Muslim historians and geographers including Al – Muqaddasi, Al – Jahiz, Al – Masudi, Abu Rayhan Biruni, Nasir al – Din al – Tusi, and Ibn Quataybah. In the 14th century CE, the Tunisian Ibn Khaldun wrote:

“beyond (known peoples of black West Africa) to the south there is no civilization in the proper sense. There are only humans who are closer to dumb animals than to rational beings. They live in thickets and caves and eat herbs and unprepared grain. They frequently eat each other. They cannot be considered human beings.” “Therefore, the Negro nations are, as a rule, submissive to slavery, because (Negroes) have little that is (essentially) human and possess attributes that are quite similar to those of dumb animals, as we have stated.”

Though the Quran expresses no racial prejudice, such prejudices later developed among Arabs due to several reasons: their extensive conquests and slave trade; the influence of Aristotelian ideas regarding slavery, which some Muslim philosophers directed towards Zanj (East African) and Turkic peoples and the influence of Judeo – Christian ideas regarding divisions among humankind. In response to such views, the Afro – Arab author Al – Jahiz, himself of East African descent, wrote a book entitled ‘Superiority Of The Black To The Whites’, and explained why the Zanj were black in terms of environmental determinism in the “On the Zanj” chapter of ‘The Essays’. By the 14th century, a significant number of slaves came from sub – Saharan Africa, leading to the likes of Egyptian historian Al – Abshibi (1388 – 1446) writing: “It is said that when the (black) slave is sated, he fornicates, when he is hungry, he steals.” According to J. Philippe Rushton, Arab relations with blacks whom the Muslims had dealt as slave traders for over 1,000 years could be summed up as follows:

The 14th century North African Arab sociologist, Ibn Khaldun, has often been mistranslated to fit the needs of colonial propaganda. Although bias against those of very black complexion existed in the Arab world in the 15th century, it didn’t have as much stigma as it later would. Older translations of Ibn Khaldun, for example in ‘The Negro Land of the Arabs Examined and Explained’ which was written in 1841, give excerpts of older

translations that were not part of later colonial propaganda and show black Africans in a generally positive light. Ibn Khaldun dispelled the Hamitic theory as a myth, stating that black skin was due to environmental determinism and that “strange practices and customs of certain black African tribes was due to the hot climate of Sub – Saharan Africa, not because of any curse. The Arabic geographer, Ibn Batuta, who had visited the Mali Empire in 1352, wrote many positive comments on black people. It should be noted that ethnic prejudice among some elite was not limited to darker – skinned black people, but was also directed against fairer – skinned “ruddy people” (including Persians, Turks, Caucasians and Europeans), while Arabs referred to themselves as “swarthy people”. According to Arnold J. Toynbee, “The extinction of race consciousness as between Muslims is one of the outstanding achievement of Islam and in the contemporary world there is, as it happens, a crying need for the propagation of this Islamic virtue”.

Richard E. Nisbett has said that the question of racial superiority may go back at least a thousand years, to the time when the Umayyad Caliphate invaded Hispania, occupying most of the Iberian Peninsula for six centuries, where they founded the advanced civilization of Al – Andalus (711 – 1492). Al – Andalus coincided with La Convivencia, an era of religious tolerance and with the Golden age of Jewish culture in Iberia (912, the rule of Abd – ar Rahman III – 1066, Granada massacre). It was followed by a violent ‘Reconquista’ under the ‘Reyes Catolicos’ (Catholic

Kings), Ferdinand V and Isabella I. The Catholic Spaniards then formulated the 'Cleanliness of blood' doctrine. It was during this time in history that the Western concept of aristocratic "blue blood" emerged in a highly racialized and implicitly white supremacist context, as author Robert Lacey explains:

"It was the Spaniards who gave the world the notion that an aristocrat's blood is not red but blue. The Spanish nobility started taking shape around the ninth century in classic military fashion, occupying land as warriors on horseback. They were to continue the process for more than five hundred years, clawing back sections of the peninsula from its Moorish occupiers, and a nobleman demonstrated his pedigree by holding up his sword arm to display the filigree of blue – blooded veins beneath his pale skin – proof that his birth had not been contaminated by the dark – skinned enemy. Sangre azul, blue blood was thus a euphemism for being a white man – Spain's own particular reminder that the refined footsteps of the aristocracy through history carry the rather less refined spoor of racism."

Following the expulsion of most Sephardic Jews from the Iberian Peninsula, the remaining Jews and Muslims were forced to convert to Roman Catholicism, becoming "New Christians" which were despised and discriminated by the "Old Christians". An Inquisition carried out by members of the Dominican Order in order to weed out converts that still practiced Judaism and Islam in secret. The system and ideology of the 'limpieza de sangre'

ostracized Christian converts from society, regardless of their actual degree of sincerity in their faith.

In Portugal, the legal distinction between New and Old Christian was only ended through a legal decree issued by the Marquis of Pombal in 1772, almost three centuries after the implementation of the racist discrimination. The 'limpieza desangre' doctrine was also very common in the colonization of the Americas, where it led to the racial separation of the various people in the colonies and created a very intricate list of nomenclature to describe one's precise race and, by consequence, one's place in society. The precise classification was described by Eduardo Galeano in the 'Open Veins of Latin America' (1971). It included, among other terms mestizo (50% Spaniard and 50% Native American), Castizo (75% European and 25% Native American), Spaniard (51.5% European and 12.5% Native American), Mulatto (50% European and 50% African), Albarozada (43.75% Native American, 29.6875% European, and 26.5625%, African) etc.

At the end of the Renaissance, the Valladolid, debate (1550 – 1551) concerning the treatment of natives of the "New World" opposed the Dominican friar and Bishop of Chiapas Bartolome de Las Casas to another Dominican philosopher Juan Gines de Sepulveda. The latter argued that "Indians" were natural slaves because they had no souls, and were therefore beneath humanity. Thus reducing them to slavery or serfdom was in accordance with

Catholic theology and natural law. To the Contrary, Bartolomeo de Las Casas argued that the Amerindians were free men in the natural order and deserved the same treatment as others, according to Catholic theology. It was one of the many controversies concerning racism, slavery and Eurocentrism that would arise in the following centuries.

Although anti-Semitism has a long European history, related to Christianity (anti-Judaism) racism itself is frequently described as a modern phenomenon. In the view of the French intellectual Michel Foucault, the first formulation of racism emerged in the Early Modern period as the “discourse of race struggle”, a historical and political discourse which Foucault opposed to the philosophical and juridical discourse of sovereignty. Philosopher and historian Michel Foucault argued that the first appearance of racism as a social discourse (as opposed to simple xenophobia, which some might argue has existed in all places and times) may be found during the 1688 Glorious Revolution in Great Britain, in Edward Coke or John Lilburne’s work.

However, this “discourse of race struggle” as interpreted by Foucault, must be distinguished from 19th century biological racism, also known as ‘race science’ or “scientific racism”. Indeed this early modern discourse has many points of difference with modern racism. First of all, in this “discourse of race struggle”, “race” is not considered a biological notion- which would divide

humanity into distinct biological groups but as a historical notion. Moreover, this discourse is opposed to the sovereign's discourse: it is used by the bourgeoisie, the people and the aristocracy as a means of struggle against the monarchy. This discourse, which first appeared in Great Britain, was then carried on in France by people such as Boulainvilliers, Nicholas Freret and then, during the 1789 French Revolution, Sieyes and afterward Augustin Thierry and Cournot. Boulainvilliers, which created the matrix of such racist discourse in medieval France, conceived the "race" as something closer to the sense of "nation", that is, in his times, the "people".

He conceived France as divided between various nations – the unified nation – state is, of course, here an anachronism – which themselves formed different "races". Boulainvilliers opposed the absolute monarchy, who the French aristocrats as being the descendants of foreign invaders, whom he called the "Franks", while the Third Estate constituted according to him the autochthonous, vanquished Gallo – Romans, who were dominated by the Frankish aristocracy as a consequence of the right of conquest. Early modern racism was opposed to nationalism and the nation – state Comte de Montlosier, in exile during the French Revolution, who borrowed Boulainvilliers discourse on the "Nordic race" as being the French aristocracy that invaded the plebian "Gauls", thus showed his despise for the Third Estate

calling it “this new people born of slaves... mixture of all races and of all times.”

While 19th century racism became closely intertwined with nationalism, leading to the entire nationalist discourse which identified the “race” to the “folk”, leading to such movements as pan – Germanism, Zonism, pan – Turkism, pan – Arabism, pan – Farism (related to Persian racism), and pan – Slavism, medieval racism precisely divided the nation into various non – biological “races”, which were thought as the consequences of historical conquests and social conflicts. Michel Foucault traced the genealogy of modern racism to this medieval “historical and political discourse of race struggle”. According to him it divided itself in the 19th century according to two rival lines: on the one hand, it was incorporated by racist, biologists and eugenicists, who gave it the modern sense of “race” and, even more, transformed this popular discourse into a “state racism” (e.g. Nazism). On other hand, Marxists also seized this discourse founded on the assumption of a political struggle which provided the real engine of history and continued to act underneath the apparent peace. Thus, Marxists transformed the essential notion of “race” into the historical notion of “class struggle”, defined by socially structured position: Capitalist or proletarian. In ‘The Will to Knowledge (1976), Foucault analyzed another opponent of the “race struggle” discourse: Sigmund Freud’s psychoanalysis, which opposed the

concepts of “blood heredity”, prevalent in the 19th century racist discourse.

3.6.3 19th Century

Authors such as Hannah Arendt, in her 1951 book ‘The Origine of Totalitarianism; have said that the racist ideology (popular racism) which developed at the end of the 19th century helped legitimize the imperialist conquests of foreign territories and the acts that accompanied them (such as Herero and Namaqua Genocide of 1904 – 1907 or the American Genocide of 1915 – 1917) Rudyard Kipling’s poem ‘The White Man’s Burden (1899) is one of the more famous illustrations of the belief in the inherent superiority of the European culture over the rest of the world, though also thought to be a satirical appraisal of such imperialism, Racist ideology thus helped legitimize subjugation and the dismantling of the traditional societies of indigenou s peoples, which were thus conceived as humanitarian obligations as a result of these racist beliefs.

However, during the 19th century, West European colonial powers were involved in the Arab slave trade in Africa, as well as in suppression of the slave trade in West Africa. Other colonialists” recognized the depravity of their actions but persisted for personal gain and there are some Europeans during the time period who objected to the injustices caused by colonialism and lobbied on behalf of aboriginal people. Thus, when the Hottentot

Venus was displayed in England in the beginning of the nineteenth century, the African Association publicly opposed itself to the exhibition. The same year that Kipling published his poem, Joseph Conrad published 'Heart of Darkness' (1899), a clear criticism of the Congo Free State owned by Leopold II of Belgium.

Examples of racial theories used to legitimize the imperialist conquest include the creation of the Hamitic ethno – linguistic group during the European exploration of Africa. Used in different ways, the term was first used by Johann Ludwig Krapf (1810 – 1881) to qualify all languages of Africa spoken by black people. It was then restricted by Karl Friedrich Lepsius (1810 – 1877) to non – Semitic Afro – Asiatic languages.

The term 'Hamite' then became quite popular and was applied to different populations within Africa mainly comprising Ethiopians, Somalis, Berbers and Nubians. Hamitis were regarded as Caucasoid people who probably originated in either Arabia or Asia on the basis of their cultural, physical and linguistic similarities with the people of those areas. Europeans considered Hamitis to be more civilized than Black Africans and more akin to themselves and Semitic people. In the first two – thirds of the 20th century, the Hamitic race, was, in fact, considered one of the branches of Caucasian race, along with the Indo – Europeans, Dravidians, Semites and the Mediterranean race.

However, the Hamitic people themselves were often deemed to have failed as rulers, a failing that was usually ascribed

to interbreeding with Negroes. In the mid – 20th century, the German scholar Care Meinhof (1857 – 1944) claimed that the Bantu race was formed by a merger of Hamitic and Negro races. The Hottentots (Nama or Khoi) were formed by the merger of Hamitic and Bushmen (San) races – both being termed nowadays as Khoisan people. The term Hamitic is nowadays obsolete.

Racism spread throughout the “New World” in the late 19th and early 20th centuries. White capping which started in Indiana in the late 19th century, soon spread throughout all of North America causing many African labourers to flee from the land they worked on. In the US during the 1860s, racist posters were used during election campaigns. In one of these racist posters, a black man is depicted lounging idly in the foreground as one white man ploughs his field and another chops wood. Accompanying labels are : “In the sweat of thy face shalt thou eat thy bred.” And “The white man must work to keep his children and pay his taxes. The black man wonders, What is de use for me to work as long as dey make dese appropriations.” Above in a cloud is an image of the “Freedman’s Bureau! Negro Estimate of Freedom!” the bureau is pictured as a large domed building resembling the U.S. capital and is inscribed “Freedom and No work”. Its columns and walls are labeled, “Candy”, “Rum, Gin, Whisky”, “Sugar Plums”, “Indolence”, “White Women”, “Apathy”, “White Sugar”, “Idleness” and so on.

On June 6, 1873, Sir Francis Galton, distinguished English explorer and cousin of Charles Darwin, wrote in a letter to the Times:

“My Proposal is to make the encouragement of Chinese settlements of Africa a part of our national policy, in the belief that the Chinese immigrants would not only maintain their position, but that they would multiply and their descendants supplant the inferior Negro race”, “I should expect that the African seaboard, now sparsely occupied by lazy, palavering savages, might in a few years be tenanted by industrious, order – loving Chinese, living either as a semidetached dependency of China, or else in perfect freedom under their own law.”

3.6.4 In the Age of Enlightenment

While modern racism has an essentialist and biological conception of race, racist or xenophobic opinions have been shared by some authors, from the Antiquity to the Age of Enlightenment. However, this early form of racism did not conceive of “race” as a biological concept – as biology itself did not exist as such – but as the accidental effect of climate on physical traits. With the Age of Discovery, the diversity of mankind became an important topic of research, leading to debates concerning monogenism and polygenism, respectively endorsing the unique Origin of mankind (coherent with the Genesis Biblical account) and the multiple origins of mankind.

Pierre de Mupertius (1698 – 1759), for example, reconciled the Biblical account with the present diversity of “races” in his ‘Essai de philosophic morale’ (1749, Essay on Moral Philosophy), explaining “racial differences by climatic factors. He thus explained the color of black people through the inheritance of acquired characteristics, claiming white was the original colour of mankind. He also highlighted the spiritual strength of Africans seized as slaves pointing out how, like the Ancient Stoic philosophers, they prefer to die rather than to survive to capture.

Arguments on the influence of climate found additional weight with Buffon’s ‘Histoire naturelle’ in the middle of the 18th century, and his thesis on the unity of mankind was taken back by Diderot and d’Alembert’s ‘Encyclopedic’ in the article ‘Humaine, espece (human specie). According to Ann Thompson, although Buffon did establish a ‘clear hierarchy (...) between the beautiful white civilized races of the temperate zone and those savages who have degenerated in more extreme climates, his emphasis on the unity of the human race and his distinction between humans and other animals were extremely influential”. The abolitionists thus used his arguments to show that Africans were not naturally inferior and could be improved by different treatment and different climate.

The abbe Demanet (1767) claimed that a Portuguese colony in Africa had become black after several generations, due to the

effect of climate. This story was given wide credence by abolitionists, quoted for example by Cabians (1757 – 1808) and Thomas Clarkson (1760 – 1846). The abolitionist Physiocrat abbe Pierre –Joseph Andre – Roubaud alleged that black Africans would change skin color if they lived in different climatic condition.

According to Ann Thomson “What emerges from these examples is the overwhelming desire to insist on the unity of the human race by emphasizing the effect of the climate and other environmental causes, but not necessarily to claim the equality of all humans; for the existence of a hierarchy is not systematically denied but on the contrary, frequently accepted (exceptions quoted by Thomson includes James Dunbar and the abbe Gregiore). This of course was to have long – lasting effects in the Nineteenth century, when the arguments about climate were countered and the hierarchy was seen to be permanent, as the differences between humans were innate.

Moral factors were also considered to influence physical and psychical traits. The American abolitionist Anthony Benezet stated, in the ‘Historical account of Guinea’ (1772), that Africans in Africa were a sociable, virtuous and intelligent people; but that their servile condition in America explained their “degeneration” and adoption of the vices of Europeans. Furthermore, the theory of the Great Chain of Being, which asserted a continuity between animals and humans, thus contradicting Christian religion (and hence forth supported by materialists such as Diderot was used by

some, such as Edward Long, spokesman for the West India lobby, or Charles White's 'Account of the Regular Gradation in Man' (1799 – White denied the effect of climate) to assert the animal nature of some humans.

3.6.5 20th Century

Japan proposed racial equality at the Paris Peace Conference in 1919. The Japanese racial equality proposal got a large majority of votes; however, the proposal was declined by few countries with strong oppositions. Burma, China, India and Japan held the Greater East Asia Conference in 1943, at which the countries declared their intention to work for the abolition of racial discrimination. Imperial Japanese Army general Kiichiro Higuchi and colonel Norihiro Yasue saved 20,000 Jews from German genocide. Also, the Japanese diplomat Chuine Sugihara saved 6,000 Jews from German genocide. According to Herbert Bix, Racial discrimination against other Asians was habitual in Imperial Japan.

The Nazis considered Jews, Gypsies, and Poles along with other Slavic people like the Russians Ukrainians, Czechs and anyone else who was not an "Aryan" according to the contemporary Nazi race terminology to be subhuman. The Nazis rationalized that the Germans, being super human race, had a biological right to displace, eliminate and enslave inferiors. Some 6 million Jews were killed by the Nazis during the Holocaust.

After the war, under the “Big Plan”, General plan Ost foresaw the eventual expulsion of more than 50 million non – Germanized Slavs of Eastern Europe through forced migration, as well as some of the Balts, beyond the Ural Mountains and into Siberia. In their place, Germans would be settled in an extended “living space” of the 1000 Year Empire. Herbert Backe was one of the orchestrators of the Hunger Plan – the plan to starve tens of millions of Slavs in order to ensure steady food supplies for the German people and troops. Heinrich Himmler speaks to about 100SS Group Leaders in Posen, occupied Poland, 1943:

“What happens to the Russians, what happens to the Czechs, is a matter of utter indifference to me. Whether the other people live in comfort or perish of hunger interests me only in so far as we need them as slaves for our culture; apart from that it does not interest me. Whether or not 10,000 Russian women collapse from exhaustion while digging a tank ditch interests me only in so far as the tank ditch is completed for Germany. We Germans, who are the only people in the world who have a decent attitude to animals, will also adopt a decent attitude to these human animals, but it is a crime against our own blood to worry about them and to bring them ideals. I shall speak to you here with all frankness of a very serious subject. We shall now discuss it absolutely openly among ourselves; nevertheless we shall never speak of it in public. I mean the evacuation of the Jews; the extermination of the Jewish race.”

3.5.6 Inter – minority variants

Inter – minority racism is sometimes considered controversial because of theories of power in society. Prejudiced thinking among and between minority groups does occur, for example, conflicts between blacks and Korean Americans (notably in the Los Angeles riots of 1992), by blacks towards Jews (such as the riots in Crown Heights in 1991), between new immigrant groups (such as Latinos), or towards whites. One particularly pernicious form of racism in the United States is racial segregation, which arguably continues to exist today.

There has been a long – running racial tension between African Americans and Mexican Americans. There have been several significant riots in California prisons where Mexican American inmates and African Americans have specifically targeted each other based on racial reasons. There have been reports of racially motivated attacks against African Americans who have moved into neighborhoods occupied mostly by Mexican Americans and vice versa. In the late 1920s in California, there was animosity between the Filipinos and the Mexicans and between whites and Filipinos since they competed for the same job. Recently, there has also been an increase in racial violence between African immigrants and Blacks who have already lived in the country for generations.

The Aztlan movement has been described as racist. The movement's goal involves the pursuit of repossessing the American southwest. It has also been called the Mexican "reconquista" (re – conquest) whose name was inspired by the Spanish reconquista, which led to the expulsion of the Moors from Spain. According to gang experts and law enforcements agents, a longstanding race war between the Mexican Mafia and the Black Guerilla family, a rival African American prison gang, has generated such intense racial hatred among Mexican Mafia leaders or shot callers, that they have issued a "green light" on all blacks. A sort of gang life fatwa, this amounts to a standing authorization for Latino gang members to prove their mettle by terrorizing or even murdering any blacks sighted in a neighborhood claimed by a gang loyal to the Mexican Mafia.

In Britain, tension between minority groups can be just as strong as any minority group suffers with the majority population. In Birmingham, there have been long – term divisions between the Black and South Asia communities, which were illustrated in the Hands worth riots and in the smaller 2005 Birmingham riots. In Dewsbury, Yorkshire towns with a relatively high Muslim population, there have been tensions and minor civil disturbances between Kurds and South Asians.

During the Congo Civil War (1998 – 2003), Pygmies were hunted down like game animals and eaten. Both sides of the war regarded them as "subhuman" and some say their flesh can confer

magical powers. UN human rights activists reported in 2003 that rebels had carried out acts of cannibalism. Sinafasi Makelo, a representative of Mbuti pygmies, has asked the UN Secretary Council to recognize cannibalism as a crime against human and an act of genocide. A report released by the United Nations Committee on the Elimination of Racial Discrimination condemns Botswana's treatment of the 'Bushmen' as racist.

Some 70,000 black African Mauritians were expelled from Mauritania in the late 1980s. In the Sudan, black African captives in the civil war were often enslaved, and female prisoners were often used sexually. The Darfur conflict has been described by some as a racial matter. In October 2006, Niger announced that it would deport the Arabs living in the Diffa region of eastern Niger to Chad. This population numbered about 150,000. While the Government was rounding Arabs in preparation for the deportation, two girls died, reportedly after fleeing Government forces, and three women suffered miscarriages. The Ethiopian Jewish community's integration to Israeli's society has been complicated by racial attitudes on the part of some elements of Israeli society and the official establishment. The Israeli media reported that residents of Pisgat Ze'ev, a large Jewish settlement in East Jerusalem, had formed a vigilante – style patrol to stop interracial dating between Arab men and local Jewish girls. In the 2007 poll, more than half of Israeli Jews said that intermarriage should be equated with “national treason”.

The mass demonstrations and riots against African students in Nanjing, China, lasted from December 1988 to January 1989. Bar owners in central Beijing had been forced “not to serve black people or Mongolians” during the 2008 Summer Olympics. Some neighborhood committee in Guangzhou bar African from living in residential complexes.

In France, home to Europe’s largest population of Muslims – about 6 million – as well as the continent’s largest community of Jews, about 600,000 anti – Jewish violence, property destruction and racist language has been wildly increasing over the last several years and French – Jews are worried more every month that it will spiral even higher. Jewish leaders perceive as intensifying anti – Semitism in France, mainly among Muslims of Arab or African heritage, but also growing among Caribbean islanders from former colonies.

Serious race riots in Durban between Indians and Zulus erupted in 1949. Ne Win’s rise to power in Burma in 1962 and his relentless persecution of “resident aliens” led to an exodus of some 300,000 Burmese Indians. They migrated to escape racial discrimination and wholesale nationalisation of private enterprise a few years later in 1964. The Zanzibar Revolution of January 12, 1964 put an end to the local Arab dynasty thousands of Arabs and Indians in Zanzibar were massacred in riots and thousands more were detained or fled the island. On 4 August, 1972, Idi Amin, President of Uganda, ethnically cleaned Uganda’s Asians giving

them 90 days to leave the country. The Jakarta riots of May 1998 targeted many Chinese Indonesians. The anti – Chinese legislation was in the Indonesian constitution until 1998. Xenophobia against Chinese migrants is currently on the rise in Africa and Oceania. Anti – Chinese rioting, involving tens of thousands of people broke out in Papua New Guinea in May 2009. The Fiji coup of 2000 has provoked a violent backlash against the Indo Fijians. Fizi citizens of Indian, European, mixed race or other island heritage have become second – class citizens. Racial divisions also exist in Guyana and Malaysia.

UNESCO marks march 21 as the yearly **International Day for the Elimination of Racial Discrimination** in memory of the events that occurred on March 21, 1960 in Sharpe Ville, South Africa where police killed student demonstrators peacefully protesting against the apartheid regime.

3.7 Caste System in India

The Indian caste system describes the social stratification and social restrictions in the Indian subcontinent, in which social classes are defined by thousands of endogamous hereditary groups, often termed as jatis or castes. Within a jati, there exist exogamous groups known as gotras, the lineage or clan of an individual, although in a handful of sub – castes like Shakaldvipi, endogamy within a gotra is permitted and alternative mechanisms of restricting endogamy are used (e.g. banning endogamy within a

surname). However, none of the Hindu scriptures endorse caste – based discriminations.

Although generally identified within Hinduism, the caste system was observed among followers of other religions in the Indian subcontinent, including some groups of Muslims and Christians. The Indian Constitution has outlawed caste – based discrimination, in keeping with the socialist, secular, democratic principles that founded the nation. Caste barriers have mostly broken down in large cities, though they persist in rural areas of the country where 72% of India’s population resides. Nevertheless, the caste system, in various forms continues to survive in modern India strengthened by a combination of social perceptions and divisive politics.

3.7.1 History

There is no universally accepted theory about the origin of the Indian caste system. The Indian classes are similar to the ancient Iranian classes, (“pistras”) wherein the priests are Brahmins, the warriors are Kshatriyas, the merchants are Vastriya and the artisans are Huiti.

3.7.2 Varna and Jati

According to the ancient Hindu scriptures, there are four “Manusmriti varnas.” The Bhagvad Gita says varnas are decided as based on Guna and Karma Manusmviti and some other shastras mention four varnas: the Brahmins (teachers, scholars and priests),

the Kshatriyas (kings and warriors), the Vaishyas (agriculturists and traders) and Shudra (artisans, service providers).

This theoretical system postulated Varna categories as ideals and explained away the reality of thousands of endogamous jatis actually prevailing in the country. These jatis are the result of historical mixing among the “pure” Varnas – Varna Samkara. All those, including foreigners, tribals and nomads, who did not subscribe to the norms of the Hindu society were contagious and untouchables. Another group excluded from the main society was called Parijanya or Antyaja. This group of former “untouchables” (Dalits) i.e. downtrodden, was considered either the lower section of Shudras or outside the Varna system altogether. Passages from scriptures such as Manusmriti indicate that the varna system was originally non – hereditary.

Several critics of Hinduism state that the caste system is rooted in the Varna system mentioned in the ancient Hindu scriptures. However, many groups, such as ISKCON, consider the modern Indian caste system and the varna system as two distinct concepts. Many European administrators from the colonial era incorrectly regarded the Manusmriti as the “law book” of all the Hindus and thus concluded that the caste system is a part of Hinduism. This assertion is now rejected by most scholars, who state that it is a social practice, not a religious belief. Manusmriti, was in any case a work of reference for the Brahmins of north

India, especially Bengal and was largely unknown in southern India.

Although many Hindu scriptures contain passages that can be interpreted to sanction the caste system, they also contain indicators that the caste system is not an essential part of Hinduism. The Vedas placed no importance on the caste system, mentioning caste only once (in the Purush sukta) out of tens of thousands of verses. Most vedic scholars believe even this to be a subsequent and artificial insertion. In fact, none other than B.R. Ambedkar concluded after a thorough study that this is a much later interpolation and gave strong scholarly evidence to support no prohibition against anyone, including the Shudras listening to the Vedas or participating in any religious rite.

In 'Early Evidence for Caste in South India' George L. Hart stated that "the earliest Tamil texts show the existence of what seems definitely to be caste, but which antedates the Brahmins and the Hindu orthodoxy." He believes that the origins of the caste system can be seen in the "belief system that developed with the agricultural civilization", and was later profoundly influenced by "the Brahmins and the Brahmanical religion." These early Tamil texts also outline the concept of equality. Saint Valluvar has stated "piropokkum ella uyirkkum", which means "all are equal at birth". Likewise, saint Auvaiyaar has stated that there are only two castes in the world: those who contribute negatively and those who contribute positively. From

these, it can be inferred that the caste system is more of a socio – economic classes system.

3.7.3 Caste and Social Status

Traditionally, although the political power lay with the Kshatriyas, historians portrayed that the Brahmins as custodians and interpreters of Dharma enjoyed much prestige and many advantages

Fa Hien, a Buddhist pilgrim from China, visited India around 400 AD. “Only the lot of chandals he found inevitable; outcastes by reason of their degrading work as disposers of dead, they were universally shunned. But no other section of the population were notably disadvantaged, no other caste distinctions attracted comment from the Chinese pilgrim and no oppressive caste ‘system’ drew forth his surprised censure. In this period kings of Sudra and Brahmin origin were as common as those of Kshatriya varna and caste system was not wholly prohibitive and repressive.

The castes did not constitute a rigid description of the occupation or the social status of a group. Since British society was divided by class, the British attempted to equate the Indian caste system to their own social class system. They saw caste an indicator of occupation social standing and intellectual ability. Intentionally or unintentionally, the caste system became more rigid during the British Raj, when the British started to enumerate

castes during the ten year census and codified the system under their rule. The Harijans, or the people outside the caste system, had the lowest social status. The Harijans, earlier referred to as “untouchables” by some, worked in what were seen as unhealthy, unpleasant or polluting jobs. In the past, the Harijans suffered from social segregation and restrictions, in addition to extreme poverty. They were not allowed temple worship with others, nor water from the same sources. Persons of higher castes would not interact with them. If somehow a member of higher caste came into physical or social contact with an untouchable the member of the higher caste was defiled and had to bathe thoroughly to purge him or herself of the impurity. Social discrimination developed even among the Harijans. Sub – castes among Harijans, like dhobi, nai etc would not interact with lower – order Bhangis, who were described as “outcasts even among outcastes”.

Sociologists have commented on the historical advantages offered by a rigid social structure, such as the caste system and its lack of usefulness in the modern world. Historically, the caste system offered several advantages to the population of India. While Caste is nowadays seen by instances that render it anachronistic, in its original form, the caste system served as an important instrument of order in a society, where mutual consent rather than compulsion ruled. At that time the ritual rights as well as the economic obligations of members of one caste or sub – caste were strictly circumscribed in relation to those of any other caste

or sub – caste; where one was born into one's caste and retained one's station in society for life; where merit was inherited, where equality existed within the caste, but inter – caste relations were unequal and hierarchical. A well defined system of mutual interdependence through a division of labour created security within a community. In addition, the diversion of labour on the basis of ethnicity allowed immigrants and foreigners to quickly integrate into their own caste niches. The caste system played an influential role in shaping economic activities. The caste system functioned much like medieval European guilds, ensuring the diversion of labour, providing for the training of apprentices and in, some cases allowing manufactures to achieve narrow specialization for instance, in certain regions, producing each variety of cloth was the specialty of a particular sub – caste. Also, philosophers argue that the majority of people would be comfortable in stratified endogamous groups and that is what has have been in ancient times.

3.7.4 Caste system in South Asian Hindus

It is divided into Brahmin, Kshatriyas, Vaishyas, Shudras and Pariah

3.7.5 Caste mobility

Some scholars believe that the relative ranking of other castes was fluid or differed from one place to another prior to the arrival of the British. Sociologists such as Bernard Buber and

Marriott Me kim describe how the perception of the caste system as a static and textual stratification has given way to the perception of the caste system as a more processual, empirical and contextual stratification. Other sociologists such as Y.B. Damle have applied theoretical models to explain mobility and flexibility in the caste system in India. According to these scholars groups of lower – caste individuals could seek to elevate the status of their caste by attempting to emulate the practices of higher castes.

Flexibility in caste laws permitted very low – caste religious clerics such as Valmiki to compose the Ramayana, which became a central work of Hindu scripture.

According to some psychologists, mobility across broad caste lines may have been “minimal” though sub – castes (jatis) may change their social status over the generations by fission, re – location and adoption of new rituals Sociologist M.N. Srinivas has also debated the question of rigidity in Caste. In an ethnographic study of the Coorgs of Karnataka, he observed considerable flexibility and mobility in their caste hierarchies. He asserts that the caste system is far from a rigid system in which the position of each component caste is fixed for all time. Movement has always been possible and especially in the middle regions of the hierarchy. It was always possible for groups born into a lower caste to “rise to a higher position by adopting vegetarianism and teetotalism i.e. adopt the customs of higher castes. While theoretically “forbidden”, the process was not uncommon in practice. The

concept of sanskritisation, or the adoption of upper – caste norms by the lower castes, addressed the actual complexity and fluidity of caste relations.

Historical examples of mobility in the Indian Caste system among Hindus have been researched. There is also precedent of certain Shudra families within the temples of the Sri Vaishnava sect in South India elevating their caste.

The fact that many of the dynasties were of obscure origin suggests some social mobility. A person of any caste having once acquired political power could also acquire a genealogy connecting him with the traditional lineages and conferring Kshatriya status. A number of new castes, such as Kayasthas (scribes) and Khatriis (traders) are mentioned in the sources of this period. According to the Brahmanic sources, they originated from intercaste marriages, but this is clearly an attempt at rationalizing their rank in the hierarchy. Many of these new castes played a major role in society. The hierarchy of castes did not have a uniform distribution throughout the country. Khatri appears to be unquestionably a Prakritised form of the Sanskrit Kshatriya.

3.7.6 Reforms

There have been challenges to the caste system from the time of Buddha and from the time of Mahavira (Jaina founder) and (still earlier) of Gosala Maskarin (Ajivika founder).

Opposition to the system of varna (caste) is regularly asserted already in the Yoga Upanishad (of early medieval date); and is a constant feature of Cina – acara tantrism (Chinese derived movement in Asom and also of medieval date). The Natha system (likewise medieval) founded by Matsyaindranatha and by Gorakshanatha and spread throughout India, has likewise been in consistent opposition to the system of varna.

Many Bhakti period saints rejected the caste discriminations and accepted all castes, including untouchables, into their fold. During the British Raj, this sentiment gathered steam, and many Hindu reform movements such as Brahma Samaj and Arya Samaj renounced caste – based discriminations. The inclusion of so – called untouchables into the mainstream was argued for by many social reformers. Mahatma Gandhi called them “Harijans” (children of God) although that term is now considered patronizing and the term Dalit (downtrodden) is more commonly used. Gandhiji’s contribution toward the emancipation of the untouchables is still debated, especially in the commentary of his contemporary Dr. B.R. Ambedkar, an untouchables himself, who frequently saw Gandhiji’s activities as detrimental to the cause of upliftment of his people.

3.7.7 British Rule

The fluidity of the caste system was affected by the arrival of the British. Prior to that, the relative ranking of castes differed

from one place to another. The castes did not constitute a rigid description of the occupation or the social status of a group. The British attempted to equate the Indian caste system to their own class system. They saw caste as an indicator of occupation, social standing and intellectual ability. During the initial days of the British East India Company's rule caste privileges and customs were encouraged. But the British law courts disagreed with the discrimination against the lower castes. However, British policies of divide and rule as well as enumeration of the population into rigid categories during the 10 year census contributed towards the hardening of caste identities. During the period of British rule India saw the rebellions of several lower castes, mainly tribals that revolted against British rule. These were:

1. Halba rebellion (1774 – 79)
2. Bhopalpatnam Struggle (1795)
3. Bhil rebellion (1822 – 1857)
4. Paralkot rebellion (1825)
5. Tarapur rebellion (1842 – 54)
6. Maria rebellion (1842 – 63)
7. First Freedom Struggle (1856 – 57)
8. Bhil rebellion, begun by Tantya Tope in Banswara (1858)
9. Koi revolt (1859)
10. Gond rebellion, begun by Ramji Gond in Adilabad (1860)
11. Muria rebellion (1876)
12. Rani rebellion (1878 – 82)

13. Bhumkal (1910)

3.8 Modern Status of the Caste system

In some rural areas and small towns, the caste system is still very rigid. Caste is also a factor in the politics of India. The Govt. of India has officially documented castes and subcastes primarily to determine those deserving reservation (positive discrimination in education and jobs) through the census. The Indian reservation system, though limited in scope, relies entirely on quotas. The Government list consists of Scheduled Castes, Scheduled Tribes and Other Backward Classes:

3.8.1 Scheduled Castes (SC)

Scheduled castes generally consist of former “untouchables” (the term “Dalit” is now preferred). The present population is 16% of the total population of India (around 160 million) for example, the Delhi state has 49 castes listed as SC.

3.8.2 Scheduled Tribes (ST)

Scheduled tribes generally consist of tribal groups. The present population is 7% of the total population of India i.e. 70 million.

3.8.3 Other Backward Classes (OBC)

The Mandal Commission covered more than 3000 castes under OBC category and stated that OBCs form around 52% of the Indian population. However, the National Sample Survey puts the figure at 32%. There is substantial debate over the exact number of

OBCs in India. It is generally estimated to be sizeable, but many believe that it is lower than the figures quoted by either the Mandal Commission or the National Sample Survey.

The Caste – based reservations in India have led to widespread protests with many complaining of reverse discrimination against the forward castes (the castes that do not qualify for the reservation). The 2006 Indian anti – reservation protests are one major example. Many view negative treatment (or hatred) of forward castes as socially divisive and just as wrong.

3.9 Caste system among non – Hindus

In some parts of India, the Christians are stratified by sect, location and the castes of their predecessors usually in reference to upper class Syrian Malabar Nasranis Christians in Kerala are divided into several communities including Syrian Christians and the so – called “Latin” or “New Rite” Christians. Syrian Christians, especially Knanaya Christians tend to be endogamous and tend not to intermarry with other Christian castes. Also, very rarely are there inter marriages between Syrian Christians and Latin Rite Christians (converted in the 16th and 19th centuries) in Kerala, the Latin Rite Christians were converted mainly from lower castes where fishing was the traditional occupation. Due to active conversion by Latin Missionaries in the coastal belt of Kerala, the new Latin converts were poor and deprived. So, the Govt. of India gave them the social benefit of OBC status so that the deprived

members of that community can be uplifted. It is a matter of great significance that Missionary activities were done by Western Latin rite missionaries who did not understand the significance of the Caste System in India. None of the Syrian churches even indulged in these kinds of activities among the scheduled castes of India because they were aware of the prejudices of the caste system.

Syrian Christians derive status within the caste system from the tradition that they are converted Namboodiris and Jews, who were evangelized by St. Thomas. Writers Arundhati Roy and Anand Kurian have written personal accounts of the caste system at work in their community.

Anthropologists have noted that the caste hierarchy among Christians in Kerala is much more polarized than the Hindu practices in the surrounding areas, due to a lack of jatis. Also, the caste status is kept even if the sect allegiance is switched (i.e. from Syrian Catholic to Syrian Orthodox).

In the Indian state of Goa, mass conversions were carried out by Portuguese Latin missionaries from the 16th century onwards. The Hindu converts retained their caste practices. The continued maintenance of the caste system among the Christians in Goa, is attributed to the nature of mass conversions of entire villages, as a result of which social stratification was not affected. The Portuguese colonists, even during the Goan Inquisition, did not do anything to change the caste system. Thus the original Hindu Brahmins in Goa now became Christian 'Bamons' and the

Kshatriya became Christian noblemen called Chardos. The Christian clergy became almost exclusively Bamon. Vaishyas who converted to Christianity became Gauddos, and Shudras became Sudirs. Finally, the Dalits or “Untouchables” who converted to Christianity became Maharas and Chamaras (an appellation of the anti – Dalit ethnic slur Chamaar).

Units of social stratification, termed as “castes” by many, have developed among Muslims in some parts of South Asia. Sources indicate that the castes among Muslims developed as the result of close contact with Hindu culture and Hindu converts to Islam. The Sachar Committee’s report commissioned by the government of India and released in 2006, documents the continued stratification in Muslim society.

Among Muslims, those who are referred to as Ashrafs are presumed to have a superior status derived from their foreign Arab ancestry while the Ajlafas are assumed to be converts from Hinduism and have a lower status. In addition, there is also the Anzal caste among Muslims, who were regarded by anti – caste activities like Ambedkar as the equivalent of untouchables. In the Bengal region of India, some Muslims also stratify their society according to ‘Quoms’. While many scholars have asserted that the Muslim Castes are not as acute in their discrimination as that among Hindus, some like Ambedkar argue otherwise. He wrote that the social evils in Muslim society were “worse than those seen in Hindu society”.

The nastik Buddhists too have a caste system. In Srilanka, the Rodis have always been despised and they might have been out – casted by the Lankan Buddhists due to the absence of “ahimsa” (non – violence), which Buddhism heavily depends upon. The writer Raghavan notes: “That a form of worship in which human offerings formed the essential ritual would have been anathema to the Buddhist way of life goes without saying: and it needs no stretch of imagination that any class of people in whom the cult prevailed or survived in an attenuated form would have been pronounced by the sangha (i.e. the Buddhist clergy) as exiles from the social order.” Savarkar too believed that the status of the backward castes (e.g. Chamar) that performed non – violence only worsened. When Ywan Chwang travelled to South India after the period of Chalukyan Empire, he noticed that the caste system had existed among the Buddhists and Jains.

The Jains too have castes in places such as Bihar for example, in the village of Bundela, there are several “jaats” (groups) amongst the Jains. A person of one “jaat” cannot intermingle with a Jain of another “jaat”. They also cannot eat with the members of other “jaats”.

The Sikh Gurus criticized the hierarchy in the caste system. Where some castes were perceived by people as being better or higher than others (eg. Brahmins being higher than others) they preached all sections of society were valuable and merit and hard – work were essential aspects of life. In Shiromani Gurudwars

Prabandhak Committee, out of 140 seats, twenty are reserved for low castes Sikhs. However, the quota system has attracted much criticism due to lack of meritocracy, where merit is considered the single most important component of winning a seat.

3.9.1 Caste – related violence

Independent India has witnessed considerable amount of violence and hate crimes motivated by caste. Ranvir Sena, a caste – supremacist fringe paramilitary group based in Bihar, has committed violent acts against Dalits and other members of the scheduled caste community Phoolan Devi, who belonged to ‘Mallah’ lower – caste, was mistreated and raped by upper caste. In 1981, her gang massacred twenty – two Thakurs, most of whom were not involved in her kidnapping or rape. Phoolan Devi went on to become a politician and a Member of Parliament.

Over the years, various incidents of violence against Dalits, such as Kherlanji Massacee have been reported from many parts of India. At the same time, many violent protests by Dalits, such as 2006 Dalits protests in Maharashtra have been reported as well.

3.9.2 Caste politics

B.R. Ambedkar and Jawaharlal Nehru had radically different approaches to caste especially over constitutional politics and the status of “untouchables”. Until the mid 1970s, the politics of independent India was largely dominated by economic issues

and questions of corruption. But since 1980s, caste has emerged as a major issue in the politics of India.

The Mandal Commission was established in 1979 to “identify the socially or educationally backward”, and to consider the question of seat reservations and quotas for people to redress caste discrimination. In 1980, the commission’s report affirmed the affirmative action practice under Indian law whereby members of lower castes were given exclusive access to certain portions of govt. jobs and slots in public universities. When V.P. Singh govt. tried to implement the recommendation of Mandal Commission in 1989, massive protests were held in the country. Many alleged that the politicians were trying to cash in on caste – based reservation for purely pragmatic electoral purposes.

Many political parties in India have openly indulged in caste – based votebank politics. Parties such as Bahujan Samaj Party (BSP), the Samajwadi Party and the Janata Dal claim they are representing the backward castes and rely primarily on OBC support to win the elections. Remarkably, what is called a landmark election in the history of India’s biggest state of Uttar Pradesh, the Bahujan Samaj Party was able to gather majority in the state assembly elections with the support of the Brahmin community.

3.10 Criticism

There have been many criticisms of the caste system, both within and outside India. Criticism of the Caste system in Hindu society came both from the Hindu fold and Dalit.

3.10.1 Historical criticism

Gautama Buddha and Mahavira, the founders of Buddhism and Jainism respectively, were against any kind of caste structure. Further, rejection of caste may have developed before these religions within Hinduism. Many bhakti period saints such as Nanak, Kabir, Chaitanya, anyaneshwar, Eknath, Ramanuja and Tukaram rejected all caste – based discrimination and accepted disciples from all castes. Many Hindu reformers such as Swami Vivekananda believe that there is no place for the caste system in Hinduism. The 15th century saint Ramananda also accepted all castes, including untouchables, into his fold. Most of these saints subscribed to the Bhakti movements in Hinduism during the medieval period that rejected casteism. Nandanar, a low – caste Hindu cleric, also rejected casteism and accepted Dalits.

Some other movements in Hinduism have also welcomed lower – castes into their fold, the earliest being the Bhakti movements of the medieval period. Early Dalit politics involves many Hindu reform movements which arose primarily as a reaction to the advent of Christian Missionaries in India and their attempts to convert Dalits to Christianity, who were attracted to the prospect of escaping the Caste system.

In the 19th century, the Brahmo Samaj under Raja Ram Mohan Roy, actively campaigned against untouchability and Casteism. The Arya Samaj founded by Swami Dayanand also renounced discrimination against Dalits. Sri Ramkrishna Paramhansa and his greatest disciple Swami Vivekananda who founded the Ramkrishna Mission that participated in the emancipation of Dalits. Upper caste Hindus, such as Mannathu Padmanabhan also participated in movements to abolish Untouchability against Dalits, opening his family temple for Dalits to worship Narayan Guru, a pious Hindu and an authority on the Vedas, also criticized casteism and campaigned for the rights of lower – caste Hindus within the context of Hinduism.

The first “upper – caste” temple to openly welcome Dalits into their fold was the Laxminarayan Temple in Wardha in the year 1928 (the move was spearheaded by reformer Jannalal Bajaj).

The caste system has also been criticized by many Indian social reformers. Some reformers, such as Jyotirao Phule and Jyothee Thass argued that the lower caste people were the original inhabitants of India and were conquered in the ancient past by of “Brahmin invaders”. Mahatma Gandhi coined the “Harijan”, a euphemistic word for untouchable, literally meaning ‘Sons of God’. B.R. Ambedkar, born in Hindu Dalit community, was a strong critic of the caste system. He pioneered the Dalit Buddhist movement in India and asked his followers to leave Hinduism and convert to Buddhism. India’s first Prime Minister’s Jawaharlal

Nehru based on his own relationship with Dalit reformer Ambedkar, also spread information about the dire need to eradicate untouchability for the benefit of the Dalit community. Another example was the Temple Entry Proclamation issued by the last Maharaja of Travancore in the Indian state of Kerala in the year 1936. The Maharaja, proclaimed that “outcastes should not be denied the consolations and the solace of the Hindu faith “Even today, the Sri Padmanabhswany temple that first welcomed Dalits in the state of Kerala is revered by the Dalit Hindu community.

3.10.2 Contemporary Criticism

Kancha Haiiah, a Christian, formerly of the Shepherd caste in Andhra and professor at ‘Osmania University is known for his public and often un – compromising statements on Hindus and the caste system. He is considered an anti – Hindu by his critics. Similarly, Dalit rights activist such as Udit Raj, a Buddhist neo convert, who has attacked Hindus for still maintaining their Casteism has achieved some popularity among evangelical Christian groups such as the Dalit Freedom Network in their criticism of Hinduism. The website Dalistan (presently taken down), once banned by the Indian govt. is an example of anti – Brahmin and anti – Hindu rhetoric by Dalit extremists supported by Christian Missions.

Many Hindus point out that the caste system is related to the Indian society and not Hinduism (as is evident by, the presence

of caste among Indian Christians and Muslims). Brahmin organizations such as the Rashtriya Swayamsevak Sangh have actively criticized the caste system.

Some activities consider that the caste system is a form of racial discrimination. The participants of the United Nations Conference Against Racism in Durban, South Africa in March 2001, condemned discrimination due to the caste system, and tried to pass a resolution declaring that caste as a basis for the segregation and oppression of people in terms of their descent and occupation is a form of apartheid. However, no formal resolution was passed to that effect.

The alleged maltreatment of Dalits in India has been described by some authors as “India’s hidden apartheid”. Critics of the accusations point out the substantial improvements in the position of Dalits (former “Untouchables”) in post – Independence India. This is a consequent to the strict implementation over sixty decades, of the rights and privileges enshrined in the constitution of India (primarily) written by a Dalit, Ambedkar), which which is the principal object of article 17 in the constitution as implemented by the Protection of Civil rights Act 1955 and the fact India has had a Dalit, K.R. Narayan, for a President, as well as the disappearance of the practice in urban public life. According to William A. Haviland, however:

“Although India’s national constitution of 1950 sought to abolish caste discriminations and the practice of untouchability, the

caste system remains deeply entrenched in Hindu culture and is still widespread throughout southern Asia, especially in rural India. In what has been called India's "hidden apartheid" entire villages in many Indian states remain completely segregated by caste. Representing about 15 percent of India's population – or some 160 million people – the widely scattered Dalits endure near complete social isolation, humiliation and discrimination based exclusively on their birth status. Even a Dalit's shadow is believed to pollute the upper classes. They may not cross the line dividing their part of the village from that occupied by higher castes, drink water from public wells, or visit the same temple as the higher castes. Dalit children are still often made to sit in the back of the classrooms."

However, such allegations of apartheid are regarded by academic sociologists as a political epithet, since apartheid implies state sponsored discrimination and no such thing exists in India. The Constitution of India places special emphasis on outlawing caste discrimination, especially the practice of untouchability. In addition, the Indian penal code inflicts severe punishments on those who discriminate on the basis of caste. Anti – dalit prejudice and discrimination is a social malaise that exists primarily in rural areas, where small societies can track the caste lineage of individuals and discriminate accordingly. Sociologists Kevin Reitly, Stephen Kaufman, Angela Bodino, while being critical of casteism, conclude that modern India does not practice any "apartheid" since there is no state sanctioned discrimination. They

write that casteism in India is presently “not apartheid. In fact untouchables, as well as tribal people and members of the lowest castes in India benefit from broad affirmative action.

3.11 Caste and race

Allegations that caste amounts to race were addressed and rejected by B.R. Ambedkar, an advocate for Dalit rights and critic of untouchability. He wrote that, “The Brahmin of Punjab is racially of the same stock as the Chamar (Dalit) of Punjab. The Caste system does not demarcate racial division. Caste system is a social division of people of the same race.”

Such allegations have also been rejected by many sociologists such as Andre Beteille, who writes that treating caste as a form of racism is “politically mischievous” and worse, “scientifically nonsensical” since there is no discernible difference in the racial characteristics between Brahmins and Scheduled Castes. He writes that “Every social group cannot be regarded as a race simply because we want to protect it against prejudice and discrimination.”

The Indian govt. also rejects the claims of equivalency between Caste and Racial discrimination, pointing out that the caste issues as essentially intra – racial and intra – cultural. Indian Attorney General Soli Sorabjee insisted that “the only reason India wants caste discrimination kept off the agenda is that it will distract participants from the main topic racism. Caste

discrimination in India is undeniable but caste and race are entirely distinct.” Many scholars dispute the claim that casteism is akin to racism. The view of the caste system as “static and unchanging” has been disputed. Sociologists describe how the perception of the caste system as a static and textual stratification has given way to the perception of the caste system as a more processual, empirical and contextual stratification. Others have applied theoretical models to explain mobility and flexibility in the caste system in India. According to these scholars, groups of lower caste individuals could seek to elevate the status of their caste by attempting to emulate the practices of the higher castes.

Pakistani – American sociologist Ayesha Jalal also rejects these allegations. In her book “Democracy and Authoritarianism in South Asia” she writes that “As for Hinduism, the hierarchical principles of the Brahmanical social order have always been contented from within Hindu society, suggesting that equality has been and continues to be both valued and practised.

In India some observers felt that the caste system must be viewed as a system of exploitation of poor low – ranking groups by more prosperous high – ranking groups. In many parts of India, land is largely held by high – ranking property owners of the dominant castes. They economically exploit low – ranking landless labourers and poor artisans, all the while degrading them with ritual emphases on their so – called god – given inferior status. Matt Cherry, claims that Karma underpins the caste system and the caste

system traditionally determines the position and role of every member of Hindu society. Caste determines an individual's place in society, the work he or she may carry out and who he or she may marry and meet. According to him, Hindus believe that the Karma of previous life will determine the caste an individual will be (re) born into.

According to Stanford University scholar Oman Jain, there is no caste system currently in place in India. On 29 March 2007, the Supreme Court of India, as an interim measure, stayed the law providing for 27 percent reservation for Other Backward Classes in educational institutions like IITs and IIMs. This was done in response to a public interest litigation – Ashok Kumar Thakur VS Union of India. The court held that the 1931 census could not be determinative factor for identifying the OBCs for the purpose of providing reservation. The court also observed, “Reservation cannot be permanent and appear to perpetuate backwardness.” However, Supreme Court has later upheld the 27% reservation to OBCs.

3.11.1 Genetic Analysis

There have been several studies examining caste members as discrete populations, examining the hypothesis that their ancestors have different origins. A 2002 – 03 study by T. Kivisild et al. concluded that the “Indian tribal and caste population derive largely from the same genetic heritage of Pleistocene southern and

western Asians and have received limited gene flow from external regions since the Holocene.” Studies point to the various Indian caste groups having similar genetic origins and having negligible genetic input from outside Asia. Because the Indian samples for this study were taken from a single geographical area, it remains to be investigated whether its findings can be safely generalized.

As earlier 1995 study by Joanna L Mountain et al. of Stanford University had concluded that there was “no clear separation into these genetically distinct groups along caste lines”, although “an inferred tree revealed some clustering according to caste affiliation.” A 2006 study by Ismail Thanseem et al. of Centre for Cellular and Molecular Biology (India) concluded that the “lower caste groups might have originated with the hierarchical divisions that arose within the tribal groups with the spread of Neolithic agriculturists, much earlier than the arrival of Aryan speakers,” and “the Indo – Europeans established themselves as upper castes among this already developed caste – like class structure within the tribes”. The study indicated that the Indian Caste system may have its roots much before the arrival of the Indo – Aryans. A rudimentary version of the caste system may have emerged with the shift towards cultivation settlements and the divisions may have become more well – defined and intensified with the arrival of the Indo – Aryans.

A 2006 genetic study by the National Institute of Biological in India, testing a sample of men from 82 tribal and 45 caste

groups, concluded that the Indians have acquired very few genes from Indo – European speakers. More recent studies have also debunked the British claims that so called “Aryans” and “Dravidians have a “racial divide”. A study conducted by the Centre for Cellular and Molecular Biology in 2009 (in collaboration with Harvard Medical School, Harvard School for Public Health and the Broad Institute of Harvard and MIT) analyzed half a million genetic markers across the genomes of 132 individuals from 25 ethnic groups from 13 states in India across multiple caste groups. The study establishes, based on the impossibility of identifying any genetic indicators across caste lines, that castes in South Asia grew out of traditional tribal organizations during the formation of Indian society and was not the product of any “Aryan Invasion” and “subjugation” of Dravidian people.

The issue of lynching and racial discrimination sadly, is still present in our world today. Lynching was serious issue in the early 1900s when Caucasians (mainly men) tortured and killed the black community. Racial discrimination is when people are stereotyped, treated differently and looked at funny if they are not of the same race. There was a bill that was passed called the anti – lynching bill. There is an amendment that states that everyone is equal under the law. Even though congress has passed those laws, lynching and racial discrimination has not stopped. People are hard – headed and will do as they please. Some individuals don’t care

about the punishment they may receive, if convicted. Knowing that they did it is justice enough for them.

3.11.2 Has enough been done to stop discrimination in the United States?

Through the late 1950's and early 60's there was much discrimination from the whites to other races. White people were the ones to carry discrimination too far during the 1950's and 60's. Many people such as Martin Luther King Jr., Rosa Parks and many other civil rights leaders have contributed much to society, during their time to help control discrimination. In the past ten years there has been a great transformation of cultures and attitudes in the United States due to Civil Rights legislation. Plessey vs. Ferguson was famous court case that argued about a man's race. On June 7th 1982, a 30 year old black shoemaker was sitting in the 'white' car of the East Louisiana Railroad. This had started with a worker who asked Plessey to give up his seat and go to the "coloured" car. Plessey refused because he was very wealthy and was only 1/8 black. But he was still considered black under Louisiana's laws. John Howard Ferugson who created the separate car act, was the lawyer who had found Plessey guilty of refusing to leave the "white car". This case was good because it showed the true identity of discrimination in the United States. There blacks and whites did not attend schools together. A man by the name of Braun wanted to enroll her daughter into a white school because the "black"

school was extremely far and it was dangerous for his daughter. This case inspired the writing of the book “To Kill a Mockingbird” written by Harper Lee. The school refused her to enroll her “to separate from others of similar age and qualification solely because of their race, generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone.

Another book ‘Racism and Racial Inequality’ talks about the modern day racial discrimination that is happening in the society. More particularly, the book highlights the kind of racism and / or racial inequality that students and teacher experience in school. Racism and racial inequality is an old – aged problem. The differences in skin colour, cultural background, language, historical perspective and even socio – economic status seemingly divides the people in one society. From the very start of the book, it already implies about the problem. In this book, here are different readings/articles that talks about how racism and racial inequality are affecting the educational achievement of the students. In the same manner, however hard the policy makers and the school administrators seemed to try in creating a united and balanced school community, even the teachers are showing signs that racism and racial inequality affect them. This book can guide them in evaluating if there is really a need for changes in the educational policies and programs. This can also give the educational facilitators a new perspective regarding the conduct of

the educational system. There are proofs shown that however hard the teachers tried to become effective and efficient in teaching, the invisible line dividing the students still greatly affects how they behave and perform in school. This book can be a very important factor for the educational policy makers' decision in the very near future. It highlights the thoughts of not only one person, but the collective idea of the concern of individuals. The strength of this book lies in the fact that it provides various instances where racism and racial inequality are felt, particularly in the educational system.

3.11.3 Gender Discrimination

Gender discrimination prevents women from getting equal pay for equal work. Analogies between racial and gender discrimination are highly problematic, both theoretically and historically. Discrimination can perhaps be better understood when analogized with cancer. Discrimination, like cancer kills humanity. Discrimination, like cancer comes in many specific forms. And each form of discrimination, like cancer, must be recognized, treated with specific and focused efforts. When we recognize the differences between racial and gender discrimination we validate history and are more aptly able to end the current oppression of racial minorities and women. Ten years ago one of the most exclusive golf and country clubs in America, Shoal Creek, admitted its first black member after controversy surrounding the club's racial exclusionary policies nearly derailed the club's

coveted plans to host the championship tournament for the Professional Golf Association. Today, the National Council for Women is waging a similar war on a different golf and country club.

It is unlawful to discriminate against any employee for employment because of his/her race or colour in regard to hiring, terminating promotion, compensation, job training or any other privilege of employment. The new suit was filed in Fulton County, Superior Court, involves four black women who were former Coke employees. The world's largest soft drink company was maintaining racially based hiring practices and a hostile work environment for blacks and minority workers. Lawyers had filed this race – discrimination law suit, this one alleging that black workers has been passed over for promotion, paid less than their white colleagues and forced to do demeaning jobs. Coca Cola Company was slapped with a new racial discrimination lawsuit filed against the company after this. This current issue is based on the articles in the National Post on June 16, 2000. “Coca Cola Hit With New Race Bias Suit”.

3.12 Efforts at Solution

The very first thing we need to do as a nation and as individual members of society is to confront our past. We need to recognize it for what it was and is and not explain away, excuse it, or justify it. Having done that, we should make a good faith effort

to turn our history around so that we can see it in front of us, so that we can avoid doing what we have done for so long. Attempts to reverse centuries of inequality through assenting action and cultural self – determination are not attacks on whites as such, but on the system of racism. The goal of these strategies is not to turn the present racial order on its head but rather to achieve an anti – racist society where all individuals have the right to dignity, power, self – determination and expectation of equal outcomes for the value of their unique contributions to society.

3.12.1 Civil Rights Movement

Civil Rights Movement was at a peak from 1955 – 1965. Congress passed the Civil Rights Act of 1964 and the Voting Rights Act of 1965, guaranteeing basic civil rights for all Americans, regardless of race after nearly a decade of non – violent protests and marches ranging from 1955 – 56. Every Civil Rights Movement was key in the decline of racial discrimination in the United States. African Americans sat at “white only” lunch counters refusing to leave until served. The Voting Rights Act of 1965 put an end to literacy test, authorized federal examiners to register voters in areas suspected of denying African American the right to vote.

The 1960s version of fast – food restaurants had segregated lunch counters, then you will understand why we find it difficult to wait “Racism is the deepest level of hurt that can be placed on a

society”. Yet everyday the act of discrimination is shown everyday among all people. It included an important ban on federal funds towards programs that discriminated against blacks and helped guarantee black suffrage. On July 2, 1964 President Johnson passed the most extensive civil Rights Act of 1964. It incorporated many of the measures that the activists had pushed for on March at Washington. In June of 1963, President Kennedy televised a speech to guarantee the civil rights of African American.

3.12.2 Equal Employment Opportunity in the Workplace

Discrimination can be divided into two categories: Direct Discrimination and Indirect Discrimination. Direct discrimination is discrimination because of someone’s particular personal attribute such as age or race. For example a person may be thought to be too old for the job or the employer doesn’t like a certain race so he doesn’t hire a person from that racial background. Indirect discrimination occurs as a result of policies or regulations made that unintentionally discriminate against people with certain attributes e.g. a workplace will not hire people over a certain weight or height to work there. In 1964 the Sexual Discrimination Act was passed and in 1986 the first Act passed by the Equal Employment Opportunity Commission was the Affirmative Action Act which meant equal employment opportunity for women. The govt. should make it compulsory for all workplaces to have an

Affirmative Action plan and Equal Employment Opportunity in place. This was important because no matter how big the workplace discrimination still looms large and too many people are getting away with it.

3.12.3 Re – instatement to their position; or promotion to a senior position

Policies made by the Federal and State Governments throughout the last decade have paved the way for a fair workplace for all, but there are still a lot of employers that are not cooperating and employees are too scared to lose their job for one reason or another which makes it easy for the Boss and Other employee's to get away with discrimination. A report must be filed every three years as well as an active Affirmative Action Officer to implement the policy throughout the workforce. People applying for jobs were told that they were looking for someone younger and people said that they were overlooked for a promotion because of their age. The Women electoral lobby was formed for the specific purpose of making the demands of the Women's movement known to the Federal government. The sex discrimination act of 1984 mentioned above prohibits any discrimination on the grounds of gender, marital status, sexual harassment, sexual preference. It also prohibits dismissal on the grounds of family responsibility.

How important was the concept of race in Nazi ideology and policy in 1939, as opposed to attitudes towards religion,

culture, nationality and politics is made clear by this fact. Every now and then I will try to organize my files. I will start ambitiously by organizing them into logical groups English papers will go in this specific slot: math papers will go in that slot. The system works great for about a week, but overtime, it all breaks down, the slots get full and I accidentally mix a few items into the wrong slots. Before long, the whole situation begins to frustrate me and eventually I crack I then sit down in a fit of anger. I sort through all of the papers and throw most of them away. I tend to keep the files pertaining to my major because I anticipate needing them at a future date, but all of the other assignments usually end up in the trash.

My office space simply is not large enough to keep everything. This remotely parallels with how Adolf Hitler and the Nazi party viewed the world and the human population. In their warped and twisted perception, the world was like one giant office with documents and files competing for their existence. The Nazis believed it was their job to sort the good from the bad and make room more for good only.

Therefore their only remaining option was to seek out and eliminate other potentially destructive races: Jews, homosexuals, disabled, gypsies and more. The creation for sorting was race, but not race in the traditional sense. Furthermore, the Nazi party felt a sense of urgency. Second, he predicted that his race would need more space to grow and thrive as the dominant race of the earth.

The most relevant example is the feud between Judaism and Christianity. Since centuries, Christians demoting Jews to the lowest standards of life based solely on religion grew a cultural rift as well. Racial discrimination pushed Hitler and the Nazi regime over the edge and sparked the most destructive war in human history. For example, proponents of this new racial discrimination believed that Jews do what they do because of what is in their blood and not because of their upbringing. Yet the Nazis did not find results they had hoped for and Hitler demanded more. The year of 1939 was the breaking point for Hitler and the Nazi regime. The discriminator must either learn to accept the discriminated or make them go away. Many people participated in the Holocaust because of reasons other than racial discrimination. Yet it were the Christians who used this to further discriminate because they were the organization in power.

3.12.4 A System of Evaluation

To fight with racial discrimination should be based on six important rules of fairness that Folger and Greenberg developed in 1986. Such measures can also protect the employers from litigation or discrimination charges. According to Folger and Greenberg (1985), the following five rules should be part of every evaluation process: (Rules taken Verbatim)

(a) Consistency Rule

Allocation procedures should be consistent across persons and over time.

(b) Bias Suppression Rule

Personal self – interest in the allocation process should be prevented.

(c) Accuracy Rule

Decisions must be based on accurate information.

(d) Correct ability Rule

Opportunities must exist to enable decisions to be modified. Secondly it is also important to help employees understand the rating criterion. Not everyone may become a victim of discrimination but those who do form a large percentage of American workforce and for this reason, effective measures must be taken to resolve the issue once and for all.

(e) Discrimination on the basis of disability

The largest unemployed section in our country consists of workers with disabilities. They must understand the special needs of many diverse groups and formulate strategies and policies that suit everyone equally. She quietly left the job only to realize much later that she had been discriminated against and could have taken the matter to the court. Title VII clearly states that employers cannot discriminate of sex, colour or race and it also provides that: “It shall be an unlawful employment practice for an employer: a) to fail or refuse to hire or discharge an individual or otherwise

discriminate against any individual with respect to his compensation, terms, conditions or privileges of employment because of such individual's race, colour, religion, sex or national origin.

The reason why it is extremely important to have clear policies is because if the organization make it crystal clear that it has zero tolerance for discrimination, its employees are likely to adopt a tolerant and non – discriminatory attitude. Organizations today try their best to minimize risks of discrimination, on the basis of racial background, but the problem still exists and it plagues our organizational culture in the United States. It must be borne in mind that Equal Employment Opportunity Commission has given certain guidelines for organizational culture and policies, failure to adhere to which can lead to serious trouble for the companies. If a company is found to be adhering to all guidelines, it has a better chance of winning a discrimination lawsuit compared to a firm where such practices are found missing.

In the wake of political upheavals in Europe, as well as over population and oppression in many countries in the third world, the number of refugees and emigrants, immigrants is growing fast. As a consequence the ethnic conflicts are intensifying. An unsound type of nationalism, as well as religious fundamentalism and cultural chauvinism heightens the tension and we experience an increase of wars and violence. Some ethnic groups will regard themselves as superior to others and

consequently entitled to suppress and exterminate other groups. The resulting fight for political, economical and territorial privileges will lead to an increasing tendency towards racism.

3.12.5 The International Humanist and Ethical Union (IHEU)

Deplores the intense inter – communal hatred and warfare that have been unleashed in the former states of Yugoslavia. It proclaimed the following principles in addition to the basic human rights as central to the Balkan situation in central and to the world community in general:

1. The need to respect each individual's right to live in peace and dignity, no matter what his or her race, ethnicity, national origin or creed.
2. Although we need to appreciate diverse ethnic cultural and religious traditions, individuals must have the right to dissent, non – conformity and unbelief.
3. Individuals have the right to marry whom they wish and to raise children in any tradition.
4. We thus need to transcend the hatred of religious, ethnic or cultural chauvinism and xenophobia, and to declare and enunciate the value of tolerance and fellowship, so essential to the ability of societies to extend peace, protection freedom and dignity to all their members.

5. We strongly encourage all governments, especially the European, to immediately increase their contribution to the UN High Commissioner for Refugees in order to enable the work in aid of the tragic and increasing numbers of refugees from former Yugoslavia.
6. We support initiatives, taken to provide humanitarian aid to the civil population in former Yugoslavia, such as the planned Relay Solidarity Concerts in European capitals.
7. We urge that politicians in power, the struggling parties and leaders of the various religious groups do whatever they can to stop the war activities so that the suffering of the Balkan people can come to an end.

3.12.6 Women's rights and the position of women in the IHEU (International Humanist and Ethical Union)

1. Women's rights are human issues, affecting all society, both women and men, in all areas of community life: equality in education, in job opportunities, in decision making, in access to councils and boards.
2. The right to reproductive freedom and to access to all birth control methods should be recognized as a fundamental human right and not as a privilege conferred by and regulated by the state. The choice to have a safe abortion should be a legal right of all women and should not be

restricted by religious or social conditions or by regressive laws.

3. Violence against women in any form and sex determination is strongly condemned. Women's right to live in a world free of all forms of sexual coercion must be recognized and respected.
4. The double burden of women can only be resolved if men and women share equally in the paid and unpaid labour so that parents can bring up their children in a spirit of equality of the sexes.

Therefore the IHEU should incorporate women's issues in plenary sessions, for which a women's caucus should be established. Each member organization should select a greater number of women as delegates to the IHEU Board.

3.12.7 The Legal situation of homosexuality

The 67th meeting of Non – Governmental Organisations holding consultative status with the Council of Europe and interested in human rights, present in Strasbourg on October 1990 held that:

1. Having read the “Memorandum on Recent Development in Law Affecting the Human Rights of Homosexual Women and Men” introduced by the International Humanist and Ethical Union on September 28 1989;

2. Convinced that the fight against all forms of discrimination is of vital importance for the maintenance and further realisation of human rights in the member states of the Council of Europe;
3. Convinced that the moral objections of some religious or beliefs against homosexuality should be respected, but that such objections cannot be accepted as reasonable and objective justifications for restrictions by member states on the exercise of the rights guaranteed by the European Convention On Human Rights;
4. Endorsing the Parliamentary Assembly's Recommendation 924 (1981) on discrimination against homosexuals;
5. Noting that since the Recommendation several member states have repealed laws which discriminated against homosexuality;
6. Acknowledging the impetus given to this process by the judgements of the European Court of Human Rights in the Dudgeon and Norris cases;
7. Observing, however, that a number of member state have kept in force – or even introduced – a variety of laws which discriminate against homosexuality;
8. Convinced that these law are liable to be used as a justification of further discrimination and attacks against homosexual men and women.
9. Calls on the member states

- a) To repeal all laws which discriminate against homosexuality;
- b) To refrain from introducing new discriminatory laws;

10. Calls on the Council of Europe

- a. To monitor developments in the social and legal position of homosexuality in the member – states.
- b. To keep the various bodies of the Council of Europe informed of these developments.
- c. To take initiatives to accelerate the recognition of the equal value of all human beings and to fight against discrimination of homosexual men and women in all member states.

The very first thing we need to do as a nation and as an individual members of society is to confront our past. We need to recognize it for what it was and is and not explain away, excuse it or justify it. Having done that, we should make a good faith effort to turn our history around so that we can see it in front of us, so that we can avoid doing what we have done for so long. Attempts to reverse centuries of inequality through assenting action and cultural self – determination are not attacks on whites, as such, but on the system of racism. The goal of these strategies is not to turn the present racial order on its head but rather to achieve an anti – racist society where all individuals have the right to dignity, power, self – determination and expectation of equal outcomes for the value of their unique contributions to society.

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Chapter - 4

ETHICS OF ABORTION: IS IT MORAL OR IMMORAL TO HAVE AN ABORTION?

4.1 Introduction

What is ethics? What is morality? How can one behave in a moral manner? These are among the most difficult and most interesting questions which face people of any age. Today, however, with advancing technology, difficult moral situations come upon us faster than we can ever create the questions, much less find the answers.

Some of the most rancorous and divisive debates in modern science either touch upon or are tied up with issues like pregnancy, women's autonomy, abortion and the status of a fetus. A better understanding of them can be aided by a detailed examination of some specific moral dilemmas that have arisen. Reasoning in moral problems is often best learned by observing and doing.

Abortion is a very controversial subject that has been continually argued since the past few years and will be argued for probably many years to come. The main controversy is should abortion be legalized? First before we get into the many sides of abortion we must first define abortion. Abortion is the destruction of the fetus or unborn child while the child is still in the mother's

womb. This can be done by almost anyone from the mother herself to back alley abortions and even to abortions by clinics set up especially for this purpose. There are two sides to this abortion topic, the PRO – LIFE which is those who are against abortion altogether and the PRO – CHOICE are those who believe it is the woman’s right to choose, if she wants to have any abortion. These two groups offer different solutions to the problem. The pro – life solution is to have the child and basically live with it. These believe abortion is not an answer. The pro – choice solution is abortion because of reasons they feel are appropriate.

Although abortion is morally and ethically wrong should it be legal for victims of rape or incest who have no other alternative? There is no real answer to this controversy. There are two sides to it through which we have been arguing for many years over the subject. The first is the pro – life group. This group does not believe in the abortion factor. To understand where the pro – life stands we must first understand its beliefs and reason for its beliefs. Then we can discuss what their solution to the abortion topic is.

Pro – life believes that rape and incest are very emotional topics. “They often elicit throughout the population feelings of revulsion; People draw back from the issue of rape and incest. People don’t know how to handle a person who is in so much pain. There is no quick fix. That is why it is difficult for even pro – life

people to come to grips with the argument over abortion in cases of rape and incest.

Some of those who are pro – life will allow abortion in those cases because they don't know what else they can do for the victim and accept it as a rare case. But it is known that allowing abortion in these cases usually does not help the victim, instead it only worsens the problem because the victim's needs are not being met.

But what the facts suggest is that only a minority of rape and incest victims actually choose abortion. This is where pro –life has its biggest problem. Pro – life states that “Abortion is not usually chosen as the immediate solution for rape and incest victims but that is the prevailing belief of the general problem. A woman has been raped and made pregnant: “OH! she's got to have an abortion”. No one has studied the rape and incest victims needs; abortion is presumed to fill her needs.

Various studies and research indicate that rape and incest victims fall into a high – risk category of abortion. But what happens after a victim has an abortion? Jackie Baker a victim stats: “I soon discovered that the aftermath of my abortion continued a long time after the memory of my rape had faded. I felt empty and horrible. Nobody told me about the emptiness and pain I would feel deep within causing nightmares and deep depressions. They all told me that after the abortion I could continue, with my life as if nothing ever happened.” (Reardon 21 – 22). This is the story we

hear from a lot of aborted women. Today in our society it is believed by most people that it is the woman's fault just as much as the man's fault, if not more. Many people think women are responsible for contributing to the rape itself. Then the rape – victims feel self – blame and guilt. And even then a rape or incest victim's family members or close friends may reinforce, these negative feelings. Or they drop the problem because they don't know how to talk about it.

We even see the same thing in the abortion experience. When a person becomes pregnant because of rape or incest these is a permanent symbol of the rape, at least until it is aborted. Women who have had abortions fear being rejected by God and loved ones. It is a very traumatic experience which takes time. The fact is that you are really telling your loved ones of a death in the family.

Opinion polls have shown for years that women are more against abortion than men are. The women led the opposition of abortion. In 1983 a Los Angel's Times poll found that only 47% of women (compared with 57% of men) favoured the general availability of abortion (Pro Life Feminism: Pro Women, Pro – Life6) So what is this telling us? The facts are very clear men prefer abortion over women by a large percent. And most women do not agree with abortion. So why does it still exist today?

What pro –life feels is really happening is that in our society today abortion is becoming the solution to carelessness. Abortion does nothing to help the victim of rape, and that is the

problem they are trying to address in the first place. Instead, abortion encourages the victim to vent their anger out on others.

Pro – life believes that child birth on the other hand can be a victory. For those victims who chose child birth over abortion, it can be a triumph. It can state that the victim is not going to let rape destroy her life. When the needs of pregnant victims is closely examined it can be shown that abortion is not the answer and is in fact only worsening the problem (Reardon 21 – 22)

But the worst thing abortion has on the victim is mental strain. Many victims become confused and overwhelmed by feelings they thought they would never have and don't know what to do. After having an abortion victims thought they had solved the problem but in fact they had really just started a whole new one. Many victims began thinking there was something wrong with them and began to doubt themselves in situations that they would normally be sure of themselves. Others plunge into deep depressions which they don't come out for weeks at end. This is one of the worst side effects of having an abortion and most women don't realize, it will happen to them because they are too busy trying to correct the immediate problem.

Pro – life persons don't have any reason to be ashamed to defend pro – life view in case of rape and incest. They feel the ones who should be ashamed are the pro – abortionists who have been exploiting the problems of the victims.

PRO – CHOICE has a different view to this whole abortion controversy. Pro – choice believes that it is the person's right to have an abortion if they want to and that no one should interfere with that right. Pro – choice has many reasons for feeling this way. First lets talk about who has abortions and why they have abortions. There are 1.6 million abortions in the United States every year, there is no real special class of people who have abortions.

Why does pro – choice feel that abortion is all right? Well pro – choice believes that the answer is what the woman believes. The most common reason for abortions is when contraception fails. What a person is suppose to do when the birth control method fails? The fact is that contraceptive failure led to 1.6 to 2 million of the 3.3 million unwanted pregnancies in the United States in 1987. These pregnancies account for half of the 1.5 million abortions performed every year. Besides these reasons for abortion women also give researchers other reasons for getting an abortion.

In 1987 a survey of 1,900 women at 30 abortion facilities were asked, why do women have abortions? The women could give as many reasons as they wanted and most of the women responded with one or more of these top six reasons:

1. Concerned about how having a baby could change her life
92%
2. Not mature enough or too young to have a child 81%
3. Can't afford baby now, 73%

4. Doesn't want others to know she had sex or is pregnant
42%
5. Doesn't want to be a single parent 37%
6. Unready for responsibility 33%

There have been many studies done on smaller groups that exposed the exact same reasons for having an abortion. Older women were more likely to say that their families were complete while younger women said that a baby would interfere with education career and personal freedom. At any age women say they have too many responsibilities and not enough money to take care of a baby.

The reasons for which the public is approving of abortions is not always the reasons of the person who wants to have an abortion. Women do not have abortions because of rape, incest, deformed fetuses, or because their physical life is in danger. But these are the best reasons accepted by the public. Being poor, too young, unmarried and not wanting a baby are the most unpopular reasons for having an abortion and are looked down upon by the public. Pro – choice feels the main reason for abortions is because contraception failed and they did not want to have a baby at the time.

What are the benefits of having an abortion? Well the most obvious one is abortion itself. First of all pro – choice wants to make it clear where they stand. They believe in first time abortions. This is usually because of contraceptive reasons or

maturity, but where they draw the line is at third or fourth time abortions. This is because although they think abortions should be legal they believe that it a little extreme and may be a solution to a bad habit.

But the big benefit of having an abortion can be seen right away is relief. The feeling most women have after having an abortion is relief. A 44 year old psychologist with three children had an illegal abortion at 18 and a legal abortion at 28. Both times she primarily felt relieved for herself and all the family members for whom she was responsible. Another example is of a newly married 27 year old elementary school teacher. She had two abortions as the psychologist. There have been many studies that researched what the primary reactions to having an abortion was. One study done by Kaiser Permanent in northern California asked women subscribers how they felt about their abortions. The most common answer was relief.

Abortion also leads to safer contraception. After a person has to go through an abortion because of a failure in contraception it is found that from then on the couple is much more cautious about safe – sex. It is found that almost all of the 742 low – income women who received abortions in 1970 – 71 at the State University Hospital in Syracuse, New York, intended to use contraception in the future, an attitude that was even stronger after their abortions. Perhaps abortion is actually a lesson in life.

Another positive impact is maturity. How might be a person mature because of their abortion experience? Well, the most obvious example of maturity is after an abortion the aborted person usually changes their bad habits. This could be anything from safe – sex to everyday things like listening to others. This may not have been the case before the abortion. When people were asked how they felt about themselves after the abortion many of them responded by say thing they feel more mature. It caused them to reevaluate their behavior, their lives and their future. Others felt they were freer and stronger. Two benefactors to having an abortion is increased self – image, self – esteem and increased psychological health. It is said that an abortion usually changes a women’s uncertain self – image into a good self – image. The average woman gets back the self before she got pregnant and sometimes a little more It is also said that it can increase your psychological health. Can this really be? Pro – life states that a woman is damaged by abortion, but pro – choice women state that it is not so and it actually benefited them.

Pro – choice also believes that it is the moral right for a person to be able to control their own body whether it is having a baby or destroying it. They feel it is the woman’s right to be able to do what she wants with herself and what she has created. Pro – choice also argues that at the stage where abortion is done the fetus is not really a human being therefore it is like you are not

destroying anything. It is merely biological and really does not exist until further stages.

This is the reason why pro – choice is arguing for the legalization of abortion. They feel that the increase in maturity in women after abortion, safer – sex, increased mental health and increased self – esteem and self – image are good enough reasons for legalizing abortion.

After researching about abortion the solution that we find best fit to the abortion controversy is that although abortion is morally and ethically wrong there is no real alternatives for those who are victims of rape or incest. That is why the best solution to this controversy is to legalize abortion for those who are victims of these awful crimes. Although pro – life and victims of rape and incest state that abortion adds to the pain of these crimes there is no other real solution. Most victims would agree that it would be better to suffer through the pain of abortion than to live with a deformed child or even worse a child that is not really your own as a product of rape or incest. Victims of these crimes also report feeling dirty, guilty, sexually violated etc. But is that as bad as having to be constantly reminded of the traumatic experience you went through everyday you see your child? Your child is a victim too.

Abortion on the other hand should not be legal for all. When a person chooses to have sex she is taking a chance. This she does of her own free will and she has control over what she is

doing. This is the total opposite of the rape victim. If a person decides to have sex whether it is safe or not, what happens after that is her responsibility as well as his. And if you are going to choose to participate in this risky and unsafe practice then you must be ready to pay the consequences.

We also believe that a fetus is still a child contradictory to the beliefs of the Pro – Choice. We think that when two people create something like a child, even if it is as small as a fetus it should still be considered a child because it is a living breathing organism made by the two people. We think that even a fetus has rights to a good life, love and happiness no matter how small it is and no one should be able to take that away from him.

Therefore our solution to the abortion problem is, it should be legal for only those who are victims of rape or incest, if they so chose to have an abortion. But it should be illegal for those who are not victims because they chose to do what they did and they must deal with what they have created.

4.2 Abortion is Serious ethical Issue

Usually debates about abortion focus on politics and the law; should abortion be outlawed and treated like the murder of a human person, or remain a legal choice available to women? Behind the debates are more fundamental ethical questions which are not always given the specific attention they deserve. Some believe that the law shouldn't legislate morality, but all good law is

based upon moral values. A failure to openly discuss those values can obscure important discussions.

Though the points that can be made in opposition to and in support are many and the aforesaid discussion discusses most points of it, the following ten points represent a range of topics as seen from both sides:

4.2.1 Pro – life

1. Since life begins at conception, abortion is akin to murder as it is the act of taking human life. Abortion is in direct defiance of the commonly accepted idea of the sanctity of human life.
2. No civilized society will permit any human to intentionally harm or take the life of another human without punishment and abortion is not different.
3. Adoption is a viable alternative to abortion and accomplishes the same result. And with 1.5 million American families wanting to adopt a child, there is no such thing as an unwanted child.
4. An abortion can result in medical complications later in life; the risk of ectopic pregnancies doubles and the chance of a miscarriage and pelvic inflammatory disease also increases.
5. In the instance of rape or incest, proper medical care can ensure that a woman will not get pregnant. Abortion

punishes the unborn child who committed no crime. Instead, it is the perpetrator who should be punished.

6. Abortion should not be used as another form of contraception.
7. For women who demand complete control of their body, control should include preventing the risk of unwanted pregnancy through the responsible use of contraception or, if that is not possible, through abstinence.
8. Many Americans who pay taxes are opposed to abortion, therefore it is morally wrong to use tax dollars to fund abortion.
9. Those who choose abortions are often minors or young women with insufficient life experience to understand fully what they are doing. Many have life long regrets afterwards.
10. Abortion frequently causes intense psychological pain and stress.

4.2.2 Pro – Choice

1. Nearly all abortions take place in the first trimester, when a fetus cannot exist independent of the mother. As it is attached by the placenta and the umbilical cord, its health is dependent upon her health and cannot be regarded as a separate entity as it cannot exist outside her womb.

2. The concept of personhood is different from the concept of human life. Human life occurs at conception, but fertilized eggs used for in vitro fertilization are also human beings and those not implanted are routinely thrown away. Is this murder, and if not, then how is abortion murder?
3. Adoption is not an alternative to abortion, because it remains the woman's choice whether or not to give her child up for adoption. Statistics show that very few women who give birth choose to give up their babies – less than 3% of white unmarried women and less than 2% of black unmarried women.
4. Abortion is a safe medical procedure. The vast majority of women – 88% - who have an abortion do so in the first trimester. Medical abortions have less than 0.5% risk of serious complications and do not affect a woman's health or future ability to become pregnant or give birth.
5. In the case of rape or incest, forcing a woman made pregnant by this violent act would cause further psychological harm to the victim. Often a woman is too afraid to speak up or is unaware if she is pregnant, thus the morning pill after it is ineffective in these situations.
6. Abortion is not used as a form of contraception. Pregnancy can occur even with responsible contraceptive use. Only 8% of women who have abortions do not use any form of

birth control and that is more due to individual carelessness than to the availability of abortion.

7. The ability of a woman to have control of her body is critical to civil rights. Take away her reproductive choice and you step onto a slippery slope. If the government can force a woman to continue a pregnancy, what about forcing a woman to use contraception or undergo sterilization?
8. Taxpayer's dollars are used to enable poor women to access the same medical services as rich women, and abortion is one of these services. Funding abortion is no different from funding a war in the Mideast. For those who are opposed to it, the place to express outrage is in the voting booth.
9. Teenagers who become mothers have grim prospects for the future. They are much more likely to take leave of school; give inadequate parental care; rely on public assistance to raise a child; develop health problems; or end up divorced.
10. Like any other difficult situation, abortion creates stress. Yet the American Psychological Association found that stress was greatest prior to an abortion, and that there was no evidence of post – abortion syndrome.

4.3 History

Now, as the issue is clear, abortion refers to the voluntary terminations of a pregnancy, resulting in the death of the fetus or embryo. Abortions performed prior to the third trimester are legal in the United States, although the issue has polarized mainstream political parties. Almost all state Democratic Party platforms support abortions while almost all state Republican Party platforms oppose it.

Abortion has existed in almost every society and was legal under Roman law, which also condoned infanticide. Today, almost two – thirds of the women in the world may obtain a legal abortion.

When America was founded, abortion was legal. Laws prohibiting abortion were introduced in the mid – 1800s, and by 1900, most had been outlawed. Outlawing abortion did nothing to prevent pregnancy, and some estimates put the number of annual illegal abortions from 200,000 to 1.2 million in the 50's and 60's. States began liberalizing abortion laws in the 1960s, reflecting changed societal mores and perhaps, the number of illegal abortions. Then in 1965, the Supreme Court introduced the idea of a “right to privacy” in *Griswold v. Connecticut* as it struck down laws that banned the sale of condoms to married people.

Abortion was legalized in 1973 when the U.S. Supreme Court ruled in *Roe v. Wade* that during the first trimester, a woman has the right to decide what happens to her body. This landmark decision rested on the “right to privacy” which was introduced in

1965. In addition, the Court ruled that the State could intervene in the second trimester and could ban abortions in the third trimester. However; a central issue, which the court declined address, in whether human life begins at conception, at birth, at some point in between. In 1992, in *Planned Parenthood v. Casey*, the Court overturned Roe's trimester approach and introduced the concept of viability. Today, approximately 90% of all abortions occur in the first 12 weeks. In the 1980s and 1990s, anti – abortion activism – spurred on by opposition from Roman Catholics and conservative Christian groups – turned from legal challenges to the streets. The organization Operation Rescue organized blockades and protests around abortion clinics. Many of these techniques were prohibited by the 1994 Freedom of Access to Clinic Entrances (FACE) Act.

4.4 Current Status

The most controversial issue is the so – called “partial birth” abortion, a rare procedure. Beginning in the mid 90's, Republicans in the U.S. House of Representative and U.S. Senate introduced legislation to ban “partial birth” abortions. In late 2003, Congress passed and President George W. Bush signed the Partial – Birth Abortion Ban Act (H.R. 760 S 3). This federal legislation was drafted after the Supreme Court ruled Nebraska's “partial birth” abortion law unconstitutional because it did not allow a doctor to use the procedure even if it were the best method to preserve the health (life) of the mother. Congress attempted to

circumvent this ruling by declaring that the procedure is never medically necessary.

Challenges were filed in California, Nebraska and New York. On June 2, 2004, U.S. District Court Judge Phyllis Hamilton (San Francisco) struck down the federal statute on three grounds: it places an undue burden on a woman seeking a second trimester abortion, the language is unconstitutionally vague and the law does not have required exception for procedures that preserve a woman's health. The case is expected to be appealed to the Supreme Court. Action has moved to the statehouse, where 16 bills were enacted between January and May 2005; this is more than passed during calendar 2004, according to the Alan Gutmacher Institute, a reproductive – rights policy organization.

4.5 Abortion Controversy

In the United States, abortion laws began to appear in the 1820s, forbidding abortion after the fourth month of pregnancy. Through the efforts primarily of physicians, the American Medical Association and legislators, most abortions in the U.S. had been outlawed by 1900. Illegal abortions were still frequent during the reign of the Comstock Law which essentially banned birth control information and devices. Some early feminists, like Susan B. Anthony, wrote against abortion.

They opposed abortion which at the time was an unsafe medical procedure for women, endangering their health and life.

These feminists believed that only the achievement of women's equality and freedom would end the need for abortion (Elizabeth Cady Stanton wrote in 'The Revolution', "But where shall it be found, at least begin, if not in the complete enfranchisement and elevation of woman?") They wrote that prevention was important than punishment, and blamed circumstances, laws and the men they believed drove women to abortions. (Matilda Joslyn Gage wrote in 1868, "I hesitate not to assert that most of this crime of child murder, abortion, infanticide lies at the door of male sex...").

Later feminists defended safe and effective birth control – when that became available – as another way to prevent abortion. (Most of today's abortion rights organizations also state that safe and effective birth control, adequate sex education, available health care and the ability to support children adequately are essentials to prevent the need for many abortions) By 1965, all fifty states banned abortion, with some exceptions which varied by state: to save the life of the mother, in cases of rape or incest or if the fetus was deformed. Groups like the National Abortion Rights Action League and the Clergy Consultation Service on Abortion worked to liberalize anti – abortion laws. The Supreme Court in 1973, in the case of Roe v. Wade declared most existing state abortion, laws unconstitutional. This decision ruled out any legislative interferences in the first trimester of pregnancy and put limits on what restrictions could be passed on abortion in later stages of pregnancy.

While many celebrated the decision, others, especially in the Roman Catholic Church and in the theologically conservative Christian groups, opposed the change. “Pro – life” and “pro – choice” evolved as the most common self – chosen names of the two movements, one to outlaw most abortion and the other to eliminate most legislative restrictions on abortions. Early opposition to the lifting of abortion restrictions included such organizations as the Eagle Forum, led by Phyllis Schlafly. Today there are many national profile organizations which vary in their goals and strategies. Opposition to abortions has increasingly turned physical and even violent – first in the organized blocking of access to clinics which provided abortion services, organized primarily by Operation Rescue, founded in 1984 and led by Randall Terry.

On Christmas Day, 1984 three abortion clinics were bombed and those convicted called the bombings “a birthday gift for Jesus.” Within the churches and other group opposing abortion, the issue of clinic protests has become increasingly controversial, as many who oppose abortions move to separate themselves from those who propose violence as an acceptable solution. The latest major conflict over abortion laws has been over termination of late pregnancies, termed “partial birth abortions” by those who oppose them. Pro – choice advocates maintain that such abortions are to save the life or health of the mother or terminate pregnancies where the fetus cannot survive much after birth. Pro – life

advocates maintain that the fetuses may be saved and that many of these abortions are done in cases that aren't hopeless.

4.6 Abortion in India

Before coming to India, we can say that abortion is universal, as in history also women have sought to terminate an unwanted pregnancy. Despite increased use of contraception, the need for abortion continues to be there. Prevention of unwanted pregnancy has been the top – priority concern with all health planners; still a large number of abortions are performed worldwide. Approximately 1/3 to 1/2 of all women have at least one induced abortion performed under unsafe conditions. The safety and efficacy of procedure used is therefore of global public health importance.

India was one of the few countries in the world to legalize abortion by promulgating MTP Act in 1972. Majority (80 – 90%) of abortions are performed during the first trimester of pregnancy. Standard method of pregnancy termination in first trimester is surgical evacuation of uterine contents after cervical dilatation (Vacuum aspiration). When provided properly by trained personnel, vacuum aspiration is a safe procedure. In India, a doctor needs to undergo special training before being certified to carry out a legal surgical abortion and the place needs to be certified.

Significant advances have occurred during the last 10 years in the development of medical non – invasive methods for

pregnancy termination. Several drugs have been tried with an aim of interfering with maintenance of pregnancy. Non – surgical methods for including abortion increase the choices available to women. Research is still being carried out to improve current medical methods for inducing abortion. With currently available options medical abortion is successful in 90 – 95% women.

Introduction of Medical abortion in India is a landmark in women’s health. Medical abortion offers an approach to pregnancy termination which is non – invasive with minimal side – effects. This method which can be learnt with minimal training will protect women from complications of unsafe surgical abortion.

Before a new method is introduced it is important to establish norms and standards and assess what changes need to be made in current services available. With this in mind Consortium on National Consensus for Medical Abortion in India was organized in March 2003. Experts from India and other countries with experience in medical abortion had a brain – storming session on different issues related to medical abortion including pre – abortion assessment and decision making, technology for medical abortion, access to facility, quality of abortion and post abortion care, training of healthcare providers and monitoring of medical abortion programme and reached a consensus. This consensus document will be of immense benefit to all those who provide abortion services in the country and will go a long way in improving the reproductive health status of women in India.

4.7 Abortion Controversy in India

The Nikita Mehta case has given rise to a raging debate on abortion laws in the country. The key issue is whether the statutory time limit for abortion must be increased from the currently permitted twenty weeks of gestation to twenty four weeks or above? The answer is not easy to arrive at. The issue involves complex questions of law, morality, theology, medicine and philosophy.

A pregnancy when carried to term may stretch to about forty weeks. The Medical Termination of Pregnancy Act, 1971 permits abortion to be performed only when the pregnancy poses a risk to the life of the pregnant woman or of grave injury to her physical or mental health, or when there is a substantial risk of the child being born with physical or mental abnormalities so as to be seriously handicapped. A registered medical practitioner may terminate the pregnancy upto twelve weeks of gestation but where the period is between twelve to twenty weeks, the opinion of two registered medical practitioners is required. The limit of twenty weeks may be crossed only when the procedure is performed to save the life of the woman. Importantly pregnancy that results from rape or failure of a contraceptive device between a married couple is viewed as causing grave injury to the mental health of the woman.

In the Nikita Mehta case the gestational period had progressed much beyond the prescribed period and was past twenty – five weeks. The petitioners pleaded that the defect in the heart of the unborn child was detected to a late stage. They expressed their inability to bear the psychological and monetary burden of giving birth to a child that may suffer from severe health problems. The anguish of such parents is understandable. It may neither have been an easy life for the child on birth nor a comfortable situation for the parents to raise a child with such a disability. Existing mechanisms of state support are negligible for such parents and individuals. The burden of providing special care falls overwhelmingly on the immediate family. It may be useful at this stage to examine the laws in other countries on this issue. Many countries like Canada, Korea, China, Germany, France and several other European countries have comparatively liberal laws on abortion. Canada goes to the extent of not interfering with the issue at all and leaves it entirely to the woman and her physician. The woman is perceived as having complete liberty upon her person and the foetus is seen as a part of her body, acquiring the status of a person only after birth. Korea permits abortions till twenty – eight weeks but spousal consent is mandatory for married women. The Abortion Act, 1967 of U.K. permits abortions till twenty four weeks but there is no upper limit if the pregnancy poses a threat to a woman's life or if the foetus is likely to be born with severe physical or mental deformity. There are countries that

place more severe restrictions upon abortions that While El Salvador and Chile have endorsed a complete ban on abortions, Afghanistan, Bangladesh, Brazil and a few others permit abortion only in cases of rape.

India, by comparison, has chosen a middle path instead of a this – way – or – that – way approach. Rightly so perhaps, given the sensitivity of the issue. A balanced approach appears suitable; a balance between the respective interests of the woman, the unborn, her family and the state. The ‘balanced approach’ is immaculately discussed in an American case decided in 1973 wherein the court held that an expecting woman has absolute right to privacy in respect of her body till the first twelve weeks of pregnancy. At this stage the state must not interfere with her decision about continuation or termination of pregnancy while the foetus is but a part of her body. Between twelve and twenty weeks the state may place limited restrictions to permit abortions only when direly necessitated, for example to save the life of a pregnant woman or on eugenic grounds to prevent birth of severely malformed babies. But where the period of gestation crosses twenty weeks the state may step in to curtail abortions completely on grounds of compelling state interest to protect and preserve potential life for the future of the society.

The next question that arises in why the cut – off must be marked at twenty weeks? The answer lies in the fact that the baby becomes viable at this stage. In other words, the baby is no longer

indispensably dependent on its mother's body and stands a chance of survival upon delivery, albeit with suitable aids at this premature stage. As it grows, it becomes more and more capable of independent survival and from seven months of gestation onwards, the chances of its survival upon the birth become bright. Thus, in addition to state interest, the interest of the fully formed unborn child at this stage becomes noteworthy. The unborn find explicit or implicit protection through many international and national laws. The Convention on the Rights of the Child recognized the need for special protection of children before and after birth on account of their physical and mental immaturity. The Convention on Elimination of Discrimination against Women views maternity as a social function thereby ratifying the idea that apart from individual rights like right to privacy, we also have corresponding duties that must be performed to sustain and nurture society.

Indian legislations on family and succession have provided explicit statutory protection to rights of the unborn by guarding their interests in property, amongst others. Courts have begun to recognize the worth of the unborn in deciding cases of compensation for road accidents. The Indian Penal Code prescribes imprisonment and fines as punishment for offences against expectant women and unborn children. The severity of punishment increases if the offence is caused to the detriment of a 'quick child' or an unborn baby that begins to move, usually around five months of gestational age. Even the Code of Medical Ethics urges doctors

to respect human life from the point of conception onwards. Before considering any extension in the statutory time limit for abortion, factors like possible abuse of law must be examined carefully. One of the goals of enacting the Medical Termination of Pregnancy Act was to contain the population explosion in the country. It is however a grim reality that the legislation is also being rampantly misused to cover and carry out sex-selective abortions as evident from the highly skewed sex – ratios in the country. It is surprising that affluent and relatively educated parts of the country including the capital have persistently shown a bias against the girl child. Would it be justified under such circumstances to give further time to parents to consider gender based termination of pregnancy and provide an enlarged legal umbrella towards acts that are detrimental to the society?

Coming back to the Nikita Mehta case the Mumbai High Court held that no categorical opinion had emerged to state that the child would be born with serious handicaps. The court thus denied recourse to medical termination of the pregnancy and an opinion emerged that terminating the life of a viable unborn on grounds of possible handicap is akin to mercy killing.

We also need to consider whether a further extension would lead to a possibility of obnoxious agreements between the woman, her family and the physician to terminate the pregnancy if the baby is likely to be born less than perfect, even if such imperfection may be accommodated with little effort and is not life

threatening? It must be appreciated that a civilized society and welfare state must consider the rights of the unborn who are defenseless individuals incapable of taking decisions or making informed choices about their right to life. In fact the state must act as its parent to step in and protect its life. The society certainly does not suggest termination of the life of handicapped adults, then why must it take a harsh stand against vulnerable individuals who are unborn babies?

The next issue is the precise determination of what constitutes a malformation and what may be termed as a severe mental or physical deformity. With the growth of science and medicine newer conditions are being described as diseases or deformities. At the same time, new cures are also emerging. So what needs to be viewed as a handicap and what need not becomes important. Let us not forget those people who despite being severely handicapped have made outstanding contribution to society, for example Dr. Stephen Hawking, the world renowned scientist who suffers from extremely debilitating motor neuron disease and Ludwig Van Beethoven, one of the greatest music composers of all times despite his deafness. In both the cases, the physical disabilities emerged well into their adulthood. At that time, had there been mechanisms to detect such future 'handicaps' in the foetus, these people may never have been born. In other words, we cannot completely ignore the possibility of committing grave mistakes by extinguishing potentially great life with our

limited understanding of the future and our exaggerated fear of the deformity.

Further, cases like Nikita Mehta are relatively few and it is questionable if the time limit for abortion must be generally extended on this account, particularly when such a solution may turn out to be more a malady than a remedy. Moreover, most life threatening and serious abnormalities are detected nowadays within the prescribed twenty weeks.

The adverse ramifications of giving birth to handicapped may be minimized by creating effective state mechanisms for adequate support to such children and families, both financial and otherwise. Instead of giving a blanket cover to all cases, expert committees may be constituted to evaluate cases beyond twenty weeks on merit so that selective sanction for abortion at this stage is given. It would also be important to define clearly what constitutes a handicap severe enough to qualify for an abortion after twenty weeks, for example cases of anencephaly wherein there is absolutely no point in carrying the pregnancy to term.

To conclude it can be said that the discretion to extinguish life, potential or existing, must be exercised with extreme caution. Advancement in medical science bestows great power on humanity that must be used for noble causes. Unfettered or arbitrary misuse of such power may lead to grave consequences for the society on multiple fronts. Our traditional inclination towards non – violence, tolerance and perseverance must be remembered to arrive at a

decision that raises the standards of society and sets an example for others to follow.

4.7.1 The Indian Medical Termination of Pregnancy (MTP) Act

In order to prevent the misuse of induced abortions, most countries in the world have created strict abortion laws and so has India. As per India's abortion laws only qualified doctors, under stipulated conditions, can execute an act of abortion on a woman in a clinic or a hospital that has been approved of doing so. The Indian abortion laws fall under the Medical Termination of Pregnancy (MTP) Act which was enacted by the Indian Parliament in the year 1971. The MTP Act however, came into effect from 01 April 1972 and was once amended in 1975.

4.7.2 Grounds for Abortion as per the Indian MTP Act

The Medical Termination of Pregnancy (MTP) Act of India clearly mentions the conditions under which only a pregnancy can be ended or the foetus aborted, the persons who are qualified to conduct the abortion and the place of implementation. The grounds, thus for conducting an abortion as interpreted from the Indian MTP Act are:

1. A pregnancy may be terminated by a registered medical practitioner:-

(a) Where the length of the pregnancy does not exceed twelve weeks if such medical practitioner is of opinion, formed in good faith, that –

(i) The continuance of the pregnancy would involve a risk to the life of the pregnant woman or of grave injury to her physical or mental health; or

(ii) There is a substantial risk that if the child were born, it would suffer from such physical or mental abnormalities as to be seriously handicapped. However when the pregnancy exceeds 12 weeks but is below 20 weeks, the consultation of two registered medical practitioners is required.

2. A pregnancy occurring as a result of rape.

3. Failure of contraceptive device used by a couple. Consent of the following kinds is required before a legal abortion by an approved practitioner can be conducted on a pregnant female:

(a) If married – her own written and consent. Husband's consent is not needed.

(b) If unmarried and above 18 years – her own written consent.

(c) If below 18 years – written consent of her guardian.

(d) If mentally unstable – written consent of her guardian.

Physicians approved for conducting MTP are:

(a) A qualified registered medical practitioner who has helped in 25 MTPs.

(b) A house surgeon who has undergone six months post in Obstetrics and Gynecology.

(c) A person who has a diploma/degree in Obstetrics and Gynecology.

(d) Three years of practice in Obstetrics and Gynecology for those doctors registered before the 1971 MTP Act was passed.

(e) A year of practioner in Obstetrics and Gynecology for the doctors registered on or after the date of commencement of the Act.

4.7.3 Induced and Spontaneous Abortions

As medically defined the spontaneous abortion of the fetus is medically called a miscarriage which can take place due to a variety of reasons such as hyper – tension, accident, trauma and so on and often lie beyond the prevention powers of human beings. Induced abortion is intentional termination of pregnancy. Out of approximately 35 million induced abortions that take place each year around the globe, more than half of them are illegal and executed by unqualified, untrained people and too under highly unhygienic setting.

4.8 Cultural relativism

Coming again to the ethical question that how far induced abortions are ethical, Ruth Benedict and William Shaw have tried to show that beliefs, values and morals are all based on one's culture. This is confirmed by the fact that countries like Canada, Korea, China, Germany, France and several other European countries have comparatively liberal laws on abortions while El

Salvador and Chile have endorsed a complete ban on abortion. Afghanistan, Bangladesh, Brazil and few other permit abortions in cases of rape. Canada goes on to the extent of not interfering with the issue at all and leave it entirely to the woman and her physician. This makes us enable to say that views as to what is good and what is bad changes from culture to culture. This is what we call cultural relativism. So on a larger perspective it would be correct to say that the morality of abortion – the people who perform it and the pregnant woman and her family whose consent is taken or not before the pregnancy is terminated – all depend as well on the society's norms where these people live. These norms and ethical issues and their supporters vary from culture to culture and from country to country. This is in other words Cultural relativism in Now, we will try to discuss Cultural relativism briefly.

Cultural relativism as defined by Ruth Bennedict in her article 'A Defense of Cultural Relativism, is the theory that human morality is based on the society in which individual is a part of. The basis of society's morality comes from cultural traditions, habits and what the majority believes to be right and wrong. Bennedict uses her anthropological studies to support her ideas concerning cultural relativism. Bennedict goes on to say that the basic premise of cultural relativism is the idea that different cultures posses different moral codes Rachels also supports this view. So, the perspective of cultural relativism is the idea that a

culture must be evaluated according to its own standards and those standards alone. So, the anthropologists say that the problem here is one of cultural relativism with anthropologists judging the actions of others according to the norm of their culture.

However the theory of cultural relativism is criticized and questioned by many and it is considered one of the weakest arguments pertaining to the basis of morality. William Shaw in his paper 'Relativism in Ethics' goes to criticize cultural relativism. Shaw sets out to prove that Cultural Relativism is not strong enough a theory on which to base the existence of human morality.

In spite of Shaw's criticisms We are of the opinion that whether cultural relativism is a viable basis for morality or not, society must play some role in determining the way people act and perceive right and wrong Cultural relativism as an explanation for the morals of human beings is a logical and convincing idea. Shaw concludes his article by saying that it seems clear that a society that applauded random torture of children would be immoral even if it thought such a practice was right. So Shaw wants to say that there is nothing virtually existent idea as cultural relativism. But if people did not follow socially acceptable standards they would not function well in the society. We have always believed that the morals individuals hold are a direct result of the society they are a part of day in and day out. Their actions and beliefs are quite based on the morals of the society in which they are a part. This in turn defines what is socially acceptable and unacceptable in a society.

Views as to what is good and what is bad changes from culture to culture. “Medicine Man” a film of Anthropology also addressed cultural, and anthropological issues involving cultural relativism, ethnography etc. This film focuses upon the anthropological issues of ethnography, ethnocentrism and cultural relativism of naïve indigenous people in order to bring about a consensus.

The two societies disagree as to what is right or wrong, moral or immoral on the behavior of eating animals and cultural relativism explains why. Places such as India, Bangladesh, Afghanistan and Brazil have individual liberty, particularly feminine liberalism is not as the majority’s a view and the society has comparatively more strict belief opinions, theories etc. pertaining to ethics. There quite naturally is put a ban on abortion and even if permitted that too, within strict parameters. And so, whether a person is respected or not, depends on does he abide by the social standards or not in the society.

Shaw goes on to contend that not only does a relativist avoid giving a decent reason in support of their theory, cultural relativism does not coincide with our values of morality. Shaw goes on asking what makes up a majority? Is there a set percentage of people that have to agree on something to make it moral or immoral? If that percentage is set high then it will be difficult meeting the criteria of a moral majority. Cultural relativism is too simple a theory on which to base the entire existence of human morals on. If a majority is considered to be 51% of the people then

the problem of moral flip – flopping as Shaw calls it, becomes a problem.

4.8.1 The Classical Hindu View

In the classical Hindu view, the living embryo enjoys a special moral status in the eyes of the Hindu and is specially deserving of protection and respect. In the law books, the killing of a pregnant woman is given the same status as the killing of a Brahmin. Therefore, for the Hindu, pregnancy is a very special state in which the unborn has a moral status which merits special protection. It is no surprise that many Hindu texts specifically condemn abortion. Special exemplification is provided from the Mahabharata. There Ashwathama is given severe punishment by Lord Sri Krishna when he tries to annihilate the unborn son Abhimanyu of parents Arjun and Subhadra. Julius Lipner examines the Hindu attitude to abortion and comes to the conclusion that in spite of some suggestions in the law books that it is a social status rather than morality which is an issue in cases of abortion, there is a strong moral element in the Hindu condemnation of abortion.

Lipner notes that, in the classical view, only when the mother's life is in danger in childbirth (due to a badly placed foetus) is abortion allowed. Lipner analyzes the reasons why Hindu accorded the unborn such a high status. Reasons used by modern moralists (such as, the foetus has not yet attained human form or

demonstrated cerebral activity) to distinguish between human persons (not acceptable to abort) and human beings (acceptable to abort) are not found or supported in classical Hindu thought. In fact, the classical Hindu view was that the soul (jiva) descends into the union of semen and menstrual blood in the womb and so coincides with conception. Thus no qualitative distinction can be made between conception and a later time at which the embryo is postulated to become a person. Traditional Hindu medical texts emphasize that the jiva, the individual abode of consciousness, is present from the moment of conception onwards through the process of foetal growth. These texts note no significant break or leap forward in this growth which would lead one to conclude that some qualitative change had taken place equivalent to the distinction suggested by some modern ethicists from human being to human person. Abortion was also unacceptable to the classical Hindu because it interferes with the natural and necessary cycle of Karma and rebirth. Abortion is seen as a grave infringement on the working out of an individual destiny – especially since only during one's life could an individual make decisions which would result in the goal of enlightenment or release (moksa). By virtue of abortion, a person's chance for the realization of moksa in this life is being removed – the person's freedom is being taken away. Other reasons militating against abortion in the Hindu view are the stress on the egg or embryo as the scriptural symbol of life, the felt need to continue one's line through male heirs, the obtaining of

security after death through the sraddha rites performed by the heir and finally the high status given to ahimsa or non – injury in Indian society.

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Chapter - 5

BUSINESS – ETHICS

5.1 Introduction

We live in an age of innovation, the growth of free markets, and a world economy. New technologies, roles for government and players on the global scene offer challenging opportunities, demands and constraints. More people and nations are working together to spread freedom and democratic principles; to nurture free markets; to protect individual property rights; and to encourage respect for human rights, the rule of law and environment.

With increasing urgency, market and social forces are rewriting the roles and responsibilities of business as well. Though the profit motive of business is understood and accepted, people do not accept it as an excuse for ignoring the basic norms, values and standards of being of good citizen. Modern businesses are expected to be responsible stewards of community resources working towards the growth and success of both their companies and their communities.

Government has an important role in the spread of freedom and democratic capitalism. It provides for the essential market – oriented legal framework and reliable dispute resolution processes that allow business to compete fairly on the quality, prices and delivery of their goods and services alone. It enforces

laws, regulations and judgments to safeguard the social order its citizens value. It, cannot however, act alone. Business and civil society must also be motivated in solutions to community problems. They can help in the fight against the corruption that saps national resources. They must reform the unethical business practices that breed cynicism and distrust in communities.

Businesses are at the strategic centre of a civil society and they have a stake in their communities. They depend on free markets and good public governance for their growth and success, but they are also authors of their own destiny. Through responsible business conduct, they contribute to the essential social capital of trust and fairness that makes good governance and free market possible.

Markets become free and remain free if their players are responsible and respect the basic values of honesty, reliability, fairness and self – discipline. The alternative to responsible business conduct are inefficient markets and costly government regulation. Free flows of capital, talent, knowledge and creativity are possible where communities are known for transparency, respect for property, a market – oriented legal framework and reliable dispute resolution mechanisms. The alternatives are lack of capital, high transaction costs, limited markets, underdevelopment and poverty.

In short, owners and managers must temper the competitive aspects of capitalism with concerned citizenship. They must take

individual responsibility for the decisions and activities of their enterprises and their impact on the culture of their enterprise and its stakeholders. A business needs committed, productive employees, agents and suppliers to create goods and services. It needs loyal, satisfied customers and consumers to make profit. It needs people who believe in it and in its prospects enough to invest. It needs to take a long view and to respect the physical environment and the prospects of future generations.

Over the past few decades, governments, international institutions, transnational organizations, organized labor and civil society have been engaged in an on going dialogue into the role of business as responsible stewards. Standards, procedures and expectations for business are emerging worldwide. Enterprises and markets that are unaware of them or fail to plan their future with them in mind, will be unable to participate in the global dialogue and will risk being left behind as the global market economy expands.

Business around the world are designing and implementing business ethics programs to address the legal, ethical, social responsibility and environmental issues they face. By addressing these issues in a systematic way, enterprises can improve their own business performance, expand opportunities for growth and contribute to the development of social capital in their markets. They can realize specific business benefits:

- a) Financial reputations and goodwill

- b) Reduced risks and costs
- c) Stronger competitive positions
- d) Expand access to capital credit and foreign investment
- e) Increased profits
- f) Sustained long – term growth
- g) International respect for enterprises and emerging markets

Enterprises that excel in these areas create a climate of excellence for their employees, shareholders and communities and contribute to the economic wellbeing of their countries.

No single volume can tell individual businesses what decisions and activities will foster and meet the reasonable expectations of their stakeholders. Each enterprise faces unique political, economic, social and technological pressures. Moreover, each has a unique organizational culture that influence all that its members think, say, and do. However, a guide can demonstrate process through which owners and managers can identify enterprise stake holders, can foster reasonable stakeholder expectations; and can inspire, encourage and support reasonable business conduct.

With this background in our mind we now embark on the connotation of ethics as to what is business ethics? And why business ethics?

5.2 Definition of Business Ethics

Business ethics (also known as corporate ethics) is a form of applied ethics or professional ethics that examines ethical principles and moral or ethical problems that arise in a business environment. It applies to all aspects of business conduct and is relevant to the conduct of individuals and business organizations as a whole. Applied ethics is a field of ethics that deals with ethical questions in many fields such as medical, technical, legal and business ethics.

Business ethics can both be normative and a descriptive discipline. As a corporate practice and a career specialization, the field is primarily normative. In academia descriptive approaches are also taken. The range and quantity of business ethical issues reflects the degrees to which business is perceived to be at odds with non – economic social values. Historically, interest in business ethics accelerated dramatically during the 1980s and 1990s, both within major corporations and within academia. For example, today, most major corporate websites lay emphasis on commitment to promoting non – economic social values under a variety of headings (e.g. ethics codes, social responsibility charters). In some cases, corporations have redefined their core values in the light of business ethical considerations (e.g. BP’s “beyond petroleum” environmental tilt).

5.3 Why Business Ethics?

Discussion on ethics in business is necessary because business can become unethical and there are plenty of evidences today on unethical corporate practices. Even Adam Smith opined that ‘People of the same trade seldom meet together, even for merriment and diversion but the conversation ends in a conspiracy against the public or in some contrivance to raise prices’. Business does not operate in a vacuum. Firms and corporations operate in the social and natural environment. By virtue of existing in the social and natural environment business is duty bound to the accountable to the natural and social environment in which it survives.

Irrespective of the demands and pressures upon it, business by virtue of its existence is bound to be ethical, for at least two reasons: one, because whatever the business does affects its stakeholders and two, because every juncture of action has trajectories of ethical as well as unethical paths wherein the existence of the business is justified by ethical alternatives it responsibly chooses. One of the conditions that brought business ethics to the forefront is the demise of small scale, high trust and face – to – enterprises and emergence of huge multinational corporate structures capable of drastically affecting everyday lives of the masses.

5.4 History of Ethics in Business

Business ethics being a part of the larger social ethics has always been affected by the ethics of the epoch. At different epochs of the world, people, especially the elites of the world, were blind to ethics and morality which were obviously unethical to the succeeding epoch. History of business, thus, is tainted by and through the history of slavery, history of colonialism and later by the history of cold war. The current discourse of business ethics is the ethical discourse of the post – colonialism and post – world wars. The need of business ethics in the current epoch had begun gaining attention since 1970s. Historically, firms started highlighting their ethical stature since the late 1980s and early 1990s, as the world witnessed serious economic and natural disasters because of unethical business practices. The Bhopal disaster and the fall of Enron are instances of the major disasters triggered by bad corporate ethics. It should be noted that the idea of business ethics caught the attention of academics, media and business firms by the end of the overt Cold War. Cold Wars seen through pages of history were fought through and fought for American business firms abroad. Ideologically, promotion of firms owned by American nationals were presented as if it were freedom and the local resistance against the excess of American firms were labeled communist uprising sponsored by the Soviet Block. Further, even legitimate criticism against unethical practice of the firms was presented as if it were infringement into the ‘freedom’ of the entrepreneurs by activists backed by communist totalitarians.

This scuttled the discourse of business ethics both at media and academics. Overt violence by business firms has decreased to a great extent in the democratic and media affluent world of today, through it has not ceased to exist. The war in Iraq is one of the recent examples of overt violence by the liberal western states on the behalf of oil business interests.

5.5 Overview of Issues in Business Ethics

5.5.1 General Business Ethics

1. This part of business ethics overlaps with the philosophy of business, one of the aims of which is to determine the fundamental purposes of a company. If a company's main purpose is to maximize the returns to its shareholders, then it should be seen as unethical for a company to consider the interests and rights of anyone else.
2. Corporate social responsibility or CSR: an umbrella term under which the ethical rights and duties existing between companies and society is debated.
3. Issues regarding the moral rights and duties between a company and its shareholders: fiduciary responsibility, stakeholder concept Vs. shareholder concept.
4. Ethical issues concerning relations between different companies: e.g. hostile take – overs, industrial espionage.
5. Leadership issues: corporate governance; Corporate Social Entrepreneurship.

6. Political contributions made by corporations.
7. Law reform, such as the ethical debate over introducing a crime of corporate manslaughter.
8. The misuse of corporate ethics policies as marketing instruments.

5.5.2 Ethics of Finance

Fundamentally finance is a social science discipline. The discipline share its border with behavioral science, sociology, economics, accounting and management. Finance being a discipline concerned with technical issues such as the optimal mix of debt and equity financing, dividend policy and the evaluation of alternative investment projects and more recently the valuation of options, futures, swaps and other derivative securities, portfolio diversification etc, often it is mistaken to be a discipline free from ethical burdens. However frequent economic meltdowns that could not be explained by theories of business cycles alone have brought ethics of finance to the forefront. Finance ethics is overlooked for another reason: issues in finance are often addressed as matters of law rather than ethics. Looked closer into the literature concerning finance ethics one can be convinced that as it is the case with other operational areas of business, the ethics is finance too is vehemently disputed.

5.5.3 Ethics of the Finance Paradigm

Conventionally economics is seen as a moral science and philosophy directed at a shared 'good life', which Adam Smith characterized in terms of a set of external material goods and internal intellectual and moral excellences of character. Smith in his *Wealth of the Nations* commented , "All for ourselves and nothing for other people , seems , in every age of the world, to have been the vile maxim of the masters of mankind ”

However, a section of economists influenced by the ideology of neoliberalism, interpreted the objective of economics to be maximization of financial growth through accelerated consumption and production of goods and services.

Under the influence of the neoliberal ideology, business finance which was a component of economics is promoted to constitute the core of the neoliberal economics. Proponents of the ideology hold that financial flow if redeemed from the shackles of 'financial repressions', can be put into service of the impoverished nations. It is held that the liberation of financial systems would ensure economic growth through competitive capital market system ensuring promotion of high levels of savings, investment, employment, productivity, foreign capital inflows and thereby welfare along with containing corruption.

In other words, it was recommended that governments of the impoverished nations should open up their financial systems to global market with the least regulation over the flow of capital. The recommendations however met with serious criticisms from

various schools of ethical philosophy. For the pragmatically oriented ethicists, blind submission to the a priori claims, such as the claims such as the claim of ‘invisible hand’ which are merely ideological, could be ethically counterproductive. The welfare claim of the Laissez – faire finance is disputed because; welfare would be overridden given a conflict with liberty. Further, history of finance does not suggest that firms always maintain principles of honesty and fairness under unregulated environments. The prudence and ethics of recommendations to the countries which were impoverished by the ravages of centuries of colonial exploitation subsequent cold wars and subjection to imperial hegemony to unconditionally open up their economics to transnational finance corporations is fiercely contested by ethicists from various quarters. Further, the claim that deregulation and the opening up economics bringing down corruption too is contested.

The firm, within the finance paradigm, is seen as a complex network of contractual relations, mostly implicit between various interest groups “Within this finance paradigm”, Dobson observes, “a rational agent is simply one who pursues personal material advantage ad infinitum. In essence, to be rational in finance is to be individual materialistic and competitive. Business is a game played by individuals, as with all games the object is to win, and winning is measured in terms solely of material wealth. Within the discipline this rationality concept is never questioned and has indeed become the theory – of – the – firm’s sine qua non”. Ethics

of finance is narrowly reduced to the mathematical question of shareholder wealth maximization. Such simplifying assumptions are necessary in the field of finance for the construction of mathematically robust models. Such a mathematical chimera, it is observed, lets the experts in the field of finance into the vice of greed justification. However, the signaling theory and agency theory within the domain of finance reveal clearly the normative undesirability of wealth maximization. Ethics seen from the stakeholder perspective is the privilege of the immediate and remote stakeholders as much as it is the obligation of the firms towards them.

5.5.4 Operational Areas of Financial Ethics

Those sections devoted to 'Financial ethics' in 'Business Ethics' text books ethics of financial markets, financial services and financial management are discussed, Fairness in trading practices, trading conditions, financial contracting, sales practices, consultancy services, tax payments, internal audit, external audit are discussed in them.

1. Creative accounting, earnings management, misleading financial analysis.
2. Insider trading, securities fraud, bucket shops, for eg. scams: concerns (criminal manipulation of the financial markets).

3. Executive compensation: concerns excessive payments made to corporate CEO's and top management.
4. Bribery, kickbacks, facilitation payments while these may be in the (short term) interests of the company and its shareholders, these practices may be anti – competitive or offend against the values of society.

5.5.5 Ethics of Human Resource Management

'Human resource management' occupies the sphere of activity of recruitment, selection, orientation, performance appraisal, training and development, industrial relations and health and safety issues where ethics really matters. The field since operate surrounded by market interests that commodify by and instrumentalize everything for the sake of profit claimed in the name of shareholders, it should be predictable that there will be contesting claims of HR ethics. Predictably ethics of human resource management is a contested terrain like other sub – fields of business ethics. Business ethicists differ in their orientation towards labour ethics. One group of ethicists influenced by the logic of neoliberalism propose that there can be no ethics beyond utilizing human resources towards earning higher profits for the shareholders. The neo liberal orientation is challenged by the argument that labour well being is not second to the goal of shareholder profiteering. Some others look at human resources

management ethics as a discourse towards egalitarian workplace and dignity of labour.

The discussions on ethical issues that may arise in the employment relationship, including the ethics of discrimination and employees' rights and duties are commonly seen in the business ethics texts while some argue that there are certain inalienable rights of workplace such as the right to work, the right to privacy, the right to be paid in accordance with comparable worth, the right not to be the victim of discrimination, others claim that these rights are negotiable. Ethical discourse in HRM often reduced the ethical behavior of firms as if they were charity from the firms rather than rights of employees. Except in the occupations, where market conditions overwhelmingly favour employees, employees are treated disposable and expendable and thus they are defenselessly concerned to extreme vulnerability.

The expendability of employees, however, is justified in the texts of 'business morality' on the ground that it (expendability) should be sacrificed for 'greater merit in a free market system' (Machan, 2007: 68) Further, it is argued because 'both employees and employers do in fact possess economic power' in the free market, it would be unethical if governments or labour unions 'impose employment terms on the labour relationship (Machan, 2007: 67). There are discussions of ethics in employment management in individual practices, issues like policies and practices of human resource management, the roles of human

resource (HR) practitioners, the decline of trade unionism, issues of globalizing the labour etc, in the recent HRM literature, though they do not occupy the central stage in the HR academics. It is observed that with the decline of labour unions world over, employees are potentially more vulnerable to opportunistic and unethical behavior. It is criticized that HRM has become a strategic arm of shareholder profiteering through making workers into 'willing slaves'. A well cited article points out there are 'soft' and a 'hard' version of HRMs, wherein the soft – approach regard employees as a source of creative energy and participating in workplace decision making and hard version is more explicitly focused on organizational rationality, control and profitability.

In response, it is argued that the stereotypes of hard and soft HRM are both inimical to ethics because they instrumentally attend to the profit motive without giving enough consideration to other morally relevant concerns such as social justice and human well being. However, there are studies indicating, long term sustainable success of organizations can be ensured only with humanely treated satisfied workforce. Market, obviously, is not inherent ethical institution that could be lead by the mythical 'invisible hand' alone; neither it can be alluded that market is inherently unethical.

Also, ethics is not something that could be achieved through establishment of procedures, drawing codes of ethics, or enactment of law or any other heteronomous means, though their

necessity could remain unquestioned. However, though market need not be the cause of moral or ethical hazards it may serve an occasion for such hazards. The moral hazards of HRM would be on increase so much as human relations and the resources embedded with in humans are treated merely as commodities.

1. Discrimination issues include discrimination on the basis of age (ageism), gender, race, religion, disabilities, weight and attractiveness.
2. Issues arising from the traditional view of relationships between employers and employees, also known as At-will employment.
3. Issues surrounding the representation of employees and the democratizations of the workplace: Union busting, strike breaking.
4. Issues affecting the privacy of the employee: workplace surveillance, drug testing.
5. Issues affecting the privacy of the employer : Whistle blowing
6. Issues relating to the fairness of the employment contract and the balance of power between employer and employee: slavery, indentured servitude, employment law.
7. Occupational safety and health.

All of the above are also related to the hiring and firing of employees. An employee or future employee cannot be hired or

fired based on race, gender, religion or any other discriminatory act.

5.5.6 Ethics of Sales and Marketing

Marketing ethics is a subset of business ethics. Ethics in marketing deals with the principles, values and/or ideals by which marketers (and marketing institutions) ought to act. Marketing ethics too, like its parent discipline, is a contested terrain. Discussions of marketing ethics are focused around two major concerns: one is the concern of one page is omitted (Pg 12) 20th or 21st century philosophy of ethics.

One impediment in defining marketing ethics is the difficulty of pointing out the agency responsible for the practice of ethics. Competition, rivalry among the firms,, lack of autonomy of the persons at different levels of marketing hierarchy, nature of the products marketed, nature of the persons to whom products are marketed, the profit margin claimed, and everything relating the marketing field does make the agency of a marketing person just a cog in the wheel. Deprived of agency, the hierarchy of marketing hardly lets one with an opportunity to autonomously decide to be ethical. Without one having agency, one is deprived of the ethical choices.

Marketing ethics is not restricted to the field of marketing alone, rather its influence spreads across all fields of life and most important by construction of ‘socially salient identities for people’.

It also “affects some people’s morality significant perceptions of and interactions with other people and if they can contribute to those perceptions or interactions going seriously wrong, these activities have bearing on fundamental ethical questions. Marketing, especially its visual communication, it is observed, serve as an instrument of epistemic closure restricting worldviews within stereotypes of gender class and race relationships.

1. Pricing: price fixing, price discrimination, price skimming
2. Anti – competitive practices: these include but go beyond pricing tactics to cover issues such as manipulation of loyalty and supply chains.
3. Specific marketing strategies: greenwash, bait and switch, shill, viral marketing, spam (electronic), pyramid scheme, planned obsolescence.
4. Content of advertisements: attack ads, subliminal messages, sex in advertising, products regarded as immoral or harmful
5. Children and marketing: marketing in schools.
6. Black markets, grey markets

5.5.7 Ethics of Production

This area of business usually deals with the duties of a company to ensure that products and production processes do not cause harm. Some of the more acute dilemmas in this area arise out of the fact that there is usually a degree of danger in any product or production process and it is difficult to define a degree of

permissibility. The degree of permissibility may depend on the changing state of preventive technologies or changing social perceptions of acceptable risk.

1. Defective addictive and inherently dangerous products and services (e.g. tobacco, alcohol, weapons, motor vehicles, chemicals manufacturing, bungee jumping)
2. Ethical relations between the company and the environment: pollution, environmental ethics, carbon emission trading.
3. Ethical problems arising out of new technologies: genetically modified food, mobile phone radiation and health.
4. Product testing ethics: animal rights and animal testing use of economically disadvantaged groups (such as students) as test objects.

5.5.8 Ethics of property, property rights and intellectual property rights

The ethics of property, property rights and intellectual property rights are assiduously contested throughout the history of the concept. Discourse on property gained its momentum by the turn of 17th century within the ecological discussion of that time. For instance, Locke justified right from the theological point of view that God has given Land ‘and all inferior creatures’ to men in common. The idea of property is intrigued with the notion of self

as individual. Property ownership is said to enhance individual liberty by extending the line of non – interference by the state or others around the person. Seen from this perspective, property right is absolute and property has special and distinctive character that precedes its legal protection. However, the isolated, self – contained and often competitive and materialistic individual, responsible essentially for his/her own existence is a cultural construct molded by the unique historical matrix he went under rather than the truth about human condition. In this era, immersed deep into the cultural construct of atomous individuals, the idea of property right was conceptualized as “sole and despotic dominion which one man claims and exercises over the external things of the world, in total exclusion of the right of any other individual in the universe”. It is during the same time, as the number of black slaves grew, American legislatures enacted comprehensive slave codes that defined the legal status of slaves of as a form of property. Moreover, it is the time in which the natives of America were dispossessed of millions of acres of land. Ironically, the native Indians were dispossessed of their property of about 200,000 square miles of land under the leadership of Thomas Jefferson, who is a champion of property rights.

The notion of property has its etymological root in ‘proprius’ which refers to ‘nature’, ‘quality’, ‘one’s own’, ‘special characteristic’, ‘proper’, ‘intrinsic’, ‘inherent’, ‘regular’, ‘normal’, ‘genuine’ ‘thorough complete perfect’ etc. The word property is

value, loaded and associated with the personal qualities of propriety and respectability. It also implies questions of propriety and respectability, also implies questions relating to ownership. The ‘proper’ person is the one who owns and is true to herself or himself, and is thus genuine, perfect, pure. Combined with theological justification, property is taken to be essentially natural ordained by God. Property, which later gained meaning as ownership and appeared natural to Locke, Jefferson and to many of the 18th and 19th century intellectuals as land, labour or idea, and property right over slaves had the same theological and essentialized justification. It was even held that the property in slaves was a sacred right till recently as aptly pointed out by a historian, “slavery was more clearly and explicitly established under the Constitution as it had been under the Articles” Accordingly, American Supreme Court Chief Justice Roger B. Taney in his 1857 judgement stated, “The right of property in a slave is distinctly and expressly affirmed in the Constitution.” Similarly, neoliberal ideologies too often hold that private property right is “sacred” and thus non – negotiable natural right. Those who contest the ideology argue that “property is no different from other legal categories in that it is simply a consequence of the significance attached by law to the relationships between legal persons.

The sacred natural right view is contested with the argument that property rights are mediated by historically situated

negotiations. Scholars point out that property right is more of a politically negotiated and legally regulated right than a natural or sacred right endowed to individuals and firms. Jeremy Bentham succinctly puts this, “property and law are born together and die together.” “Property” it is observed “is only an effect, a construction, of relationships between people, meaning that its objective character is contestable. Persons and things are ‘constituted’ or ‘fabricated’ by legal and other normative techniques”. In fact, private property cannot exist without regulation. After centuries of battles of scholarship, common law theory generally tend to favour the view that “property is not essentially a ‘right to a thing’, but rather a separable bundle of rights subsisting between persons which may vary according to the context and the object which is at stake” (Davis 2007 – 20)

Property right, referred to as “bundle of rights” implying a group of rights such as occupancy, use and responsibility associated with such a right: custodians of property have obligation as well as rights. Property claims, it is observed, is fragile and cannot exist without trust of others. Property, it is observed, ‘is illusion’ – ‘normative phantasm’, however not a meaningless figment of the imagination, but rather an object of desire through which we are ‘seduced into believing that we have found an objective reality which embodies our intuitions and needs.’

In the neoliberal literature, property is seen in the public/private dichotomy and private property rights is present as a

counterweight to state power. The private/public dichotomy of the neoliberal ideologies too is contested on the ground that “any space may be subject to plural meaning or appropriations which do not necessarily come into conflict.”

Often, what is claimed as property right later could originally be a forced appropriation rather than negotiation passed onto the heirs of the appropriators. However, the rights paradigm tends to stabilize the current distribution of property holdings by securing extant property holdings on the assumption that they are lawfully acquired, socially important and politically and morally legitimate.

Property does not exist in isolation, and so property rights too. Property rights describe relations among people and not also relations between people and things as the fundamental truth about human condition in its plurality. Some scholars argue that the idea that owners have no legal obligations to others wrongly supposes that property rights hardly ever conflict with other legally protected interests. Further, it is argued, rights impose duties on others and that liberties impose vulnerabilities on those affected by the exercise of those liberties. Ethics of property rights begins with recognizing the vacuous natures of the notion of property.

Intellectual property right is a special kind of monopoly property right. The phrase ‘intellectual property rights’ (IPR) indicate treating ideas, thoughts, codes and information as monopoly. Michele Boldrin and David K. Levine argue that “the

government does not ordinarily enforce monopolies for producers of other goods. This is because it is widely recognized that monopoly creates many social costs. Intellectual monopoly is no different in this respect. The question we address is whether it also creates social benefits commensurate with these social costs.” The standards of Intellectual Property Rights are enforced through Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) globally.

Neoliberal ideologists justify the monopoly intellectual property right on the ground that such a monopoly is an ‘incentive to invent and develop goods’ The neoliberal claim of ‘innovative monopoly’ is seen as oxymoron by some scholars. Further they comment, ‘intellectual property’ “is not like ordinary property at all, but constitute a government grant of a costly and dangerous private monopoly over ideas. We can show through theory and example that intellectual monopoly is not necessary for innovation just and as a practical matter is damaging to growth, prosperity and liberty. In defense of intellectual property right it is said that life saving drugs were invented in the hope of profits drawn out of the idea of monopoly right for a stipulated period of time.

However, the same case is quoted by those who challenge the patent monopoly. The stiff opposition and court cases from 39 multinational pharmaceutical industry giants against the Medicines and Related Substances Control Amendment Act, 1997 of the Govt. of South Africa which intended to provide affordable

medicine support to the victims of AIDS is often cited as the instance of bad ethics of patent monopoly.

The ethics of monopoly intellectual property rights, is questioned from various points of views. A basic contention against IPRs in the context of natural rights and moral rationales is that inventions are mostly a social creation of collective, cumulative, path dependent, and interrelated work to which we all contribute and therefore, no one person or firm should be able to claim the property. It is argued that innovations happen in a matrix of historically emergent social arrangement letting individuals in the matrix hitting with the new idea and hence rewarding the lucky individuals with monopoly rights is contested. Further, it is not the individual hit with the new idea, but mostly the corporate firm appropriated the idea is awarded with monopoly rights Roderick Long, a libertarian philosopher, observes, “Ethically, property rights of any kind have to be justified as extensions of the right of individuals to control their own lives.

Thus any alleged property rights that conflict with this moral basis – like the “right” to own slaves – are invalidated. In my judgment, intellectual property rights also fail to pass this test. To enforce copyright laws and the like is to prevent people from making peaceful use of information they possess. If you have acquired the information legitimately (say, by buying book), then on what grounds can you be prevented from using it, reproducing it, trading it? Is this not a violation of the freedom of speech and

press? It may be objected that the person who originated the information deserves ownership rights over it.

But information is not a concrete thing an individual can control, it is a universal, existing in other people's minds and other people's property and over these the originator has no legitimate sovereignty. You cannot own information without owning other people". IPR is primarily justified with the priority notion of "innovative monopoly" according to which intellectual monopoly believed to be increasing creativity. Enacting laws based on a priori considerations is unethical seen the from perspective of pragmatic ethics. Further, monopoly is held as anti – competitive in the current and age old wisdom of political economy and economics.

It is commonly held that knowledge economy unlike the conventional economy of scarcity, is an economy of abundance because knowledge economy is sourced on the infinite potential of knowledge and idea rather than on limited resources like land, labour or machinery alone. The basic concept of an economics of abundance should have been egalitarian distribution of goods and services and optimization of production. It is argued that the IPR regime creates artificial scarcity while abundance is otherwise possible and makes the economy more in egalitarian than before. Boudewijn Bouckaert, questioning IP Law created artificial scarcity writes, "natural scarcity is that which follows from the relationship between man and nature.

Scarcity is natural when it is possible to conceive of it before any human, institutional, contractual arrangement. Artificial scarcity, on the other hand, is the outcome of such arrangements. Artificial scarcity can hardly serve as a justification for the legal framework that causes that scarcity. Such an argument would be completely circular on the contrary, artificial scarcity itself needs a justification.”

The IPR causes concern because intellectual property/unlike other forms of material property is unlimited and unconstrained by limitations of space and time. Further, intellect, which was conventionally considered unalienable from its be holding person, is made legitimately alienable and ownable by others. The others who alienate and own the intellectual property is usually corporate houses with portfolios of intellectual property. The ethics of a legal system that lets relatively small number of corporate players amassing huge intellectual property portfolios and colonizing the future is contested. Ideas when owned and monopolized it would dispossess the present generations yet to be born and inflict with the following difficulties:

1. Patent infringement, copyright infringement, trademark infringement.
2. Misuse of the intellectual property systems to stifle competition: patent misuse, copyright misuse, patent troll, submarine patent.

3. Even the notion of intellectual property itself has been criticized on ethical grounds.
4. Employee raiding : the practice of attracting key employees away from a competitor to take unfair advantage of the knowledge or skills they may possess.
5. The practice of employing all the most talented people in a specific field, regardless of need, in order to prevent any competitors employing them.
6. Bioprospecting and biopiracy.
7. Business intelligence and industrial espionage.

5.5.9 Ethics and Technology

The Computer and the World Wide Web are two of the most significant inventions of the 20th century. There are many ethical issues that arise from this technology. It is easy to gain access to information. This leads to data mining, workplace monitoring and privacy invasion.

Medical technology has improved as well. Pharmaceutical companies have the technology to produce life saving drugs. These drugs are protected by patents and there are no generic drugs available. This raises many ethical questions.

5.5.10 International Business Ethics and Ethics of Economic Systems

These issues here are grouped together because they involve a much wider, global on business ethical matters.

(a) International Business Ethics

While business ethics emerged as a field in the 1970s, international business ethics did not emerge until the late 1990s, looking back on the international developments of that decade. Many new practical issues arose out of the international context of business. Theoretical issues such as cultural relativity of ethical values, receive more emphasis in this field. Other, older issues can be grouped here as well. Issues and subfields include:

1. The search for universal values as a basis for international commercial behavior.
2. Comparison of business ethical traditions in different countries : also on the basis of their respective GDP and corruption rankings.
3. Comparison of business ethical traditions from various religious perspectives.
4. Ethical issues arising out of international business transactions: e.g. bioprospecting and biopiracy in the pharmaceutical industry; the fair trade movement; transfer pricing.
5. Issues such as globalization and cultural imperialism.
6. Varying global standards – eg. The use of child labor.
7. The way in which multinationals take advantage of international differences, such as outsourcing production (e.g. clothes) and services (eg. call centres) to low – wage countries.

8. The permissibility of international commerce with pariah states.

The success of any business depends on its financial performance. Financial accounting helps the management report and also control the management to report and control business performance.

The information regarding the financial performance of the company plays an important role in enabling people to take right decision about the company. Therefore, it becomes necessary to understand how to record based on accounting conventions and concepts ensuring unambling and accurate records.

Foreign countries often use dumping as a competitive threat, selling products at prices lower than their normal value. This can lead to problems in domestic markets. It becomes difficult for these markets to compete with the pricing set by foreign markets. In 2009, the International Trade Commission has been researching anti – dumping laws. Dumping is often seen as an ethical issue as larger companies are taking advantage of other less economically advanced companies.

(b) Ethics of Economic Systems

The vaguely defined area, perhaps not part of but only related to business ethics, is where business ethicists venture into the fields of political economy and political philosophy, focusing on the rights and wrongs of various systems for the distribution of economic benefits. Johan Rawls and Robert Nozick are both notable contributors.

5.6 Law and the Business Ethics

Very often it is held that business is not bound by any ethics other than abiding by the law. Milton Friedman is the pioneer of the view. He held that corporations have the obligations to make a profit within the framework, of the legal system, nothing more, Friedman made it explicit that the duty of business leaders is “to make as much money as possible while conforming to the basic rules of the society, both those embodied in the law and those embodied in ethical custom. Ethics for Friedman is nothing more than abiding by ‘customs’ and ‘law’. The reduction of ethics to abidance to laws and customs however have drawn serious criticisms.

Counter to Friedman’s logic it is observed that legal procedure are technocratic, bureaucratic, rigid and obligatory whereas ethical act is conscientious, voluntary choice beyond normativity Law is retroactive. Crime proceeds law. Law against a crime, to be passed, the crime must have happened. Laws are blind to the crimes undefined in it.

Further as per law, “conduct is not criminal unless forbidden by law which gives advance warning that such conduct is criminal.” Also, law presumes the accused is innocent until proven guilty and that the state must establish the guilt of the accused beyond reasonable doubt. As per liberal laws followed in most of the democracies until the government prosecutor proves

the firm guilty with the limited resources available to her, the accused is considered innocent. Though the liberal premises of law is necessary to protect individuals from being persecuted by Government, it is not a sufficient mechanism to make firms morally accountable.

5.7 Business ethics in the field

5.7.1 Corporate ethics policies

As part of the more comprehensive compliance and ethics programs, many companies have formulated internal policies pertaining to the ethical conduct of employees. These policies can be simple exhortations in broad, highly generalized language (typically called a corporate ethics statement), or they can be more detailed policies, containing specific behavioral requirements (typically called corporate ethics codes). They are generally meant to identify the company's expectations of workers and to offer guidance on handling some of the more common ethical problems that might arise in the course of doing business. It is hoped that having such a policy will lead to greater ethical awareness, consistency in application, and the avoidance of ethical disasters.

An interesting number of companies also require employees to attend seminars regarding business conduct, which often include discussion of the company's policies, specific case studies, and legal requirements. Some companies even require their

employees to sign agreements stating that they will abide by the company's rules of conduct.

Many companies are assessing the environmental factors that can lead employees to engage in unethical conduct. A competitive business environment may call for unethical behavior. Lying has become expected in fields such as trading. An example of this are the issues surrounding the unethical actions of the Salomon Brothers.

Not everyone supports corporate policies that govern ethical conduct. Some claim that ethical problems are better dealt with by depending upon employees to use their own judgment.

Others believe that corporate ethics policies are primarily rooted in utilitarian concerns and that they are mainly to limit the company's legal liability, or to carry public favour by giving the appearance of being a good corporate citizen. Ideally, the company will avoid a lawsuit because its employees will follow the rules. Should a lawsuit occur, the company can claim that the problem would not have arisen if the employees had only followed the code properly.

Sometimes there is disconnection between the company's code of ethics and the company's actual practices. Thus, whether or not, such conduct is explicitly sanctioned by management at worst, this makes the policy duplicitous, and, at best, it is merely a marketing tool.

To be successful, most ethicists would suggest that an ethics policy should be:

1. Given the unequivocal support of top management, by both word and example
2. Explained in writing and orally, with periodic reinforcement.
3. Doable.....something employees can both understand and perform.
4. Monitored by top management, with routine inspections for compliance and improvement.
5. Backed up by clearly stated consequences in the case of disobedience.
6. Remain neutral and non – sexist.

5.7.2 Ethics officers

Ethics officers (sometimes called “compliance” or “business conduct officers”) have been appointed formally by organizations since the mid 1990s. One of the Catalysts for the creation of this new role was a series of fraud; corruption and abuse scandals that afflicted the U.S. defense industry at that time. This led to the creation of the Defense Industry Initiative (DII), a pan – industry initiative to promote and ensure ethical business practices. The DII set an early benchmark for ethics management in corporations. In 1991, the Ethics & Compliance Officer Association – originally the Ethics Officer Association (EOA) –

was founded at the Centre for Business Ethics (at Bentley College, Waltham, MA) as a professional association for those responsible for managing organizations' efforts to achieve ethical best practices. The membership grew rapidly (the ECOA now has over 1100 members) and was soon established as an independent organization.

In the wake of numerous corporate scandals between 2001 – 2004 (affecting large corporations like Enron, World Com and Tyco), even small and medium sized companies have begun to appoint ethics officers. They often report to the Chief Executive Officer and are responsible for assessing the ethical implications of the company's activities, making recommendations regarding the company's ethical policies and disseminating information to employees. They are particularly interested in uncovering or preventing unethical and illegal actions. This trend is partly due to the Sarbanes – Oxley Act in the United States, which was enacted in reaction to the above scandals. A related trend is the introduction of risk assessment officers that monitor how shareholders' investments might be affected by the company's decisions.

The effectiveness of ethics officers in the market place is not clear. If the appointment is made primarily as a reaction to legislative requirements, one might expect the efficacy to be minimal, at least, over the short term. In part, this is because ethical business practices result from a corporate culture that

consistently places value on ethical behavior, a culture and climate that usually emanates from the top of the organization. The mere establishment of a position to oversee ethics will most likely be insufficient to inculcate ethical behavior, a systemic programme with consistent support from general management will be necessary.

The foundation for ethical behavior goes well beyond corporate culture and the policies of any given company, for it also depends greatly upon an individual's early moral training, the other institutions that affect an individual, the competitive business environment the company is in and, indeed, society as a whole.

5.8 Business Ethics as an Academic Discipline

As an academic discipline, business ethics emerged in the 1970s. Since no academic business ethics journals or conferences existed, researchers published their papers in general management outlets and attended general conferences, such as the Academy of Management. Over time, several peer – reviewed journals appeared and more researchers entered the field. Especially, higher interest in business topics among academics was observed after several corporate scandals in the earlier 2000s. As of 2009, sixteen academic journals devoted to various business ethics issues existed, with Journal of Business Ethics and Business Ethics Quarterly being considered the leading A⁺ outlets.

The International Business Development Institute, a global non – profit organizations, is a self – regulated organization that represents 217 nations and all 50 United States offering a Charter in Business Development (CBD) that focuses on ethical business practices and standards. The Charter is administered and directed by top Harvard, MIT, and Full-right Scholars and it includes graduate – level course work in economics politics, marketing, management, technology and legal aspects of business development as it pertains to business ethics IBDI also oversees the International Business Development Institute of Asia which provides individuals living in 20 Asian nations the opportunity to earn his or her CBD or CIBD Charter.

5.9 Religious views on business ethics

The historical and global importance of religious views on business ethics is sometimes underestimated in standard introductions to business ethics according to Dr. Todd Albertson author of ‘The Gods of business’ book. Particularly in Asia and the Middle East, religious and cultural perspectives have a strong influence on the conduct of business and the creation of business values.

Examples include:

1. Islamic banking, associated with the avoidance of charging interest on loans.

2. Traditional Confucian disapproval of the profit seeking motive.
3. Quaker testimony on fair dealing.

5.9.1 Related disciplines

Business ethics should be distinguished from the philosophy of business, the branch of philosophy that deals with the philosophical, political and ethical underpinnings of business and economics. Business ethics operates on the premise, for example, that the ethical operation of a private business is possible. Those who dispute that premise, such as liberation socialists (who contend that “business ethics” is an oxymoron) do so by definition outside of the domains of business ethics proper.

The philosophy of business also deals with questions such as what, if any, are the social responsibilities of a business; business management theory; theories of individualism vs, collectivism; free will among participants in the market place; the role of self – interest; invisible hand theories; the requirements of social justice; and natural rights, especially property rights, in relation to the business enterprise.

Business ethics is also related to political economy, which is economic analysis from political economy, which is economic analysis from political and historical perspective. Political economy deals with the distributive consequences of economic actions. It asks who gains and who loses from economic activity

and is the resultant distribution fair or just, which are central ethical issues.

5.10 Differing Opinions Regarding Business Ethics

Business ethics is a contested terrain. There are economists and business gurus who claim ethics is irrelevant to the field of business. For instance, the neo – liberal Chicago school of economist Milton Friedman held that corporations are amoral and CEOs have only one duty: to maximize profits of a company.

He also said in an interview that business cannot have social responsibilities. Similarly Peter Drucker, a business guru, also observed, “There is neither a separate ethics nor is one needed.” However, Peter Drucker in another instance observed that ultimate responsibility of the directors of the companies is above all not to harm – premium non nocere. The ideological position of excluding firms from ethical obligations is contested.

Business ethics is contested terrain not just because celebrated persons in the field of economics and business questioned the relevance of ethics in business, observe editors of respected business ethics text book, but also because what is presented in the name of ethics is either sentimental common sense, or a set of excuses for being unpleasant. What is presented as ethics in many of the Business Ethics, Manuals and books are

just premature responses to questions that look like answers or mere procedural from filling exercises unconcerned about the real ethical dilemmas, For instance, a manual of business ethics published by good governance program of US followed by 'ethics officers and downward in the hierarchy of business, Campbell Jones et al, in their text book, " For Business Ethics" point out six foreclosures, something has been closed down before it should have been by the proponents of business ethics: foreclosure of philosophy, society, the ethical, meaning of ethics, politics and the goal of ethics. Ethics, hotly debated throughout the 20th century, has been one of the major sources of philosophical reflection up to the close of the millennium. The field of business ethics, it is contested, has insulated itself from the new developments in ethical debate, either ignoring them altogether or misrepresenting. Argument is Business Ethics often downplay the role of social context, social arrangements, social processes, history, politics and structural aspects constituting individuals and individual actions.

Issues taken as ethical dilemma, by business ethics are often narrow in scope, such as behaving politely with customers, following office etiquettes, protecting privacy of employees, avoiding discrimination, bribery, kick backs etc, while issues like inequality among global labour, ethics of lobbying, intellectual property alienation, biopiracy etc, are broadly neglected. The term ethics connotes different things to people oriented differently. There are arguments from virtue, deontological, utilitarian and

pragmatic schools of thought about ethics. The differences are not just a matter of talking about the same thing in different ways.

Rather, these different ways of talking about ethics seem to be talking about different things about different ways of imaging ethics itself. Like discussion of ethics in any other fields, business ethics too should be treated along the percepts of various established, neglected and emergent school of ethical thought. Business ethics is assumed to be something that does not really trouble basic assumptions about the normal practices of business. Instead of looking at the politics the corporate firms play in modifying rules of accounting practices, diluting labour laws, weakening regulatory mechanisms etc, and it tends to look at the ethical collapse of firms like Enron and Arthur Anderson as if it were isolated instances of individuals slipping away from their ethical responsibilities. Further, business ethicists often foreclose the goal of being ethical. They attempt to convince that being ethical serves a strategy of image management of sustained profit making. Others hold being ethical is just for the sake of being ethical. Further, Ethics when remodeled as business ethics it suffers the fats of business expediency. Thus business ethicists prepare themselves for unambiguous quick and standard answers while ethics is not a matter of stable solutions but one of endless openness and difficulty and beyond the limits of normativity.

5.11 Ethical Issues in Business

There are a million ethical issues in today's businesses and unfortunately there is perfect decision measurement for all these ethical issues in business. The ethical issues in international businesses are much more complicated and much more delicate, along with being tenfold in numbers. Now let us try to deal with the current ethical issues in business and attempt to look for ways in which one can tackle them.

Economics suggests that business and production do not go hand in hand with environmental and societal ethics due to the two being mutually exclusive events. Why it is so, can form a subject matter of a thesis. So it will not be a debate matter for this particular point. Let us have a look at the ethical issues in business that are listed below in random order of importance. In business ethics, there is hardly a proper line which can be held on to like the bible, for ethics often sacrifice profits and the idea is to find the optimal balance between the two, so that the business conscience is clear and the profits are reasonable.

5.12 In a Free, Unregulated Self – Ethics Model

If business ethics and values are left to the self of business houses and entrepreneurs, society may have many dead weight losses to bear. A few producers can collectively skimp on supply to increase market prices, a few strong buyers may collectively reduce demand till prices fall and a single entity can capture the entire supply chain and refuse its services to the free market and

reserve them for the best price. To top it, the labor market can unite and ask for reasonable increases in wages and the public transport unions can stand up for price hikes. Who decides whether all this is reasonable and hence ethical, or unreasonable and thus unethical? Who says that an earner who earns lower than the minimum wages is entitled to a wage increase even by somewhat unethical measures that require some employer arm – twisting?

Who decides that a person who already earns millions in profits is not entitled to reducing worker wages to earn higher margins because it is unethical? I mean to say that ethics change depending on, which side you view them from. What may be absolutely right for you may be a gross injustice for me. So, if the market is left to its own individual mechanics, the most important ethical issue of all will be that all those in strong positions will always be the ones manipulating the weaker ones. This is where business ethics comes in as a self – regulatory mechanism on the stronger player in the economy. Let us now move on to certain routine ethical issues in business that almost every business have to face.

5.13 Industry Wide Ethical Issues in Business

Following is a list of industry wide ethical issues in business. The problem with these ethical issues in business is that they are not only really routine and frequent but they are also more wide spread i.e. throughout the whole industry rather than being

confined to a particular business. Now, following is something more on creating a business code of ethics:

1. Bribing powerful officials in order to get bids and tenders accepted and bribing competitor employees to get informational leaks is a serious ethical issue in business. In fact it is a crime that is legally punishable in most countries today.
2. Labour related issues like gender discrimination at work place, employee harassment, minority community participation, working conditions and child labor are also some general ethical issue in business.
3. Business practices like sourcing of materials, quality of inputs in production, compromising on certain aspects like product quality, safety etc and deception in packaging quantity or size also fall in the purview of business ethics.
4. Some industries consciously omit the details of the side effects of the usage of their products from the product packaging while some indulge in controversial practices like animal testing and these too are some of the ethical issues in business.
5. Forcing labour to work at below minimum wages, sweatshop work conditions, violation of worker rights and not complying with health, safety and environmental standards are some common current ethical issues in business.

5.14 Company Specific Ethical Issues in Business

Here are some company specific ethical issues in business. These ethical issues should be dealt with pretty strictly as to serve an example to the rest. Now the question arises as to is ethics important in business? Following are important in this connection:

1. Showing honesty, integrity and openness in consumer relationships, addressing warranty and guarantee claims in a open and transparent manner and involving the company in some kind of social welfare causes is an ethical business practice that many are yet to follow.
2. Whether to accept moral responsibility of on site mishaps, spills, leaks and disasters and whether to make product recalls if certain harmful information about them comes to light are ethical issues that all business must be prepared for.
3. Unethical business practices like dumping good at less making prices just to earn market shares or to oust a new competitor from business, colliding with competitors to fix higher prices, using high pressures selling tactics, using deceptive advertising etc are also some things that need to be looked at.
4. Some stronger ethical issues in business are related to practices that are not easily detected, like releasing products that have built in obsolescence (to generate further

demand for future products) and indulging in accounting manipulations to generate secret reserves or to show higher or lower profits as per convenience.

There are many more ethical issues in business and some of them are so common that they even crop up on a daily basis. Making ethical choices is sometimes the hardest things, especially when the one losing out is you or your business. Yet for the greater good and for the sake of differentiating humanity from animal kind, one has to look at business as well as personal ethics and evaluate them from time to time. For example, if all business just looked at current profits and production and ignored the call of the environment, the person losing out on all this is man and his society person losing out on all this is man and his society. Looking at all the ethical issues in business and finding the optimal solution for them, by taking well thought – out and rational decisions based on all possible parameters will help everyone the society, the consumer, the environment and more importantly, even the business.

5.15 Ethical Issues in Marketing: The Context of Developing Countries

Marketing, in contemporary times, has seen a tumultuous change in the way it is conducted in developing countries. The oft – cited dictum that only change is constant in the marketing genre is an apposite one. Just as the media of social communication

themselves have enormous influence on everyone, so advertising and marketing, using media as their vehicles, are pervasive, powerful forces shaping attitudes and behavior in today's world. Four reasons are attributed to the fugacious nature of the way marketing practices are being carried out in developing countries.

1. The role of Information and Communication technologies: As ICTs evolve so do marketing practices. If yesterday it was television that revolutionized the way advertisements could create a lasting impact on the consumer, then today internet and phone text messages are doing just that.
2. The world today is an increasingly global village: Social and ethnic boundaries are fast falling in the wake of cable television and the like.
3. Rapid economic expansions in countries like China and India have meant that markets have to quickly respond to the changing socio – economic scenario. Millions of people have entered the middle class and millions more are poised to do so. For marketers, the consequences can be mind – boggling as incomes and spending powers rise, marketers have to respond to increasing demands from consumers.
4. Better and improved marketing research has meant that the entire population is not seen in totality but rather as a congeries of different types of consumers.

5.16 The Upshot

But the outcome of such developments is that a number of ethical issues have arisen. While the globe is indeed becoming a smaller place; marketers have to bear in mind national, local and cultural sensitivities. Very often, in the hope of tapping a larger consumer base, marketers jump headlong in new markets without keeping in mind ethnic and social issues typical of certain areas. While marketers do have to act with celerity in gaining footholds in emerging markets such as China and India, care has to be taken in ensuring that the mores, etiquettes of the land are not encroached upon. The incorporation of newer technologies has meant that a number of issues such as invasion of privacy and credibility have arisen. Ergo, in these rapidly changing circumstances, marketers and consumers alike face animosity of ethical issues that have to be addressed. Now, following are some of the ethical issues in the context of developing countries context:-

5.17 Exploiting Social Paradigms

In the hope of making a fast buck, marketers often resort to exploiting social paradigms typical to certain areas. In India, for example, a large multinational corporation ran an ad campaign that depicted a young woman who because of her dark facial complexion was unable to find jobs. But as the ad showed, as soon as the woman started using the facial whiteness cream manufactured by the corporation, she got the job of her choice.

Needless to say, there was a big backlash against it and the ad campaign had to be scrapped. On an ethical standpoint, marketers have to exercise restraint in exploiting such social paradigms to their commercial advantage.

5.18 Surrogate Advertisements

In India alcohol and cigarette advertisements were banned outright some years back. However, alcohol and cigarette companies alike are using the avenue of surrogate advertisements to press forward their case. For the viewer though, the 'subtle' pointer towards the real deal is enough as the surrogate advertisements leave no ambiguity in their minds.

5.19 Subliminal Advertisements

One of the most controversies and ethical issues in advertising is regarding subliminal advertisements. Inserting subliminal message in an advertisement is an inherently misleading action. It is an attempt to manipulate a person's thinking without the person realizing that any such manipulation is occurring. The west has had its faire share of subliminal advertisements related hullabaloo primarily because the advertisement, marketing and regulating media themselves have been quite active in raising such issues. During the US Presidential elections of 2000, It came to light that a political advertisement for George W. Bush subliminally flashed the word 'RATS' when criticizing AL Gore's

prescription medicine plant. While the ad maker denied that the quickly flashed word was a subliminal message designed to surreptitiously sling mud at Gore, many others, however, concluded that 'RATS' was indeed inserted with the intention of secretly causing viewers' to associate vermin with Al Gore. In line with the techniques of subliminal messaging, the questionable word appeared on the screen for only a microsecond (1/30th of second), passing by so fast that it was almost unrecognizable to mind especially when passively bulled by television. According to the theory of subliminal advertising the image would, indeed, register in a viewer's subconscious mind, thereby causing the viewer to negatively associate Al Gore with a rodent. The effects of a subliminal advertisements are real and financial significant. Each year, consumers spend roughly \$US 50 million for self – help tapes embedded with subliminal messages that are supposed to teach a person a foreign language while they sleep, or help them lose weight, or quit smoking. Additionally, some stores embed subliminal messages in their background music in an effort to discourage shoplifting. Time magazine reported in 1979 that messages such as 'I am an honest person' and 'staling is dishonest' were being utilized in over fifty department stores. One department store utilizing the hidden messages reported a savings of \$US 600,000 by reducing theft 37 percent during a nine month period. So, if subliminal messages evidently work in self – help tapes and embedded in department store music, it certainly seems reasonable

that they would also work and perhaps even work better in a visual medium such as television. In developing countries the regulating watchdogs and related establishments are still in stages of latency so that the possibility that viewers who would be subject to such measures would probably never even know that they were the focus of such procedures.

5.20 The Ethical Issue of ‘Creating Demand’

In the words of Pope John Paul II, advertising also can be, and often is, a tool of the phenomenon of consumerism. Sometimes, advertisers speak of it as part of their task to ‘create’ needs for products and services – that is, to cause people to feel and act upon desires for items and services people to feel and act upon desires for items and services they would ordinarily not need. A piquant issue arises when consumerist attitudes and values are transmitted by communications media and advertising to developing countries; where they exacerbate socio – economic problems and harm the poor. While a judicious use of advertising can stimulate developing counties to improve their standard of living, serious harm can be done to them if advertising and commercial pressure become so irresponsible that communities seeking to rise from poverty to a reasonable standard of living are persuaded to seek this progress by satisfying wants that have been artificially created. The result of this is that they waste their

resources and neglect their real needs and genuine development falls behind.

5.21 Predatory Pricing

In developing nations where the bulk of the populace is still employed in small and medium enterprises, the use of predatory pricing by large Multinational Corporation in order to wipe out competition is an ethical issue. While proponents of no holds barred pricing would attribute this to an unfettered free market, the fact remains that the larger issue is the threat of wiping out the livelihood of a larger number of people. In India, a related issue is the entry of western discount stores that might eventually threaten the existence of millions of people employed in traditional mom – and – pop stores. Wal-Mart’s ‘takeover of small towns’ in the U.S.A is also a related concern. Countries like India need to take a leaf out of the China – book. China opened its market to these stores in 1991 and only recently allowed 100% foreign direct investment (FDI) in such ventures.

5.22 False and Misleading Advertisements

Then there is the issue of false and downright disingenuous advertisements. While in itself this is an important ethical issue, an extension in itself this is an important ethical issue, an intension of this is the question of credibility. Now a days, newspaper columns are rife with advertisements which blatantly compare features of brands with those of their competitors fitting the opinions of

‘experts’, these advertisements claim their brands to be quantitatively and qualitatively better than those of their rivals In India a leading car manufacturer had to recall its ad campaign when it incorrectly stated that one of its car models was superior to that of its competitor’s.

5.23 Post Purchase Dissonance

What you see is not often what you get. Since very often what companies claim their products or services deliver is not what the consumers actually get, the issue of post purchase dissonance arises. There are two more non – contrasting viewpoints on this. One states the typical example of Tele – Shopping Networks.

5.24 The Ethical Issue of Political Marketing

Political advertising can support and assist the working of the democratic process, but it can also obstruct it. This happens, when for example; the costs of advertising limit political competition to wealthy candidates or groups, or require that office seekers compromise their integrity and independence by over – dependence on special interests for funds. Such obstruction of the democratic process also happens when, instead of being a vehicle of honest expositions of candidates’ views and records, political advertising seek to distort the views and records of opponents and unjustly attacks their reputations. It happens when advertising appeals more to people’s emotions and base instincts – to selfishness, bias and hostility towards others, to racial and ethnic

prejudice and the like – rather than to a reasoned sense of justice and the good of all.

5.25 Ethical Issues in Internet, e – commerce

The Internet is quickly becoming a major conduct for business. Online businesses has raised a host of new issues such as honesty and responsibility, accountability, privacy and confidentiality, protection of data (i.e. credit card numbers), freedom from invasiveness (i.e. so called sticky websites that automatically track and retain customer contact and information), quality of the goods delivered, disclosure and reliability of information, sources of goods, Internet economics vs. traditional economics, impacts of global Internet business employment through the net (local and global telecommuting), web – advertising, competition on the Internet (hacking into data, falsification of data), public information and financial disclosure (investor relations on the Internet), and others.

5.25.1 The Small Print

The major ethical issues facing business over the internet are the ones regarding the small print i.e. the policy notices or practices on websites. These issues include:

- A) Usage of obfuscating and vague language
- B) The policy may be hard to find or difficult to read and understand
- C) It may not contain all the disclosures

- D) May fail to provide a contact address or procedures for dealing with complaints, corrections or conflicting resolution
- E) It may not have clear access requirement or procedures for verifying a valid requester before granting access
- F) May not be linked to or displayed on every page where information is collected.

5.25.2 World Wide Web versus the Wild Wild Web

To many, the utopian concept of the internet is that of a valueless zone – a free network that is outside the purview of human control and restraint. But we feel that the line of reasoning is flawed. The internet is the progeny of civil society. This means that the World Wide Web is not the wild wild web, but instead a place where values in the broadest sense should take a part in shaping content and services. This is recognition of the point that the Internet is not something apart from civil society, but increasingly a fundamental component of it.

5.25.3 Ownership and Responsibility

The internet is largely a boundary less networks. The involvement in content of companies hosting information is highly debatable. There are two sides to the proverbial coin. The Internet as a medium supports all kinds of contents. By espousing the principle of allowing anyone to post any material on the net as a means of furthering information exchange to extended by many as the *raison d'être* of absolving the hosts of complicity of posting the

material. In India, a major debate between the erudite arose when the CEO of the Indian chapter (bozeee) of ebay.com was arrested over charges of allowing the exchange of video clips showing explicit scenes. The sympathizers of the site owners cited the fact that the websites are merely enabling people to exchange data over a common platform. What information is exchanged does not fall under the purview of the responsibilities of the website managers. The opposing view was the hosts cannot turn a blind eye to the activities being carried out through the medium of their site.

We feel that although, given the nature of the Internet, they cannot possibly be expected to pre – check content. Once they receive a notification or complaint about something they are carrying or hosting, they have to take a view. Thus if one is attempting to bring a sense of ethics of the Internet in any particular instance it is essential to know who has the control and the responsibility. Increasingly, the debate about the content of the Internet is not national but global, not by specialists but by the general populace. There is a real need for this debate to be stimulated and structured and for it to lead to ‘solutions’ which are focused, practical and urgent.

5.26 Conclusion – Good Marketing Citizens

All in all, it can be seen that ethical issues in marketing in the context of developing countries is highly sensitive to cultural, social and ethnical issues. The larger issue is thus not merely an

occidental versus an oriental one. For the marketing fraternity to be a good ethical citizen, the ones lie on themselves, for indeed, marketers have to stop indulging in unethical practices and start respecting local mores and values.

Now, as advertising forms a very important content of business today, ethics in advertising also becomes very much significant as part of business ethics as an academic discipline. Keeping this in mind, ethics in advertising is dealt with in detail.

5.27 Ethics in Advertising

5.27.1 Introduction

The importance of advertising is “steadily on the increase in modern society”. That observation, made by this Pontifical Council a quarter century ago as part of an overview of the state of communications is even more true now.

Just as the media of social communication themselves have enormous influence everywhere, so advertising, using media as its vehicle, is pervasive, powerful force shaping attitudes and behavior in today’s world.

Especially since the Second Vatican Council, the church has frequently addressed the question of the media and their role and responsibilities. She has sought to do so in a fundamentally positive manner, viewing the media as “gifts of God” which, in accordance with his providential design bring people together and “help them to cooperate with his plan for their salvation”.

In doing so the Church stress the responsibility of media to contribute to the authentic, integral development of persons and to foster the well being of society. “The information provided by the media is at the service of the common good. Society has a right to information based on truth, freedom, justice and solidarity”.

It is in this Spirit that the Church enters into dialogue with communicators. At the same time she also calls attention to moral principles and norms relevant to social communications, as to other forms of human endeavor, while criticizing policies and practices that offend against these standards.

Here and there in the growing body of literature arising from the Church’s consideration of media, the subject of advertising is discussed. Now, prompted by the increasing importance of advertising and by requests for a more extensive treatment, we turn again to this topic.

We wish to call attention to positive contributors that advertising can and does make; to note ethical and moral problem that advertising can and does raise; to point to moral principles that apply to this field; and finally to suggest certain steps for the consideration of those professionally involved in advertising, as well as for others in the private sector, including the churches and for public officials.

Our reason for addressing these matters is simple. In today’s society, advertising has a profound impact on how people understand life, the world and themselves, especially in regard to

their values and their ways of choosing and behaving. These are matters about which the Church is and must be deeply and sincerely concerned.

5.27.2 The Field of Advertising

The field of advertising is extremely broad and diverse. In general terms, of course, an advertisement is simply a public notice meant to convey information and invite patronage or some other response. As that suggests, advertising has two basic purposes to inform and to persuade, and – while these purposes are undistinguishable – both very often are simultaneously present.

Advertising is not the same as marketing (the complex of commercial of functions involved in transferring goods from producers and consumers) or public relations (the systematic effort to create a favourable public impression or image of some person, group or entity). In many cases, though it is a technique or instrument employed by one or both of these.

Advertising can be very simple – a local, even neighborhood phenomenon – or it can be very complex, involving sophisticated research and multimedia campaigns that span the globe. It differs according to its intended audience, so that, for example, advertising aimed at children raises some technical and moral issues significantly different from those raised by and aimed at competent adults.

Not only are many different media and techniques employed in advertising; advertising itself is of several different kinds: commercial advertising for products and services; public service advertising on behalf of various institutions, programs and causes; and – a phenomenon of growing importance today – political advertising in the interests of parties and candidates. Making allowance for the differences among the different kinds and methods of advertising, we intend to what follows to be applicable to them all.

5.27.3 Values of Advertising

We disagree with the assertion that advertising simply mirrors the attitudes and values of the surrounding culture. No doubt advertising, like the media of social communications in general, does act as a mirror. But, also like media in general, it is mirror that helps shape the reality it reflects and sometimes it presents a distorted image of reality.

Advertisers are selective about the values and attitudes to be fostered and encouraged, promoting some while ignoring others. This selectivity gives the lie to the notion that advertising does no more than reflecting the surrounding culture. For example, the absence from advertising of certain racial and ethnic groups in some multi – racial or multi – ethnic societies can help to create problems of image and identity, especially among those neglected and the almost inevitable impression in commercial advertising

that an abundance of possessions leads to happiness and fulfillment can be both misleading and frustrating.

Advertising also has an indirect but powerful impact on society through its influence on media. Many publications and broadcasting operations depend on advertising revenue for survival. This often is true of religious media as well as commercial media for their part, advertisers naturally seek to reach audience; and the media, striving to deliver audience to advertisers, must shape their content so to attract audience of the size and demographic composition sought. This economic dependency of media and the power it confers upon advertisers carries with it serious responsibilities for both.

5.28 The Benefits of Advertising

Enormous human and material resources are devoted to advertising. Advertising is everywhere in today's world, so that, as Pope Paul VI remarked, "No one now can escape the influence of advertising." Even people who are not themselves exposed to particular forms of advertising confront a society, a culture – other people – affected for good or ill by advertising messages and techniques of every sort. Some critics view this state of affairs in unrelieved by negative terms. They condemn advertising as a waste of time, talent and money – an essentially parasitic activity. In this view, not only does advertising have no value of its own,

but its influence is entirely harmful and corrupting for individuals and society.

We do not agree. There is truth in the criticisms, and we shall make criticisms of our own. But advertising also has significant potential for good, and sometimes it is realized. Here are some of the ways that it happens.

5.28.1 Economic Benefits of Advertising

Advertising can play an important role in the process by which an economic system guided by the moral norms and responses of the common good contributes to human development. It is a necessary part of the functioning of modern market economics, which today either exist or are emerging in many parts of the world and which – provided they conform to moral standards based upon integral human development and the common good – currently seem to be “the most efficient instrument for utilizing resources and effectively responding to needs of a social economic kind.

In such a system, advertising can be a useful tool for sustaining honest and ethically responsible competition that contributes to economic growth in the service of authentic human development. “ The Church looks with favour on the growth of man’s productive capacity, and also on the ever widening network of relationships and exchanges between persons and social groups From this point of view she encourages advertising, which can

become a wholesome and efficacious instrument for reciprocal help among men.”

Advertising does this, among other ways, by informing people about the availability of rationally desirable new products and services and improvements in existing ones, helping them to make informed, prudent consumer decisions, contributing to efficiency and the lowering of prices and stimulating economic progress through the expansion of business and trade. All of this can contribute to the creation of new jobs, higher incomes and a more decent and humane way of life for all. It also helps pay for publications, programming and productions including those of the Church – that bring information entertainment and inspiration to people around the world.

5.28.2 Benefits of Political Advertising

The Church values the democratic system in as much as it ensures the participations of citizens in making political choices, guarantees to the governed the possibility both of electing and holding accountable those who govern them and of replacing them through peaceful means when appropriate.”

Political advertising can make a contribution to democracy analogous to its contribution to economic well being in a market system guided by moral norms. As free and responsible media in a democratic system help to counteract tendencies toward the monopolization of power on the part of oligarchies and special

interests, so political advertising can make its contribution by informing people about the ideas and policy proposals of parties and candidates, including new candidates not previously known to the public.

5.28.3 Cultural Benefits of Advertising

Because of the impact advertising has on media that depends on it for revenue, advertisers have an opportunity to exert a positive influence on decisions about media content. This they do by supporting material of excellent intellectual, aesthetic and moral quality presented with the public interest in view, and particularly by encouraging and making possible media presentation which are oriented to minorities whose needs might otherwise go unserved.

Moreover, advertising can itself contribute to the betterment of society by uplifting and inspiring people and motivating them to in ways that benefit themselves and others. Advertising can brighten lines simply by being witty, tasty and entertaining. Some advertisements are instances of popular art, with a vivacity and élan al their own.

5.28.4 Moral and Religious Benefits of Advertising

In many cases, too, benevolent social institutions, including those of a religious nature, use advertising to communicate their messages – messages of faith, of patriotism, of tolerance, compassion and neighborly service of charity towards the needy, messages concerning health and education, constructive and

helpful messages that educate and motivate people in a variety of beneficial ways.

For the Church, involvement in media – related activities, including advertising, is today a necessary part of a comprehensive pastoral strategy. This includes both the Church’s own media – Catholic press and publishing, television and radio broadcasting, film and audiovisual production and the rest – and also her participation in secular media. The media can and should be instruments in the Church’s program of re – evangelization and new evangelization in the contemporary world”. While much remains to be done, many positive efforts of this kind already are underway. With reference to advertising itself, Pope Paul VI once said that it is desirable that Catholic institutions” follow with constant attention the development of the modern techniques of advertising and know how to make opportune use of them in order to spread the Gospel message in a manner which answers the expectations and needs of contemporary man.”

5.29 The Harm Done by Advertising

There is nothing intrinsically good or intrinsically evil about advertising. It is a tool, an instrument. It can be used well and it can be used badly. If it can have, and sometimes does have, beneficial results such as those just described, also can, and often does, have a negative, harmful impact on individuals and society.

Communio et Progressio contains this summary statement of the problem. “If harmful or utterly useless goods are touted to the public, if false assertions are made about goods for sale, if less than admirable human tendencies are exploited, those responsible for such advertising harm society and forfeit their good name and credibility. More than this, unremitting pressure to buy articles of luxury can arouse false wants that hurt both individuals and families by making them ignore what they really need. And those forms of advertising which, without shame, exploit the sexual instincts simply to make money or which seek to penetrate into the subconscious recesses of the mind in a way that threatens the freedom of the individual must be shunned.”

5.29.1 Economic Harms of Advertising

Advertising, can betray its role as a source of information by misrepresentation and by withholding relevant facts. Sometimes, too, the information function of media can be subverted by advertisers’ pressure upon publications or programs not to treat of questions that might prove embarrassing or inconvenient.

More often, though, advertising is used not simply to inform but to persuade and motivate – to convince people to act in certain ways, buy certain products or services, patronize certain institutions and the like. These is where particular abuses can occur.

The practice of “brand” – related advertising can raise serious problems. Often there are only negligible differences among similar products of different brands, and advertising may attempt to move people to act on the basis of irrational motives (“brand loyalty” status, fashion, “sex appeal etc) instead of presenting differences in product quality and price as bases for rational choice.

Advertising also can be, and often is, a tool of the “Phenomenon of consumerism” as Pope John Paul II delineated it when he said.” It is not wrong to want to live better, what is wrong is a style of life which is presumed to be better when it is directed towards ‘having rather than being’ and which wants to have more, not in order to be more but in order to spend life in enjoyment as an end in itself.” Sometimes advertisers speak of it as part of their task to create needs for products and services – that it, to cause people to feel and act upon cravings for items and services they do not need.” If a direct appeal is made to his instincts – while ignoring in various ways the reality of the person as intelligent and free – then consumer attitudes and life – styles can be created which are objectively improper and often damaging to his physical and spiritual health.”

This is a serious abuse, an affront to human dignity and the common good when it occurs in affluent societies. But the abuse is still more grave when consumerist attitudes and values are transmitted by communications media and advertising to

developing countries, where they exacerbate socio – economic problems and harm the poor. “It is true that a judicious use of advertising can stimulate developing countries to improve their standard of living. But serious communities seeking to rise from poverty to a reasonable standard of living are persuaded to seek this progress by satisfying wants that have been artificially created. The result of this is that they waste their resources and neglect their real needs, and genuine development falls behind.”

Similarly, the task of countries attempting to develop types of market economics that serve human needs and interests after decades under centralized, state controlled system is made more difficult by advertising that promotes consumerist attitudes and values offensive to human dignity and the common good. The problem is particularly acute, when as often happens, the dignity and welfare of society’s poorer and weaker members are at stake. It is necessary always to bear in mind that there are “goods which by their very nature cannot and must not be bought or sold and to avoid “an idolatry of the market” that, aided and abetted by advertising, ignores this crucial fact.

5.29.2 Harms of Political Advertising

Political advertising can support and assist the working of the democratic process, but it also can obstruct it. This happens, when for example, the costs of advertising limit political competition to wealthy candidates or groups, or require that office

– seekers compromise their integrity and independence by over – dependence on special interests for funds.

Such obstruction of the democratic process also happens when, instead of being a vehicle for honest expositions of candidates ‘views and records, political advertising seeks to distort the views and records of opponents and unjustly attacks their reputations. It happens when advertising appeals more to people’s emotions and basic instincts – to selfishness, bias and sense of justice and the good of all.

5.29.3 Cultural Harms of Advertising

Advertising also can have a corrupting influence upon culture and cultural values. We have spoken of the economic harm that can be done to developing nations by advertising that posters consumerism and destructive patterns of consumption. Consider also the cultural injury done to these nations and their people by advertising whose content and methods, reflecting those prevalent in the first world, are at war with sound traditional values in indigenous cultures. Today this kind of “domination and manipulation” via media rightly is “a concern of developing nations in relation to developed ones” as well as” a concern of minorities within particular nations.” The indirect but powerful influence exerted by advertising upon the media of social communication that depend on revenues from this source points to another sort of cultural concern. In the competition to attract ever

larger audience and deliver them to advertisers, communicators can find themselves tempted – in fact pressured, subtly or not so subtly – to set aside high artistic and moral standards and lapse into superficiality, tawdriness and moral squalor.

Communicators also can find themselves tempted to ignore the educational and social needs of certain segments of the audience – the very young, the very old, the poor – who do not match the demographic patterns (age, education, income, habits of buying and consuming etc.) of the kinds of audience advertisers want to reach. In this way the tone and indeed the level of moral responsibility of the communications media in general are lowered.

All too often, advertising contributes to the invidious stereotyping of particular group that places them at a disadvantage in relation to others. This often is true of the way advertising treats women; and the exploitation of women, both in and by advertising, is a frequent, deplorable abuse. “How often are they treated not as persons with an inviolable dignity, but as objects whose purpose is to satisfy others appetite for pleasure or for power? How often is the role of woman as wife and mother undervalued or even ridiculed? How often is the role of women in business or professional life depicted as a masculine caricature a denial of the feminine values?

5.29.4 Moral and Religious Harms of Advertising

Advertising can be tasteful and in conformity with high moral standards, and occasionally even morally uplifting, but it also can be vulgar and morally degrading. Frequently it deliberately appeals to such motives as envy, status seeking and lust. Today, too, some advertisers consciously seek to shock and titillate by exploiting content of a morbid, perverse, pornographic nature.

What this Pontifical Council said several years ago about pornography and violence in the media is no less true of certain forms of advertising.

“As reflections of the dark side of human nature marred by sin, pornography and the exaltation of violence are age – old realities of the human condition. In the past quarter century, however, they have taken on new dimensions and have become serious social problems. At a time of widespread and unfortunate confusion about normal norms, the communications media have made pornography and violence accessible to a vastly expanded audience including young people and even children. Thus, a problem which at one time was confined mainly to wealthy countries has now begun, via the communications media, to corrupt moral values in developing nations.”

We note, too, certain special problems relating to advertising that treats of religion or pertains to specific issues with a moral dimension.

In cases of the first sort, commercial advertisers sometimes include religious themes or use religious images or personages to sell products. It is possible to do this tasteful, acceptable ways, but the practice is obnoxious and offensive when it involves exploiting religion or treating it flippantly.

In case of the second sort, advertising sometimes is used to promote products and inculcate attitudes and forms of behaviour contrary to moral norms. That is the case, for instance, with the advertising of contraceptives, abortifacients and products harmful to health and with government sponsored advertising campaigns for artificial birth control, so – called “safe – sex” and similar practices.

5.30 Some Ethical and Moral Principles

The Second Vatican Council declared: “If the media are to be correctly employed it is essential that all who use them know the principles of the moral order and apply them faithfully in this domain.” The moral order to which this refers is the order of the law of human nature, binding upon all because it is “written on their hearts” (Rom 2:15) and embodies the imperatives of authentic human fulfillment.

For Christians, moreover, the law of human nature has a deeper dimension, a richer meaning. “Christ is the Beginning who, having taken on human nature, definitely illumines it in its constitutive elements and in its dynamism of charity towards God

and neighbour.” Here we comprehend the deepest significance of human freedom: that it makes possible an authentic moral response, in light of Jesus Christ, to the call” to form our conscience, to make it the object of a continuous conversion to what is true and what is good.”

In this context, the media of social communications have two options and only two. Either they help human person to grow in their understanding and practice of what is true and good, or they are destructive forces in conflict with human well being. That is entirely true of advertising.

Against this background, then we point to this fundamental principle for people engaged in advertising: advertisers – that is, those who commission, prepare or disseminate advertising – are moral responsible for what they seek to move people to do. This is a responsibility also shared by publishers, broadcasting executives, and others in the communications world, as well as by those who give commercial or political endorsements, to the extent that they are involved in the advertising process.

If an instance of advertising seeks to move people to choose and act rationally in morally good ways that are of true benefit to themselves and others, persons involved in it do what is morally good. If it seeks to move people to do evil deeds that are self – destructive and destructive of authentic community, they do evil.

This applies also to the means and the techniques of advertising. It is morally wrong to use manipulative, exploitative, corrupt and corrupting methods of persuasion and motivation. In this regard, we note special problems associated with so – called indirect advertising that attempts to move people to act in certain ways – for example; purchase particular products – without their being fully aware that they are being swayed. The techniques involved here include showing certain products or forms of behavior in superficially glamorous settings associated with superficially glamorous people, in extreme cases, it may even involve the use of subliminal messages.

Within this very general framework, we can identify several moral principles that are particularly relevant to advertising. We shall speak briefly of three: truthfulness, the dignity of human person, and social responsibility .

5.30.1 Truthfulness in Advertising

Even today, some advertising is simply and deliberately untrue. Generally speaking though the problem of truth in advertising is somewhat more subtle: it is not that advertising says what is overtly false, but that it can distort the truth by implying things that are not so or withholding relevant facts. As Pope John Paul II points out, on both the individual and social levels, truth and freedom are inseparable; without truth as the basis, starting point and criterion of discernment, judgment, choice and action,

there can be no authentic exercise of freedom. The Catechism of Catholic Church, quoting the second Vatican Council, insists that the content of communications be “true and – within the limits set by justice and charity – complete; the content should, moreover, be communicated “honestly and properly.”

To be sure, advertising, like other forms of expression, has its own conventions and forms of stylization, and these must be taken into account when discussing truthfulness. People take for granted some rhetorical and symbolic exaggeration in advertising; within the limit of recognized and accepted practice, this can be allowable.

But it is a fundamental principle that advertising may not deliberately seek to deceive, whether it does that by what it says, by what it implies, or by what it fails to say.” The proper exercise of the right to information demands that the content of what is communicated be true, and within the limits set by justice and charity, complete. Included here is the obligation to avoid any manipulation of truth for any reason.”

5.30.2 The Dignity of the Human Person

There is an “imperative requirement” that advertising “respect the human person, his right duty to make a responsible choice, his interior freedom; all these goods would be violated if man’s inclination were to be exploited, or his capacity to reflect and decide compromised.”

These abuses are not merely hypothetical possibilities but realities in much advertising today. Advertising can violate the dignity of the human person both through its content – what is advertised – and through the impact it seeks to make upon its audience. In such circumstances, advertisements readily become “vehicles of a deformed outlook on life, on the family, on religion and on morality – an outlook that does not respect the true dignity and destiny of the human person.”

This problem is especially acute where particularly by vulnerable groups or classes of persons are concerned: children and young people, the elderly, the poor, the culturally disadvantaged.

Much advertising directed at children apparently tries to exploit their credulity and suggestibility, in the hope that they will put pressure on their parents to buy products of no real benefit to them. Advertising like this offends against the dignity and rights of both children and parents. It intrudes upon the parent – child relationship and seeks to manipulate it to its own base ends. Also, some of the comparatively little advertising directed specifically to the elderly or culturally disadvantaged seems designed to play upon their fears so as to persuade them to allocate some of their limited resources to goods or services of dubious value.

5.30.3 Advertising and Social Responsibility

Social responsibility is such a broad concept that we can note here only a few of the many issues and concerns relevant under this heading to the question of advertising. The ecological issue is one Advertising that fosters a lavish life style which wastes resources and despoils the environment offends against important ecological concerns. “In this desire to have and to enjoy rather than to be and grow, man consumes the resources of the earth and his own life in an excessive and disordered way. Man thinks that he can make arbitrary use of the earth, subjecting, it without restraint to her will, as though it did not have its own requisites and a prior God – given purpose, which man can indeed develop but must not betray.”

As this suggests, something more fundamental is at issue here: authentic and integral human development. Advertising that reduces human progress to acquire material goods and cultivating a lavish life style expresses a false, destructive vision of the human person harmful to individuals and society alike.

When people fail to practice “a rigorous respect for the moral, cultural and spiritual requirements, based on the dignity of the person and on the proper identity of each community, beginning with the family and religious societies,” then even material abundance and the conveniences that technology makes available “will prove unsatisfying and in the end contemptible.” Advertisers, like people engaged in other forms of social communication, have a serious duty to express and foster an

authentic vision of human development in its material, cultural and spiritual dimensions. Communication that meets this standard is, among other things, a true expression of solidarity. Indeed, the two things – communication and solidarity – are inseparable, because, as the catechism of the Catholic Church points out, solidarity is “a consequence of genuine and right communication and the free circulation of idea that further knowledge and respect of others.”

(a) Conclusions – Some Steps to Take

The indispensable guarantors of ethically correct behavior by the advertising industry are the well formed and responsible consciences of advertising professionals themselves: conscience sensitive to their duty not merely to serve the interests of those who commission and finance their work but also to respect and uphold the rights of interests of their audience and to serve the common good.

Many women and men professionally engaged in advertising do have sensitive consciences high ethical standards and a strong sense of responsibility. But even for them external pressures from the clients who commission their work as well as for the competitive internal dynamics of their profession – can create powerful inducements to unethical behavior. That underlines the need for external structures and systems to support and encourage responsible practice in advertising and to discourage the irresponsible.

Voluntary ethical codes are one such source of support. These already exist in a number of places. Welcome as they are, though, they are only as effective as the willingness of advertisers to comply strictly with them. “It is up to the directors and managers of the media which carry advertising to make known to the public, to subscribe to and to apply the codes of professional ethics which already have been opportunely established so as to have the co –operation of the public in making these codes still better and in enforcing their observance.

We emphasize the importance of public involvement. Representatives of the public should participate in the formation, application and periodic updating of ethical codes. The public representatives should include ethicists and church people as well as representatives of consumer groups. Individuals do well to organize themselves into such groups in order to protect their interests in relation to commercial interests.

Public authorities also have a role to play. On the one hand, government should not seek to control and dictate policy to the advertising industry any more than to other sections of the communications media. On the other hand, the regulation of advertising content and practice already existing in many places, can and should extend beyond banning false advertising narrowly defined, “By promulgating laws and overseeing their application, public authorities should ensure that public morality and social progress are not gravely endangered through misuse of media.

For example, govt. regulations should address such questions as the quantity of advertising, especially in broadcast media, as well as the content of advertising directed at groups particularly vulnerable to exploitation, such as children and old people. Political advertising also seems an appropriate area for regulation: how much may be spent, how and from whom may money for advertising be raised, etc.

The media of news and information should make it a point to keep the public informed about the world of advertising. Considering advertising's social impact, it is appropriate that media regularly review and critique the performance of advertisers, just as they do other groups whose activities have a significant influence on society.

Besides using media to evangelize, Church for her part needs to grasp the full implications of the observation by Pope John Paul: that media comprise a central part of that great modern "Areopagus" where ideas are shared and attitudes and values are formed. This point to a "deeper reality" than simply using media to spread the Gospel message, important as that is. "It is also necessary to integrate that message into the 'new culture' created by modern communications" with its "new ways of communicating, new languages, new techniques and a new psychology."

In light of this insight, it is important that media education be part of pastoral planning and a variety of pastoral and

educational programs carried on by the Church, including Catholic schools. This includes education regarding the role of advertising in today's world and its relevance to the work of the church. Such education should seek to prepare people to be informed and alert in their approach to advertising as to other forms of communication. As the Catechism of the Catholic Church points out, "the means of social communication....can give rise to a certain passivity among users, making them less than vigilant consumers of what is said or shown. User should practice moderation and discipline in their approach to the mass media."

In the final analysis, however, where freedom of speech and communication exists, it is largely up to advertisers themselves to ensure ethically responsible practices in their profession. Besides avoiding abuses, advertisers should also undertake to repair the harm sometimes done by advertising, in so far as that is possible: for example, by publishing corrective notices, compensating injured parties, increasing the quantity of public service advertising, and the like. This question of reparations is a matter of legitimate involvement not only by industry self – regulatory bodies and public interest groups, but also by public authorities.

Where unethical practices have become widespread and entrenched, conscientious advertisers may be called upon to make significant personal sacrifices to correct them. But people who want to do what is morally right must always be ready to suffer

loss and personal injury rather than to do what is wrong. That is a duty for Christians, followers of Christ, certainly, but not only for them. “In this witness to the absoluteness of the moral good Christians are not alone; they are supported by the moral sense present in people and by the great religious and sapiential traditions of East and West.”

We do not wish, and certainly we do not expect, to see advertising eliminated from the contemporary world. Advertising is an important element in today’s society, especially in the functioning of a market economy, which is becoming more and more widespread

Moreover, for the reasons and in the ways sketched here, we believe advertising can and often does, play a constructive role in economic growth, in the exchange of information and ideas and in the fostering of solidarity among individuals and groups. Yet it also can do, and often does grave harm to individuals and to the common good.

In light of these reflections, therefore, we call upon advertising professionals and upon all those involved in the process of commissioning and disseminating advertising to eliminate its socially harmful aspects and observe high ethical standards in regard to truthfulness, human dignity and social responsibility. In this way, they will make a special and significant contribution to human progress and common good.

5.31 Making Ethical Decision in the Workplace

One of the important questions of market – economy is why focus on making ethical decisions. The answer to it would be arguing that ethical decision making is at the heart of workplace ethics. Following are some tips about making ethically defensible decisions in the modern organization. That is our concrete goal.

5.31.1 Conclusion 1 Kiss (Keep It Short and Simple)

- a) We don't want to reduce ethics to a few moral dictates (don't bribe)
- b) Decisions have to be made in wildly different circumstances by very different types of people. There is a greater danger, if we don't keep it simple and short.
- c) People's attention spans are getting shorter.
- d) The word ethics is overused – in a wide variety of contexts
- e) But ethics is still a scary concept

But serious consequences follow from the decisions to keep things simple. We have to look for the core concepts and leave the finer points aside. The resulting approach can easily be criticized, but we have to stay the course.

5.31.2 Conclusion 2 The Great traditions

We have thousands of years of recorded thinking on what makes an ethical decision

- a) Hammurabi wrote in 1760 B.C.

- b) There are countless approaches:
- c) What matters is good people – you can't teach ethics – so just hire good people.
- d) Spirituality or religion is the road to ethical decisions recognizing human biology (the selfish gene) is critical for ethical decision.
- e) Organizational culture is the key to ethical decisions.
- f) All of these approaches contain much truth, but they don't really settle the question of what ethical standard applies in an organization. "Whose ethics?"
- g) On this, are several classical schools of thought
- h) But we don't want a philosophical debate on this point why not use the best of this experience?
- i) Take the essential features from the well known schools of thought and build them into a single all – inclusive approaches.
- j) This approach is specifically designed for practical use by decision makers in organization.

5.31.3 Conclusion 3 The All – Inclusive Approach

I call them the four pillars.

5.31.4 Duty – based ethics

Compliance with rules (a la Kant)

- a) Rules come in all shapes and sizes, expanding on the concept of duty as the basic for action.
- b) From Hindu philosophy to Immanuel Kant.

c) From the golden rule to Federal Accountability Act.

5.31.5 Results – based ethics

Maximizing outcomes (a la Mill or Bentham)

- a) Results come in all shapes and sizes too
- b) What is the public interest? What is the greatest good of greatest number?
- c) There are many versions of utilitarianism.
- d) Mill acknowledged the role of duty, values and dialogue.

5.31.6 Value – based ethics

Making integrity come to life (a la Aristotle)

- a) Values are critical where rules can't provide enough guidance in novel or rapidly changing situations.
- b) Honesty, respect and responsibility come to mind.
- c) The link with classical theories is weakest in basing values on Aristotelian virtues, which are more about the golden mean.
- d) Later virtue ethics adds metaphysical dimensions.

5.31.7 Discourse ethics

Reaching good decisions (a la Habermas or Daniel Yankelovich in the management field)

- (i) This pillar is clearly different from the first three – more process oriented.
- (ii) Ethics emerges from dialogue on dilemmas (dialogue is not just a communication tool)
- (iii) The discussion must be frank and honest.

(iv) Individual reflection and analysis is important, but teamwork on building an ethical culture through dialogue is even more important.

(v) Involves courage to speak truth to power

All this is not new. What is proposed is that

(vi) organizational ethics should focus its attention on these four as critical and

(vii) We work for greater harmonization between the four.

Why these four? These are basic aspects of human endeavour. Including rules and results in the model is controversial. Adding motives and values is not so obvious for some. But note that when motives and values are explicit, the ability to forecast future behaviour is much improved. In fact, motives and values can trump rules and results if they fall out of alignment.

So, I respect: it is essential to harmonize the pillars as much as possible. Adding the discourse element to the conception of ethics is even less, obvious. But individual reflection and analysis are not enough – for lasting ethical decisions, we must often.

(i) create ethical understanding.

(ii) explore the implications for the organization with others.

(iii) use discourses to integrate the pillars with each other.

This brings us to the application of the approach.

5.31.8 Conclusion 4: Case Study

The only way to learn ethical decision – making is to practice, especially before a crisis takes place.

(i) not everyone believes the case study – some fear the demon of situational ethics and relativism in work on specific cases.

(ii) but the all – inclusive approach is a simple tool that becomes most useful when you apply it in a number of different situations. Economic, scientific, political, legal, social and personal factors must all be balanced.

The four pillars are not equally important in every case: a contracting decision may focus on rules, an access to information request more on values.

(iii) these values include the public’s right to know, transparency, accountability, integrity of govt.

5.31.9 Conclusion 5: At Macro Level

The federal govt., for one, is currently focused on legal rules to catch crooks.

That’s good but you get culture of distrust, search for loopholes, and proliferation of rules. The rules have to be augmented by aspirational values and dialogue on ethics.

5.31.10 Conclusion 6: Calling all Managers

The approach may seem to challenge existing authority , but the advantages of the approach are real .

Help unleash personal autonomy, of creativity and judgment. There can be listed many other benefits of maintaining an ethical workplace.

- (i) enhance the reputation of your products and services
- (ii) enhance the trust of the public or investors
- (iii) enhance customer and client loyalty
- (iv) reduce risks
- (v) enhance effective governance

Let the approach be spread to organizational leaders across the land

- (vi) in the govt. business, professional groups and the voluntary sector.

5.32 Business ethics in India

Unethical business became a recognized phenomenon during the Second World War. Academic/journalistic/legal concern with ethics became visible only during the nineties. Corruption – of – the – poor and corruption – of – the – rich need to be distinguished, especially in the context of globalization. The danger of attributing unethical practices to system failure is recognized. It is also important to bring to bear on intellectual property rights the more fundamental principle of natural property right. Consciousness ethics will be more crucial than just intellectual ethics.

5.32.1 A macro glance

A few initial general points are worthwhile. Systematic empirical investigation in the field has yet to start in India. In fact until the year 1992 ethics in business was hardly a topic of concerted engagement at any level except in two or three business schools in the country. It was only the 2 billion dollar stock exchange fiasco in 1992 which threw up the ethics issue at the macro – level. Since then, investigative journalism has been playing a key role in highlighting corrupt and fraudulent practices within the business – political – criminals (BPC) triangle. Both the “legislature” and “executive” wings of nation – management seem to be losing their credibility. Presently the citizens are hopefully looking up to the assertive “judiciary” as the ultimate resort in these ethically troubled times. It has given rise to “judicial activism” triggered by public interest litigations instituted at the Supreme Court level by some citizens fora. e.g. Common Cause. The Chief Justice of India, however believes that such activism will be a temporary phenomenon, Public feeling strongly supports the activism though. (Times of India, February 7 – 29, 1996)

The elder generation often recalls that ethical decline in society had surface prominently during the Second World War when black market was born, making contractors and traders wallow in riches overnight. But the “politics – bureaucracy” apparatus in riches overnight. But the “politics – bureaucracy” apparatus had not been dragged into the black vortex of ill – gotten money. Since the 1950s however, with the launching of the era of

state – planned and controlled economic development, things seem to have been going from bad to worse – though usually below the surface. This cumulative ethical depression “began to break loose as an ethical cyclone with economic liberalization adopted by India in 1991. This storm has been exposing the supportive role of the “politics – bureaucracy” alliance in fostering and feeding upon economic terrorism of various kinds. The neutrality of bureaucracy has been tampered rather heavily since the mid – seventies by the political masters. Business thus got ready opening into this caving citadel. Since increasingly expensive elections are not state – financed the stimulus to politics – business corruption remains strong in an otherwise remarkably resilient democratic system.

5.33 Business Culture of India

Keeping the business ethics of India in mind, we can describe business culture of India in the following ways:-

The business culture of India is a reflection of the various norms and standards followed by its people. Indians have various cultural yardsticks, which extend to their business culture too. Thus it is important that a person visiting the country has an idea of the business culture of India. Thus it is important that a person visiting the country has some basic idea regarding the business ethics and customs followed here. Having a good grasp on Indian business culture will ensure that you succeed in maintaining a well

– earned affinity with your business counter parts. If you are unsure of how to deal with an Indian when it comes to business, we are here to simplify the task. Read on to know about the things that are to be strictly adhered to while forming any kind of business associations with Indians.

- (i) The ‘namaste’ forms an important part of Indian etiquette and is generally used while greeting and saying good – bye. This gesture is akin to the act of genuflection in some countries and is formed by pressing the palms of both hands together (fingers up.) The folded hands are placed below the chin and accompanied with a bow. However, educated Indian men and women, who are acquainted with western customs, prefer shaking hands. Moreover, while greeting any individual use his or her title (if he has any). To mark respect, you may also suffix ‘ji’ to the name of a person.
- (ii) A sound knowledge of India’s cultural practices and business etiquettes is necessary for any trade or business venture within the country. A proper understanding of culture and business etiquette would not only demonstrate a respect for India but will also create a feel good factor amongst the prospective clients.
- (iii) In India guests are treated with utmost respect and courtesy. International travelers can expect to enjoy the Indian hospitality. At the same time culturally and as a mark of

politeness, Indians have difficulty in saying no, this could be a stumbling block in negotiations and closing contracts.

- (iv) The notion of time, time management, punctuality is still an anathema in India. It is more to do with the mindset and ingrained in the Indian culture. It would not be surprising if meetings are postponed, re – scheduled, cancelled or organized at a very short notice.
- (v) The proficiency over the English language for the average middle class is commendable. Official communication – letter faxes, email are generally received without any hitch, but it would be prudent to cross – check if the transmission has reached the receiver.
- (vi) Bureaucratic hurdles and a laidback approach to work in the govt. circles could result in delays in processing, overload of power work and a general lack of confidence in the system. Therefore, immense patience is very much necessary for any business transaction in India.
- (vii) In India, companies follow the hierarchical system and decision making is usually from the top to bottom. It could at times be time consuming. International companies show respect to this. The lack of infrastructure and inadequate supply chain management can also act as a bottleneck for foreign investment.

5.34 Business Ethics Program

Now the market economy has become increasingly global. Leaders in business, govt. and non – governmental organizations (NGOs) now see global economic development as the best way to increase prosperity within and among countries and to create opportunities for millions of people, especially in the developing world, to secure a decent life for themselves and their children. The challenge is to find the right balance between emerging global norms, values and standards and local cultures, business practices and community needs.

Business in emerging market economics face many challenges. For example, although no society approves of paying or accepting bribes, in societies where workers receive lower than subsistence level pay “expediting fees” (also known as bribes) often become unapproved but accepted behaviour under local custom. In such societies, bribery is so common that even law enforcement officials pay bribes to gain their positions.

While describing processes reflecting emerging global standards is one good thing, the design and implementation of a business ethics program requires extreme sensitivity to local values, norms and standards. The program must recognize that management policies, standards and procedures will be open to all levels of the enterprise. For example a superficial approach to responsible business conduct condemns bribes and threatens to punish those who pay or accept them. However, a business ethics program takes a comprehensive approach. It recognizes such

accepted behaviour as part of challenges facing the enterprise and addresses such issues systemically. In other words, it addresses them at their roots by examining hiring processes, compensation schemes and training and education; by instituting monitoring, auditing and reporting mechanisms; and by influencing the legislative or regulatory processes.

A business ethics program does not set up either the enterprise or its employees and agents for failure. Rather it strives to place the right people in the right positions in the enterprise to foster and meet reasonable stakeholders expectations as the surest means to improved business performance, profits and economic progress. It scans the relevant context of the enterprise and its organizational culture to identify challenges and to develop responsible ways to meet them. It starts from the assumption that enterprises are integral parts of their communities. It encourages them to work within the community to overcome the challenges of emerging market, economics and contribute to community driven development.

Moreover, a business ethics program takes care not to mistake cultural, legal or religious differences for a lack of ethics. In Islamic countries, for example, ‘mudaraba’ (reflecting a Sharia law requirement that a lender charge no interest) may result in forms of payment that could be mistaken by those unfamiliar with the culture as inappropriate or unethical (that is as “kickbacks”)” A common cultural difference is the attitude towards hiring relatives.

In some cultures, it is expected that owners and managers will hire relatives as a matter of course. In others, hiring relatives, which is known as nepotism is discouraged or, in some circumstances, prohibited.

5.35 Responsible Business as part of the Solution

As long as businesses concentrate their attention and efforts on dealing with everyday challenges rather than striving to rise above them, they may be part of problem. For example, although paying a small bribe to get a permit or to evade taxes may be “just the way things are done,” or something that “everyone does”, businesses that do so may perpetuate business practices and conduct that make the evolution to a market economy more difficult.

The ultimate issue for a Responsible Business Enterprise (RBL) in an emerging market economy is whether it sees itself as part of the current problem or part of the solution. If enterprises see themselves as part of the solution and develop a roadmap to guide their employees and agents then we are sure they can improve their business performance, make profits, and increase the prosperity of their communities.

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Bio – Ethics

With the tremendous advance in medical sciences in the recent centuries, man's longevity has increased as well as health care sciences have taken new shape. For example, medical and pharmacologic advancements have made it possible to transplant organs successfully and thereby to save the lives of many persons who otherwise would die from irreversible end stage organs successful and thereby to save the lives of many persons who otherwise would die from irreversible end stage organ disease. The existence and distribution of organ transplantation procedures in developing countries, while almost always beneficial to those receiving them, raise many ethical concerns. Both the source and method of obtaining the organ to transplant are major ethical issues to consider, as well as the notion of distributive justice. Similarly, what if, your parents could have specified which gender child to have? What if they could have chosen to give to give you a head for figures, or an artistic bent? Pre implantation genetic diagnosis technology, a testing process that costs thousands of all dollars and is offered to couple using inverts fertilization, allows today's parents to choose whether to have a boy or girl.

Embryos also can be tested for hundreds of fatal congenital anomalies, childhood diseases and even some diseases that don't occur until well into adulthood. Doctors can test to ensure that an embryo's umbilical cord blood or bone marrow will be a match for

a sibling who needs a donor. And just as physicians can use PGD to help deaf parents avoid giving birth to a deaf child, so theoretically, could doctors use it to help them have a child who is like them. Physicians working in this field face a seemingly overwhelmingly array of demands from different stakeholders – parents, bioethicists, anti – abortion critics, disabled – right groups. As the field advances, individual doctors for now must determine where and how to draw the line between the craft of medicine and the specter of eugenics fears of so – called designer – babies. No U.S law specifically restricts the uses for which doctors and patients can use embryo screening, though several European countries ban or severely restrict PGD.

All this and in many more branches of medical science, technological advancements have raised many questions of ethics which involve human existence. Though not going into very detail of the branch of medical sciences, ethical issues related to it will be dealt with as follows:-

(I) Some ethical issues peculiar to psychiatry

The practice of psychiatry is different from other medical specialties in two significant respects. First, one deals with certain groups of patients whose judgment may be impaired at times due to their mental illness or who are unable to refuse any medical help. In such situations, therapeutic intervention or even detention in a psychiatric facility against the patient’s wishes may become

necessary. This raises various ethical and human rights issues that have been debated extensively without arriving at a consensus.

Second, in no other medical specialty do patients share with their doctor so many intimate details about their personal, emotional, social or even sexual life. As a result, a special kind of relationship, both positive and negative develops between the patient and psychiatrist. This particularly happens during prolonged treatment. This raises many ethical issues depending on how the psychiatrist handles it.

National and International ethical guidelines

The World Psychiatric Association (WPA) prepared the Declaration of Hawaii in 1977 after extensive discussion. This was updated in Vienna in 1983. The revision in 1996 was called the Madrid Declaration. There is also a Standing Committee for ethical issues. The UN General Assembly in 1991 specially considered the question of 'Principles for the protection of persons with mental illness and for the improvement of mental health. In India, the National Human Rights Commission's publication, Quality assurance in mental health, provides guidelines for the care of mentally, ill in psychiatric patients should be treated with dignity and respect. As far as possible their consent must be taken for any treatment or hospital admission. If such patients are not in a position to give their consent, close family members should be consulted, but the interest of the patient must remain paramount.

Physical restraints, if required, must be minimum and for a temporary period under close medical supervision. The use of chains or other degrading devices to restrict the patient should have no place in modern psychiatry. The patient should be kept as involuntary admission in a psychiatric hospital for the minimum period necessary. There must be adequate provision for the right to appeal against forcible detention. Many of these recommendations are included in the Mental Health Act of 1987.

Research on patients with mental disorders

In general, it is agreed that for any research on human beings, informed consent of the individual must be an essential part of the research protocol. The difficulty in seriously mentally ill patients is that due to their illness, many of them have their judgment substantially impaired. They may not be in a position to judge the risks involved in various medical research procedures. In India, where a large number of patients are poorly educated, giving consent by signing some research protocol seems to be an inadequate safeguard. The patients and their families inherently trust their doctors and hence a big ethical responsibility falls on the treating doctor. A complete ban on all research on the mentally ill may be going to one extreme. Two safeguards are suggested. First, such research should be strictly limited to what is in the larger interest of the mentally ill. Second, there must be independent monitoring to ensure that ethical guidelines are followed. The

Indian Council of Medical Research must periodically review the ethical implications of research on those who are seriously mentally ill.

The question of electroconvulsive therapy (ECT)

The use of unmodified ECT is another subject of intense debate in India. Sometime ago, there was a lively exchange on this subject. One section seem to favour unmodified ECT in certain circumstances, while the other holds that unmodified ECT, without anesthesia, has no place in modern psychiatry. I find myself close to the latter position for the following reasons.

With the availability of modern antipsychotic and antidepressant drugs, the role of ECT has been greatly reduced. There are many successful medical practitioners who have rarely used ECT in the past five years or so in their private practice.

Second, there will be a few people in psychiatric hospitals or general hospital psychiatric units who will require ECT and it may be life saving in some situation. It must be ensured that ECT is provided with anesthesia and muscle relaxants. There should be no compromise on this issue. If direct ECT is easily available it may be overused and misused, as happens in many mental hospitals located in remote areas.

Psychiatry has been isolated from the mainstream of medicine. This has been bad for the profession and worse for the mentally ill.

Common ethical issues in medicine and psychiatry

Medicine is both a science and the art of healing. The dynamics of this combination is best reflected in psychiatry, the branch of medicine which specializes in the diagnosis and care of those who are suffering from mental disorders. The past five decades have seen the establishment of general hospital psychiatric units and the rise of private sector in psychiatry bringing psychiatry closer to general medicine but as a result, psychiatry is now, facing many ethical issues. The convulsion books frightening to the viewer, this perpetuates the myth that ECT is a barbaric treatment. This statement gives the impression that the feelings of viewers – family members, health care staff – are not important in this matter since the patient does not remember the fit. I do not agree. In our society, people already have strong prejudices against psychiatric patients. Any treatment which appears to be 'barbaric' or 'frightening' to the general public will further reduce the acceptance of psychiatry unmodified ECT should be stopped.

Crossing clinical boundaries

This subject has been extensively debated in the medical literature in the US and Europe where there are many more psychiatrists and psychotherapy is quite common. The psychiatrist patient relationship can continue for a long time and strong positive (and sometimes negative) feelings can develop for the therapist and vice versa. It is a part of the psychiatrist's training to

handle such situations carefully. The guiding principle is always the interest of the patient who has come for help. The WPA's Madrid Declaration states: 'Under no circumstances should a psychiatrist get involved with a patient in any form of sexual behavior, irrespective of whether this behavior is initiated by the patient or the therapist.

The real issues in mental health

In this, I fully agree with Dr. Pathare's views. For me, the most important national ethical issue is how to ensure that the benefit of modern psychiatry is available to all sections of our population. Unfortunately, it is not happening at present. Poor patients from rural or slum areas, especially women, get little benefit from modern psychiatry. The book *Out of mind, out of sight* beautifully describes the plight of homeless women with mental illness in India. We must remember the distressing sight of the wandering 'lunatic or mentally ill with torn clothes, with nothing to eat, ridiculed by passers – by. We must ensure that such degrading sights to human dignity disappear from India and essential psychiatric services are available to such unfortunate patients. The best methods, as mentioned by Dr. Pathare and by many others and also recommended in WHO's World mental health report 2001, are to provide services through primary health care in the community, increase the number of mental health professionals, supply essential drugs and most importantly, educate

the public to reduce the stigma and discrimination due to mental illness so that patients and their families do not hide the mental illness but avail psychiatric services on time.

II Ethical Issues in personalized Medicine

As these issues are much more difficult, I have tried to limit myself to three different classes of issues:

1. Protecting patient privacy
2. Protecting patient autonomy
3. Allowing access to personalized medicine

Protecting patient privacy is one of the most important things that must be done before ordinary people will be willing to take advantages of individualized medical care, and just about everyone agrees that patients have a right to keep details about their health private from most people (even if not from, say, their insurance company or in some cases state or local governments). But how far does that right extend? Does it cover person's genetic make – up? That is something that undeniably influences health. And a fair amount of information about what diseases a person has or is at risk for can be extracted from genotype and gene expression information like what would be collected for personalized medicine services. How do you keep that information private and what uses are OK? For example, if a person has this information collected for use in risk profiling or diagnosis, should that then automatically commit them to allowing their data to be used for

diagnosing and profiling others? While this can be done without identifiers, this information is, in effect personally identifying, so it can never be truly anonymous. Additionally, what about the privacy of other family members? Families share genetic information, and by knowing something about their risk, a person also learns about the relatives' risks.

One of the issues of privacy is also directly related to patient autonomy – the right of a patient to choose what happens to them. The question of what uses of a patient's data to allow their data to be used for risk profiling or diagnosis as a condition for performing the service for them? The reasons for doing this are compelling (because large sample sizes are necessary for high quality risk prediction) but is it undue pressure on person to require it? That is to say, if agreeing to this is a condition, can that agreement really be considered free and consensual? What if the condition was not to allow the data to be used for diagnostic work but for research? Should a company be allowed to offer to collect this data for free in exchange for allowing its use in pharmaceutical development or trials? It is a long established concept in research that the incentives offered for participating in trials and research studies should not be so high as to high – throughout data – collection will be likely be fairly expensive even for those with insurance (and probably nearly unattainable for those without insurance), what level of incentive is overly tempting? Another privacy issue is also an autonomy issue: if relatives are fearing

something about their risk of disease says something about your risk of a disease, should you have to consent before the relative can have those tests performed? How can we deal with this information being effectively forced on people?

Cost, just like with the policy issues last time, is a significant ethical issue as well. Something like 46 million people are without health insurance today, and many more have insurance plans that cover only the most basic things. How can we provide access to personalized medicine to everyone? Is access for everyone a reasonable goal? Is it an attainable one? There are some of the toughest questions that have to be answered, but luckily they're very similar to questions that have already been asked about traditional health care. There will likely be a number of levels of personalized care and if universal access is a goal, what level is acceptable? Is a tiered system where those who can't afford to pay on their own receive some level of service while those who can afford it get more comprehensive care ethically sound? It's something that looks much like our current health care system, but many people are unhappy with that model.

Although the ethical issues facing personalized medicine are tricky, they are actually not that much different from the ones that face traditional medicine. This means that the research and dialogue about them can be transferred, so that conversation doesn't have to start from scratch.

III Ethical Considerations in Rural Health

Within rural medicine, there are a number of ethical challenges that clinicians face. Many of the ethical challenges that develop in rural areas arise simply because of the large distances separating patients from medical resources. Other barriers to providing quality care in rural settings are due to changing demographics of these regions. Immigrant workers are being drawn to the numerous agricultural jobs found in these areas. This creates an environment where both cultural and linguistic differences cause difficulties when providing care.

(i) Resource Limitations and Distribution

While providing health care to rural regions, one of the largest ethical issues that clinicians face is seen in the distributions of resources. The issue of limited resources is not a problem which is unique to rural areas, but it is certainly an issue at the forefront of rural medicine. The limitations that clinics face in those regions are multifaceted. Often rural clinics are not able to possess or maintain equipment which may be considered able to possess or maintain equipment which may be considered standard in metropolitan areas. Further limitations are seen in the financial resources available in rural clinics. There are also limitations on the number of doctors available to care for patients. As we have noted rural areas face a scarcity of resources and herein lies a major ethical problem. With such scarce resources, doctors in rural

clinic must decide the most just manner in which to use the resources they do have without compromising quality of care. To further complicate the issue, many people within rural settings may not be able to afford medical care, yet they still need to be treated. All these factors create major ethical questions for the rural clinician.

(ii) Lack of Ethics Board for Difficult Decisions

In terms of making ethical decisions, doctors in the rural areas are more often than not left on their own. In many hospitals in metropolitan areas, doctors may consult with an “ethics board” to help guide them in decisions which may be ethically ambiguous. In the rural clinic or hospital, these boards usually not exist. Rural doctors are left to pull heavily from the opinions of their colleagues as well from their won belief systems. This is certainly a challenge as there in some degree safety in knowing that one has a board of professionals who are well versed in medical ethics, and this is a luxury that rural doctors are usually not afforded. Therefore there is always a chance that a doctor may second guess a decision he or she has made or have others question his or her choices. This act indicate that a necessary component of practicing rural medicine is that the clinician must have a strong understanding of medical ethics as well as a strong grasp of their own ethical benefits.

(iii) Cultural barriers

The changing demographics of rural areas are also creating ethical challenges. Rural America is seeing an increasing number of immigrant workers moving to rural areas to fill agricultural and other “blue collar” jobs. These people often bring with them their own language and cultural beliefs which clinicians may not be familiar with. These factors create barriers when providing care as certain cultural beliefs may prohibit a procedure from being performed. In the case of language, a patient may not be able to give proper consent since they do not understand what is being explained to them.

(iv) Protection of Patient Privacy

With the advent of HIPPA law, yet another challenge has arisen for rural clinicians. In towns with small populations, it is often difficult to keep a patient anonymous since the close relationships of the town people make it difficult to keep such facts private. Rural clinics in the past often posted a board of patients and their illnesses where everyone in the clinic could see it. This was often done so people would know who was sick so that community could assist them in whatever way necessary. This was a very valuable community asset. With new laws protecting patient privacy this accepted practice is no longer an option. However, these boards have been somewhat preserved since patients may volunteer this information.

Clearly there are a number of ethical issues which rural clinicians must face due to the nature of where they are practicing. Some of these issues are not unique to this area, but anyone considering practicing medicine in a rural area must face due to the nature of where they are practicing. Some of these issues are not unique to this area, but anyone considering practicing medicine in a rural area must be sensitive to these challenges.

IV Informed Consent

Informed consent is another pertinent issue related to medical science and health care. Informed consent is more than simply getting a patient to sign a written consent form. It is a process of communication between a patient and physician that results in the patient's authorization or agreement to undergo a specific medical intervention. In the communication process, the physician providing or performing the treatment and/or procedure (not a delegated representative/should disclose and discuss with his patient:

- a) the patient's diagnosis, if known
 - b) the nature and purpose of a proposed treatment or procedure
 - c) the risks and benefits of a proposed treatment or procedure
 - d) Alternatives (regardless of their cost or the extent to which the treatment options are covered by health insurance);
 - e) the risks and benefits of the alternative treatment or procedure;
- and

f) the risks and benefits of not receiving or undergoing a treatment or procedure.

In turn, the patient should have an opportunity to ask questions to elicit a better understanding of the treatment or procedure, so that he or she can make an informed decision to proceed or to refuse a particular course of medical intervention.

The first case defining informed consent appeared in the late 1950s. Earlier consent cases were based in the tort of battery, under which liability is imposed on unpermitted touching. Though battery claims occasionally occur when treatment is provided without consent, most consent cases generally centre around whether the consent was “informed” i.e. whether the patient was given sufficient information to make a decision regarding his or her body and health care. Because informed consent claims, unlike battery claims, are based in negligence, they generally are covered by liability insurance. To protect oneself in litigation, in addition to carrying adequate liability insurance, it is important that the communication process itself be documented. Good documentation can serve as evidence in a court of law that the process indeed took place. A timely and thorough documentation in the patient’s chart by the physician providing the treatment and/or performing the procedure can be strong piece of evidence that the physician engaged the patient in an appropriate discussion. A well – designed, signed informed consent form may also be useful, but an overly broad or highly detailed actually can work against the

physician. Forms that serve mainly to satisfy all legal requirements (stating for example that “all material risks have been explained to me”) may not preclude a patient from asserting that the actual disclosure did not include risks that the patient unfortunately discovered after treatment. At the other extreme, listing all of the risks may not be wise either. A comprehensive listing will be difficult for the patient to understand and an omission from the list will likely be presumed undisclosed. If a physician is using a form that contains a list, he should consider with his attorney, inserting language indicating that the list is not exclusive (such as “included, but not limited to”) before the list begins. Medicare participating physicians must also be cognizant of CM’s requirements for informed consent.

Again, this is general knowledge one can use when he asks for further information and advice from qualified attorneys and/or other professional consultants. If one needs a referral to qualified attorney, he should contact his state medical society.

V Ethical Issues Transfusion Medicine

The practice of transfusion medicine involves a number of ethical issues because blood comes from human beings and is a precious resource with a limited shelf life. In 1980, the International Society of Blood Transfusion endorsed its first formal code of ethics, which was adopted by the World Health Organization and the league of Red Crescent Societies. A revised

code of ethics for donation and transfusion was endorsed in 2000. Blood donation as a gift donor confidentiality, donor notification and donor consent, consent for transfusion, the right to refuse blood transfusion the right to be informed if harmed and ethical principles for establishments, are discussed in the international and Indian contexts.

Ethics is a basically a set of moral values or a code of conduct. The role of ethics is developing clinical practice guidelines and recommendations for health care providers is to ensure that values that may not be adequately incorporated into the law are given reasonable consideration. The framers and the users of guidelines must be aware of the potential ethical conflicts inherent in many medical decisions and the guidelines must reflect a thoughtful consideration and balancing of issues.

The practice of transfusion medicine involves a number of ethical issues because blood comes from human beings and is a precious resource with a limited shelf life it involves a moral responsibility towards both donors and patients. Decision must be based on four principles respect for individuals and their worth, protection of individuals rights and well being, avoidance of exploitation and the Hippocratic principle non nocere or “first do no harm.”

History of transfusion ethics

Ethics is a dynamic process in relation to the state of scientific knowledge, public awareness and the local laws, at any given time and place. This is clear when we review the history of transfusion ethics. The earliest mention of human transfusion in 1492, describes efforts to save the life of Pope Innocent VIII. Blood was extracted from three 10 – year – old boys and transfused to the Pope. All three boys and the Pope died. Some two centuries later, transfusion was attempted again. In 1667, Dr Richard lower transfusion sheep’s blood to a mentally ill man to cure him. The patient was given 20 shillings to undergo this experiment. The same year a 34 – year old man underwent repeat transfusions of calf’s blood. This resulted in a classical hemolytic transfusion reaction and the court banned future transfusions. Human – to – human transfusion safety into public awareness. It also brought up ethical issues in relation to both donors and patients.

After approximately 1000 transfusion/fraction transmitted HIV infection cases occurred in 1982 – 83, in 1992 the Krever Enquiry ruled that the Canadian Red Cross (CRC) erred in not barring gay men from donating blood when it was known that AIDS was almost exclusively a disease of gay men, and the American of Blood Banks had debarred them from donating blood. The CRC replied that it was trying not to discriminate against gay people. The court upheld that “public rights are higher than individual’s right”

ISBT Code of Ethics

In 1980 the International Society of Blood Transfusion (ISBT) endorsed its first formal code of ethics. It was later also endorsed and adopted by the World Health Organization and the League of Red Crescent Societies. A revised code of ethics for blood donation and transfusion was endorsed in 2000, with inputs from various concerned organizations. It gave recommendations regarding the ethical responsibilities of the donor, the collection agency and the prescribing authority towards the well – being of the recipient and the community at large. This code is reproduced below:-

A Code of ethics for blood donation and transfusion

The objective of this code is to define the ethical principles and rules to be observed in the field of transfusion medicine.

1. Blood donation, including hematopoietic tissues for transplantation shall, in all circumstances, be voluntary and non – remunerated. No coercion should be brought to bear upon the donor. The donor should provide informed consent to the donation of blood or blood components and to the subsequent (legitimate) use of the blood by the transfusion service.
2. Patients should be informed of the known risks and benefits of blood transfusion and/or alternative therapies and have the right to accept or refuse the procedure. Any valid advance directive should be respected.

3. In the event that the patient is unable to give prior informed consent, the basis for treatment by transfusion must be in the best interest of the patient.
4. A profit should not be the basis for the establishment and running of a blood service.
5. The donor should be advised of the risks connected with the procedure, the donor's health and safety must be protected. Any procedure relating to the administration to a donor of any substance for increasing the concentration of specific blood components should be in compliance with internationally accepted standards.
6. Anonymity between donor and recipient must be ensured except in special situations and the confidentiality of donor information assured.
7. The donor should understand the risks of others of donating infected blood and his or her ethical responsibility to the recipient.
8. Blood donation must be based on regularly reviewed medical selection criteria and not entail discrimination of any kind including gender, race, nationality or religion. Neither donor nor potential recipient has the right to require that any such discrimination be practiced.
9. Blood must be collected under the overall responsibility of a suitably qualified, registered medical practitioner.

10. All matters related to whole blood donation and haemopheresis should be in compliance with appropriately defined and internationally accepted standards.
11. Donor and recipients should be informed if they have been
12. Transfusion therapy must be given under the overall responsibility of a registered medical practitioner.
13. Genuine clinical needs should be the only basis for transfusion therapy.
14. There should be no financial incentive to prescribe a blood transfusion.
15. Blood is a public resource and access should not be restricted.
16. As far as possible the patient should receive only those particular components (cells, plasma or plasma derivatives) that are clinically appropriate and afford optimal safety.
17. Wastage should be avoided in order to safeguard the interests of all potential recipients and the donor.
18. Blood transfusion practices established by national or international health bodies and other agencies competent and authorized to do so should be in compliance with this code of ethics.

Some important issues are being highlighted.

Ethical issues related to donors

Blood donations as a gift the WHO recommends that national blood service should be based on voluntary, non –

remunerated blood donation. No one should be forced to donate for family or economic or any other reason. The trade of human blood and body parts is unethical. “The dignity and worth of the human being should be respected.”

Non – remunerated blood donation is considered a gift and the blood centre has a right to accept or defer it if unacceptable. Donor deferral might appear as discrimination and a violation of a human right, but the patient’s right to safer blood is more important than the donor’s right to not to be discriminated against, as blood centers are made to help patients and not donors.

Donor confidentiality, donor notification and donor consent

Donor confidentiality is a important issue. Personal information disclosed by the blood donor during the course of a pre – donation interview and information obtained from the various tests performed on the donated component, are expected to be held in confidence by the donor centre.

Donor screening and testing used to be simple. Today’s donors are asked intimate questions about their lifestyles and put through a battery of laboratory tests. This has had significant repressions for the relationships between blood, centers, blood donors, physicians and patients. The blood donor, an ostensibly healthy individual until notified of an abnormal result by the blood centre, may seek a physician advice and doubt the credibility of the

testing procedure and deferral policies. A more specific test might turn out to be negative and the donor may be labeled as healthy. This donor might return to the blood centre asking for compensation for the unnecessary mental anguish and the expenses incurred and might never donate again.

The donor room personnel and the donor may have misunderstandings about confidentiality. There is often a tension in donor centers between the need to keep the donor information confidential and the need to disclose relevant information to third parties such as family members, employers, public health authorities and police officers.

Blood safety depends partly on the information provided by the donor and it is also the donor's ethical duty to provide truthful information. It is unethical to willfully conceal information about high risk behavior or medical history.

Ethical issues related to patients

Ethical issues related to patients include access to risk – free safe blood free of charge of need of replacement, informed consent for transfusion, the right to refuse the transfusion and the right to be informed if harmed.

Consent for transfusion

Consent for transfusion has to be informed consent. The patient should be informed of the known risks and benefits of transfusion and alternative therapies such as autologous transfusion

or erythropoietin. Only then should consent be documented if the patient is unable to give prior informed consent, the basis a treatment by transfusion should be in the best interests of the patients.

Right to refusal

The patient's right to refuse blood transfusion should be respected. Some religious sects such as Jehovah's Witnesses do not accept blood transfusions. Followers of this belief live in India as well and there have been instances of blood refusal here.

Right to be informed if harmed

If the patient's has been transfused blood and components that were not intended for him/her, whether harmed or not, he/she has the right to be informed. Similarly, a patient who has inadvertently received blood positive for a transfusion transmissible market has a right to be informed and given due compensation.

Ethical principles for blood establishments

A profit motive should not be the basis of establishing and running blood transfusion services. Wastage should be avoided to safeguard the interests of all potential donors and recipients.

The situation in India

With the rising awareness of ethical issues in every field of medical care and research in India, awareness is growing in the

field of transfusion medicine as well. But we are not nowhere near the international code of ethics.

In the 1990s, in response to a public interest litigation a Supreme Court order banned professional blood sellers and directed the govt. to formulate a national blood policy. The National Blood Transfusion Council with the National Blood Policy as a tool, and the Drugs Controller, with the help of the Drugs and Cosmetics Act, now aim to ensure blood safety and ethical transfusion practices in India.

Currently under the Drugs and Cosmetics Act it is mandatory to test blood for anti – HIV1 and 2, anti – HCV, HBS Ag and RPR for syphids. Consent for testing is taken and the donor is given the option of receiving the results this is mandatory in some countries such as the US and UK.

Until recently donors were not informed because specific consent for testing was not taken, and the screening tests had relatively high false positive rates, which could cause panic. No confirmatory tests were required. So the donation system was projected as anonymous and unlinked and adequate counseling was not available. The National Blood Policy of 2002 has addressed this gap.

This Code of Medical Ethics that is bending on doctor, honors confidentiality. However in a court of law in India, this privilege is not absolute but qualified. Doctors can reveal

information in the interest of individual or general welfare of society and when there is no mal intention.

Ethical issues are mostly violated in relation to the patient in India. Patients all over the country do not have access to safe blood, free of charge, or the option of giving consent and choosing safer alternatives. With the National Blood Policy, a decision was taken to improve transfusion services all over the country and creates greater awareness about transfusion issue. The policy must also address all the other issues in the international code of ethics for blood donation and transfusion to make India achieve international standards.

VI Ethical Issues in Material – Fetal Medicine

The clinician who developed technologies for assisting human reproduction had a double motivation. Parentalistic concern to help women experiencing difficulties with reproduction was coupled with a utilitarian ethic that assumed that such innovations would result in more benefit than harm. Current techniques donor insemination, the induction of ovulation, invert fertilization, antenatal screening for feta abnormality antenatal diagnosis (with the option of abortion), and fetal treatment in utero were accepted because of their obvious benefits. They became routine practice long before adverse effects were quantified and before it became apparent that clinicians assumptions of the benefits to women and their children had been simplistic. In verto fertilization has resulted

in the birth of children disabled by the prematurity associated with multiple pregnancy; after normal conception, the notion of pregnancy as a natural and rewarding process has been undermined by pressures to accept antenatal diagnosis and fetal monitoring.

Discussion of ethical issues and legal regulations has followed rather than led the developments in maternal fetal medicine. The autonomy of the woman and the moral status of the fetus are central to this debate. Western secular ethics given priority to personal autonomy, but in matters of sex and reproduction society persists in assigning more autonomy to men than to women. Men often coerce their partners into undesired sexual activity. Unintended pregnancy is disproportionately harmful to women yet their default behavior is expected to be acceptance both the pregnancy and the obligation to care for the child. Full autonomy for women means equality in sexual behavior and complete personal authority over the fetus.

But what is the moral status of the fetus? It is not 'new life' – the intracellular biological processes of the fetus are in direct continuity with those of the women, with the man adding only his half of the chromosomal genes. The fetus acquires moral status progressively throughout pregnancy, a progress that is marked by developmental milestones such as formation of the neural tube, completion of macroscopic organogenesis, functional maturation of lungs, liver and kidneys, increasing electrical maturation of the cerebral cortex, and then with itself. Increasing moral status is also

marked by the bonding that results from the woman's growing awareness of the fetus and whist, as the pregnancy becomes increasingly obvious, extends to her partner, her family and then everyone she meets. This bonding with the fetus is the foundation for responsibility she feels for the welfare of the future child. Birth itself is a major moral event. By 'giving birth', the woman confers to her new baby status as a person. The baby, unlike the fetus, does not have an obligatory dependence on the woman, and adaptation to extra – uterine life has necessitated sudden, radical and irreversible changes in its circulation and respiration. British law supports the view that the fetus is not a person at any gestation, and recent case law has established that the consent of the woman is required for any intervention in pregnancy and that is considered necessary to benefit or to reduce the risk of harm to the fetus. After birth, the baby is legally a person who, if not provided with adequate care, has special protection under the Children Act. In contract to the fetus, the wellbeing of the Child is the responsibility of both parents and of society as a whole.

There are practical difficulties in respecting the autonomy of the pregnant woman when providing the potential benefits of material – fetal medicine. The woman's view of pregnancy as a rewarding natural process differs from that of the health professionals who are primarily motivated to minimize the risks of her and her fetus. The offer of screening and ante natal diagnosis of fetal abnormality disturbs the woman's positive view of her

pregnancy, but she may have difficulty in refusing what appears to her to be a routine part of antenatal care – something she does not fully understand, and that she cannot easily discuss in the crowded minutes if she spends with the professionals in the antenatal clinic. She tends to accept the tests on offer and only later becomes truly aware of their positive and negative value for her. Techniques such as ultrasound imagining and fetal heart rate monitoring bond the clinicians to the fetus and create the illusion that the fetus is a person, a patient, for whom they are directly responsible. The clinicians' relationship with the woman can deteriorate and become adversarial when their view of what is good for the fetus differs from hers. Such disagreement has two causes: the first is correctable by effective education and results from lack of accurate knowledge and understanding by the woman. The second has to be accepted and is a consequence of deeply conditioned cultural differences between the woman and the health care providers. This may result in an adverse outcome that was potentially avoidable but experienced obstetricians know that adverse prognoses are sometimes disproved – and that a woman who initially rejects will often accept the recommended management once time has passed and it has become clear that disaster looms. Ethical care should aim at ensuring that the woman remains responsible for herself and her fetus and that she retains her trust in the health professionals providing her care. It is not right to attempt to use the courts to force a competent woman to have treatment against her will.

Innovations in maternal – fetal medicine must not only respect the autonomy of the woman but must also be beneficial and unlikely to cause serious harm. The balance between benefit and harm can also be measured retrospectively by the methods of audit that are part of evidence – based medicine. The provision of audit should be a requirement before any new method is introduced experimentally. It is not enough to design follow – up studies after a method has passed into general use and unforeseen harm has been done.

Justice is a neglected principle in maternal – fetal medicine – as it is in the application of new techniques and drugs in medicine as a whole. This is particularly true for infertility techniques that are expensive and difficult to provide through the National Health Service. The lack of NHS services has led to the growth of independent providers whose rates are determined by the market. The regulation of the independent sector by the Human Fertilization and Embryology Authority – inspection, registration and the monitoring of outcomes – is much more important than its duty to impose ethical limits for the use of gametes and embryos, formulated more than 10 years ago during heated debates in Parliament. These should be the responsibility of a non – political national ethical committee that could vet and authorize innovative research, and when the balance of outcomes is clearly beneficial, approve routine use.

There are similar ethical issues which vary with the nationalities and professional background of the writers. For example, reproductive cloning is not necessarily an insult to human dignity. There may be advantages in recruiting semen donors from mature men who are willing for their identity to be known by the resulting children. Similarly a woman should have some property rights in a fetal or placental tissue when these result in commercially successful therapies. Commercial surrogate pregnancy is rejected because she surrogate and her immediate family inevitably bond to the child that will be born. Wendy Savage analysis good whether women should have the option of vaginal delivery or caesarean section. Neil McIntosh presents ethical issues in withdrawing life – sustaining treatment from handicapped neonates. An important debate is on the paradox that helping women to conceive desperately wanted children is seen by an influential minority of our society to need statutory regulation, whereas fertile couples have freedom to conceive just as they wish.

VII Organ transplantation

Organ transplantation is the moving of a organ from one body to another, or from a donor site on the patient's own body for the purpose of replacing the recipient's damaged or absent organ. The emerging field of Regenerative medicine is allowing scientists and engineers to create organs to be regrown from the patient's own cells (stem cells, or cells extracted from the failing organs).

Organs and/or tissues that are transplanted within the same person's body are called auto grafts. Transplants that are performed between two subjects of the same species are called allografts. Allografts can either be from a living or a cadaveric source.

Organs that can be transplanted are the heart, kidneys liver, lungs, pancreas, intestine and thymus. Tissues include bones, tendons (both referred to as musculoskeletal grafts), cornea, skin, heart valves and veins. Worldwide the kidneys are the most commonly transplanted organs, while musculoskeletal transplants outnumber them by more than tenfold.

Organ donors may be living, or brain dead. Tissue may be recovered from donors who are cardiac dead upto 24 hours past the cessation of heartbeat. Unlike organs, most tissue (with the exception of corneas) can be preserved and stored for upto five years, meaning they can be "banked". Transplantation raises a number of bioethical issues, including the definition of death when and how consent should be given for an organ to be transplanted and payment for organs for transplantation. Other ethical issues include transplantation. Other ethical issues include transplantation tourism and more broadly the socio – economic context in which organs harvesting or transplantation may occur. A particular problem is organ trafficking.

In the United States, tissue transplants are regulated by the U.S. Food and Drug Administration (FDA) which sets strict

regulations on the safety of the transplants, primarily aimed at the prevention of the spread of communicable disease. Regulations include criteria for donor screening and testing as well as strict regulations on the processing and distribution of tissue grafts. Organ transplants are not regulated by the FDA.

Transplantation medicine is one of the most challenging and complex areas of modern medicine. Some of the key areas of medical management are the problems of transplant rejection, during which the body has an immune response to the transplanted organ, possibly leading to transplant failure and the need to immediately remove the organ from the recipient, when possible, transplant rejection can be reduced through stereotyping to determine the most appropriate donor – recipient match and through the use of immunosuppressant drugs.

In most countries there is a shortage of suitable organs for transplantation. Countries often have formal systems in place to manage the process of determining who is an organ donor and in what order organ recipients receive available organs.

History

Successful human allotransplants have a relatively long history, the operative skills were present long before the necessities for post – operative survivals were discovered. Rejection and the side effects of preventing rejection (especially infection and nephropathy) were, are, and may always be the key problem.

Several apocryphal accounts of transplants exist well prior to the scientific understanding and advancements that would be necessary for them to have actually occurred. The Chinese physician PienChi'ao reportedly exchanged hearts between a man of strong spirit but weak will with one of a man of weak spirit but strong will in an attempt to achieve balance in each man. Catholic accounts report the third – century saints Damian and Cosmos as replacing the gangrenous leg of the Roman Justinian with the leg of a recently diseased Ethiopian. Most accounts have the saints performing the transplant in the fourth century, decades after their deaths; some accounts have them only instructing living surgeons who performed procedure.

The more likely accounts of early transplants deal with skin transplantation. The first reasonable account is of the Indian surgeon Sushruta in the 2nd century BC, who used autografted skin transplantation in nose construction rhinoplasty. Success or failure of these procedures is not well documented. Centuries later, the Italian surgeon Gasparo Tagliacozzi performed successful skin autografts. He also failed consistently with allografts, offering the first suggestion of rejection centuries before that mechanism could possibly be understood. He attributed it to the “force and power of individuality” in his 1596 work *De Curatorum Chirurgia per Insitionem*.

The first successful corneal allograft transplant was performed in 1837 in a gazelle model. The first successful human

corneal transplant, a keratoplastic operation, was performed by Eduardo Zimm in Olomouc, Czech Republic, in 1905. Pioneering work in the surgical technique of transplantation was made in the early 1900s by the French surgeon Alexis Carrel, with Charles Guthrie, with the transplantation of arteries or veins. Their skillful anastomosis operations, the new suturing techniques, laid the ground work for later transplant surgery and won Carrel the 1912 Nobel Prize in Physiology or Medicine. From 1902 Carrel performed transplant experiments on dogs. Surgically successful in moving kidneys, heart and spleens, he was one of the first to identify the problem of rejection, which remained insurmountable for decades.

Major steps in skin transplantation occurred during the First World War, notably in the work of Harold Gillies at Aldershot. Among his advances was the tubed pedicle graft, maintaining a flesh connection from the donor site until the graft established its own blood flow. Gillis's assistant, Archibald McIndoe, carried on the work into the Second World War as reconstructive surgery. In 1962 the first successful replantation surgery was performed reattaching a reversed limb and restoring (limited) function and feeling.

Transplant of a single gonad (testis) from a living donor was carried out in early July 1926 in Zazecar, Serbia, by a Russian emigre surgeon Dr. Peter Vasilevic Kalashnikov, the donor was a convicted murderer, one Iliza Krajan, whose death sentence was

commuted, to 20 years imprisonment and he was led to believe that it was done because he had donated his testis to an elderly medical doctor. Both the donor and the receiver survived, but charges were brought in account of law by the public prosecutor against Dr. Kalashnikov, not for performing the operation, but for lying to the donor.

The first attempted human decreased – donor – transplant was performed by the Ukrainian surgeon Yu Yu Voronoy in the 1930s; rejection resulted in failure Joseph Murray and J. Hartwell Harrison. M.D. performed the first successful transplant, a kidney transplant between identical twins, in 1954, successful because no immunosuppression was necessary in genetically identical twins.

In the late, 1940s Peter Medawar, working for the National Institute for Medical Research, improved the understanding of rejection. Identifying the immune reactions in 1951 Medawar suggested that immunosuppressive drugs could be used. Cortisone had been recently discovered and the more effective azathioprine was identified in 1959, but it was not until the discovery of cyclosporine in 1970 that transplant surgery found a sufficiently powerful immunosuppressive.

Dr. Murray's success with the Kidney led to attempts with other organs. There was a successful decreased donor lung transplant into a lung cancer sufferer in June 1963 by James Hardy in Jackson, Mississippi. The patient survived for eighteen days before dying of kidney failure. Thomas Starzl of Denver attempted

a liver transplant in the same year, but was not successful until 1967. The heart was a major prize for transplant surgeons. But, as well as rejection issues the heart deteriorates within minutes of death so any operation would have to be performed at great speed. The development of the Hardy attempted a human transplant in 1964, but a premature failure of the recipient's heart caught Hardy with no human donor. He used a chimpanzee heart which failed very quickly. The first success was achieved in Dec 3, 1967 by Christian Barnard in Cape Town, South Africa. Louis Washkansky, the recipient, survived for eighteen days amid what many saw as a distasteful publicity circus. The media interest prompted a spate of heart transplants. Over a hundred were performed in 1968 – 69, but almost all the patients died within sixty days. Bernard's second patient, Philip Blaiberg lived for 19 months.

As the rising success rate of transplants and modern immunosuppression make transplants more Advances in living – related donor transplants have made that increasingly common. Additionally, there is substantive research into transplantation or transgenic organs; although these forms of transplant are not yet being used in humans, clinical trials involving the use of specific cell types have been conducted with promising results, such as using porcine islets of Langerhans to treat type one diabetes. However, there are still many problems that would need to be

solved before they would be feasible options in patients requiring transplants.

Many other new drugs are under development for transplantation. The emerging field of Regenerative medicine promises to solve the problem of organ transplant rejection by regrowing organs in the lab, using the patients' own cells (stem cells, or healthy cells extracted from the donor site).

Forced Donation

There have been various accusations that certain authorities are harvesting organs from those the authorities deem undesirable, such as prison populations. The World Medical Association stated that individuals in detention are not in the position to give free consent to donate their organs. Illegal dissection of corpses in a form of body snatching and may have taken place to obtain allografts.

According to the Chinese Deputy Minister of Health, Huang Jeifu, approximately 95% of all organs used for transplantation are from executed prisoners. The lack of public organs donation program in China is used as a justification in this practice. However reports in Chinese media raised concerns if executed criminals are the only source for organs used in transplants.

In October 2007, owing to international pressure, the Chinese Medical Association agreed on a moratorium of

commercial organ harvesting from condemned prisoners, but did not specify a deadline. China agreed to restrict transplantations from donor to their immediate relatives.

People in other parts of the World are responding to this availability of organs and a number of individuals (including US and Japanese citizens) have elected to travel to China or India as medical tourists to receive organ transplants which may have been sourced in what might be considered elsewhere to unethical ways.

Organ transplantation in different countries

Despite efforts of international transplantation societies, it is not possible to access an accurate source on the number, rates and outcomes of all forms of transplantation globally; the best that we can achieve is estimations. This is not a sound basis for the future and thus one of the crucial strategies for the global Alliance in Transplantation is to foster the collection and analysis of global data.

Transplantation of organs in different continents/regions
year/2000

	Kidney (pmp)	Liver (pmp)	Heart (pmp)
USA	52	19	8
Europe	27	10	4
Turkey	11	3.5	1
Asia	3	0.3	0.03
Latin America	13	1.6	0.5

All numbers are per million populations.

According to the Council of Europe, Spain though the Spanish transplant Organization led by Dr. Rafael Matesanz shows the highest worldwide rate of 35.1 donors per million population in 2005 and 33.8 in 2006.

In addition to the citizens waiting for organ transplants in the US and other developed nations, there are long waiting lists in the rest of the world. More than 2 million people need organ transplants in China, 50,000 waiting in Latin America (90% of which are waiting for kidneys), as well as thousands more in the less documented continent of Africa. Donor bases vary in developing nations.

Traditionally, Muslims believe body discretion in life or death to be forbidden and thus many reject organ transplant. However most Muslim authorities nowadays accept the practice if another life will be saved.

In Latin America the donor rate is 40 – 100 per million per year, similar to that of developed countries. However, in Uruguay, Cuba and Chile, 90% of organ transplants came from Cadaveric donors represent 35% of donors in Saudi Arabia. There is continuous effort to increase the utilization of cadaveric donors in Asia, however, the popularity of living single kidney donors in India yields India a cadaveric donor prevalence of less than 1 pmp.

Organ transplantation in China has taken place since the 1960s, and China has one of the largest transplant programmes in the world, peaking at over 13,000 transplants a year by 2004. Organ donation, however is against Chinese tradition and culture and involuntary donation is illegal under Chinese law. China's transplant programme attracted the attention of international news media in the 1990s due to ethical concerns about the organs and tissue removed from the corpses of executed criminals being commercially traded for transplants. In addition, in 2006, there were claims of harvesting organs from live practitioners of the banned Falun Gong spiritual movement which led to a disputed report being compiled by former Canadian MP David Kilgour and human rights lawyer David Matas. Since 2007 Chinese authorities have introduced legislation to stop international trade in prisoners' organs, and to increase voluntary donation from the general public.

With regard to organ transplantation in Israel, there is a severe organ shortage due to religious objections by some rabbis who oppose all organ donations and others who advocate that a rabbi participate in all decision making regarding a particular donor. One third of all heart transplants performed on Israelis are done in the People's Republic of China. Others are done in Europe. Dr. Jacole Lavee, head of the heart – transplant unit, Sheba Medical Center, Tel Aviv, believes that “transplant tourism” is unethical and Israeli insurers should not pay for it. The organization HODS (Halachic Organ Donor Society) is working to increase knowledge

and participation in organ donation among Jews throughout the world.

Transplantation rates also differ based on race, sex and income. A study done with patients beginning long term dialysis showed that the socio demographic barriers to renal transplantation present themselves even before patients are on the transplant list. For example, different groups express definite and complete pretransplant workup at different rates. Previous efforts to create fair transplantation policies had focused on patients currently on the transplantation waiting list. Ethical concerns the existence and distribution of organ transplantation procedures in developing countries, while almost always beneficial to those receiving them, raise many ethical concerns. Both the source and method of obtaining the organ to transplant are major ethical issues to consider, as well as the notion of distributive justice. The World Health Organization argues that transplantations promote health, but the notion of “transplantation tourism” has the potential unintended health consequences, and to provide unequal access to services, all of which ultimately may create harm. Regardless of the “gift of life”, in the context of developing countries, this might be coercive. The practice of coercion could be considered exploitative of the poor population, and 4 of the universal Declaration of Human Rights. There is also a power opposing view, that trade in organs, if properly and effectively regulated to ensure that the seller is fully informed of all the consequences of

donation, is a mutually beneficial transaction between two consenting adults, and that prohibiting it would itself be a violation of Article 3 and 29 of the Universal Declaration of Human Rights.

Even within developed countries there is concern that enthusiasm for increasingly the supply of organs may trample or respect for the right to life. The question is made even more complicated by the fact that the “irreversibility” criterion for legal death cannot be adequately defined and can easily change with changing technology.

The continually increasing need for organs led to the reintroduction of the principle of donation after cardiac or circulatory death (DCD) in the early 1990s with the Pittsburgh protocol to complement already available organ procurement from brain – dead persons. A new federal mandate requires hospitals as of January 2007 to design policies and procedures for organ procurement in DCD to increase the rate of organ donation and recovery from decedents to 75% or greater.

However DCD is controversial because of medical, ethical, and legal uncertainties about the premise that donors are indeed dead before their organs are procured. We contend that the recovery of viable organs useful for transplantation is DCD is not compatible with the dead donor rule. In order for the current principle of DCD to proceed with recovery of transplantable organs from decedents, a paradigm change in the ethics of organ donation is necessary. The paradigm change to ensure the

legitimacy of DCD practice must include 1) societal agreement on abandonment of the dead donor rule, 2) legislative revisions reflecting abandonment of the dead donor rule, and 3) the requirement of mandated choice to facilitate individual participation in organ donation and to ensure that DCD is in compliance with the societal values of respect for autonomy and self-determination.

DCP and the dead donor rule

The criteria for determining death play a prominent role in the acceptability of DCD. The recovery of viable organs for successful transplantation must be achieved with the donor already dead at the time of procurement in order to comply with the dead donor rule. Whereas some have considered a person dead after 2 minutes of apnea, unresponsiveness and absent arterial pulse, the institute of Medicine recommended waiting for 5 minutes of absent consciousness, respiration and mechanical pump function of the heart (zero pulse pressure through arterial character monitoring) In 2001, the American College as well as the Society of Critical Care Medicine concluded in a position statement that a waiting period of either 2 minutes or 5 minutes was physiologically and ethically equivalent and therefore either was an acceptable timeline for beginning the process of organ retrieval. Waiting for longer than 5 minutes can cause warm ischemia and detrimentally affect the quality of procured organs and impair their suitability for

transplantation. However, critics have argued more than a decade ago that the waiting time to determine death by respiratory and circulatory criteria is based on insufficient scientific evidence. The spontaneous return of circulation and respiration has been reported to occur in humans as long as 10 minutes after cessation of circulation and respiration. This appears to validate previous concerns that viable organs may be procured from persons who are in the process of dying yet are not truly dead.

According to the Uniform Determination of Death Act (UDDA) of 1981, a person is determined dead after having sustained either irreversible cessation of circulatory and respiratory functions or irreversible cessation of all brain function, including that of the brain stem, and the determination of death must be made in accordance with accepted medical standards. The President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research defined the statute for the determination of death so that "Death is a single Phenomenon". The statute is intended to address the question "how, given medical advances in cardiopulmonary support, can the evidence that death has occurred be obtained and recognized." The President's Commission defined the cessation of circulation to be irreversible for death determination if deprived of blood flow for at least 10 – 15 minutes the brain, including the brainstem, will completely cease functioning. A 4 – 6 minutes loss of blood flow – caused by, for example, cardiac arrest typically damages the

cerebral cortex permanently, while the relatively more resistant brainstem may continue to function.

The challenge in determining death for organ procurement is twofold: 1) the use of an arbitrary set of criteria and time frames to define irreversible cessation of circulatory and respiratory functions without evidence of the uniformity for death determination and 2) the variability of the criteria used by different institutions for organ procurement protocols.

The notion of irreversibility of cessation of circulatory and respiratory functions has been a contentious medical ethical issue. Tomlinson proposed a definition of irreversibility as “a requirement that arises only at the level of the criteria for the determination of death, rather than at the level of the concept of death, just as ‘beyond reasonable doubt’ is not a part of the concept of guilty; but instead is a requirement for the legitimate determination of guilt within a judicial system”. The requirement for irreversibility therefore depends on the context in which the purpose for which, the concept of death is being used. The notion of irreversibility is commonly understood as meaning either that the heart cannot be restarted spontaneously (a weaker construal) or that the heart cannot be restarted despite standard cardiopulmonary resuscitation (a stronger construal). The stronger construal of irreversibility as meaning “can never be reversed” implies in its extreme that at no time can organ procurement ever be permissible because future possibilities of resuscitation can never be fully ruled

out. In practical terms, the weaker definition of “not reversible now” implies that a person is considered irreversibly dead based on that person’s moral choice to forego resuscitative interventions. Thus as long as the probability of autoresuscitation is negligible, the dead donor rule is not violated. On the basis of that argument the notion of irreversibility depends on the person’s choice to forego resuscitative interventions after spontaneous cessation of circulatory and respiratory function. However, the argument that irreversibility can be understood as a moral choice is flawed. First, the issue is not whether there are good reasons not to resuscitate a person but whether the person is truly dead. Second, resuscitative interventions are performed during the procurement process to keep organs viable for transplantation after the cessation of the vital functions. The use of artificial cardiopulmonary bypass machines, external mechanical cardiac compression devices and reinflation of the lungs to preserve organs for procurement also results in the resuscitation of the heart and the brain after the formal declaration of death. Resuscitation of the brain with a return of consciousness is particularly problematic) because the Institute of Medicine announced in its 2006 report that expansion of the organ donor pool by procuring organs from living persons with normal brain function who sustain sudden cardiac death is morally acceptable.

Longer than 10 minutes of absent circulation is required for irreversible cessation of the entire human brain, including brain

stem function. The administration of medications to suppress heart and brain functions is therefore required when the procurement process begins within 5 minutes of cessation and circulation.

The dead donor rule and the law

DCD has been recommended on the basis of the utilitarian rationale of maximizing the number of organ transplants in order to save more lives. This utilitarian approach has also provided implicit justification manipulation some aspects of the death process. Intervention has been justified not only in the dying process but also in defining the word dead. The uncertainty of the uniformity of determination of death in DCD has legal implications. The act of procurement or the removal of organs from persons who may still be in the process of dying but who are labeled as being dead, becomes the direct and proximate cause of death or of 'killing' rather than the natural illness itself. Medically redefining death arbitrarily to permit DCD for organ procurement has been a necessary prerequisite for the circumvention of homicide law. Declaration of death or calling someone dead takes the burden off procurement personnel and provides the appearance that it is acceptable to remove organs under such conditions without being found guilty of murder. The purposeful manipulation of the criteria for the determination of death serves the desired goal of increasing the opportunities for procurement of transplantable organs, but it also represents a knowing

gerrymandering of the existing legal definition. The President's Commission indicated in the report on defining death that the UDDA is intended to aid in the process of recognition and providing a legal standard to distinguish the dead from the dying and, ought not to reinforce the misimpression that there are different "kinds" of death, defined for different purposes and hence that some people are more "dead" than others. An argument can be made that a person's consent of permission for organ donation can legitimize this intervention, as with any other medical procedure with potential risk of death, However that argument transgresses the legal limits of autonomy, because no can consent to his or her own killing. The ban on assisted suicide, regardless of a person's wishes, reaffirms that society has a consolidated interest in preserving life. In the U.S. physician – assisted suicide is legalized only in the State of Oregon.

Problems with consent for organ donation

Organ procurement organizations (OPOs) are the designated requesters for organ donation. Hospitals are required to notify OPOs of all imminent deaths before withdrawal of ventilator support to allow OPO representatives to initiate independent discussion of consent for organ donation with surrogates. The OPOs are private and Medicaid Services to coordinate deceased organ procurement. Each OPO has significant financial incentives for maximizing organs recovery through consent for donation from

hospitals located with the donation service area. The Organ Donation Break through Collaborative has set three top – level goals for each OPO to achieve: 1) a 75% or higher organ donation (or conversion) rate from original hospitals 2) 3.75 (or greater) organs transplanted per organ donor and 3) DCD to account for 10% (or greater) of donation service area’s deceased donors, without a decrease in brain dead donors. The successful compliance with the set goals are required for each OPO to maintain active certification and renewal of contract with Medicare for payment for services provided in a donation service area. Additional financial incentives for the OPO to aggressively pursue organ donation in Medicare approved hospitals include reimbursement for actual donors, financial returns on local transplant activity solely supported by local donor activity and Medicare incentives for local organ donation activity.

Obtaining consent is considered one of the guiding principles that provide moral validation of organ transplant programs. Consent for organ donation can be registered and documented in several ways. The donor registry in an online electronic database for accessing donor consent information and it is readily available to OPO personnel. In contrast, donor consent documented on driver’s licenses, donor cards, or advanced directives may not be available to clinicians when donation or procurement decisions must be made. Consent for organ donation is obtained in two different situations. The first situation is to

acquire consent from healthy persons for future organ donation. It is generally achieved by inviting members of the public to complete donor cards (e.g. as part of a driver's license application) providing general consent for organ donation or to consent to organ donation by signing up on a state registry when they visit an OPO website. The second situation occurs when consent is obtained from a surrogate decision maker for a brain – dead person or a person for whom death is imminent and who has not expressed intent for organ donation through a driver's license, a donor card or donor registry.

Studies show the half of the families who are asked to consider donation after a relative's death refuse consent. It should therefore come as no surprise that in addition to educating the public, the Institute of Medicine Committee on Increasing Rates of Organ Donation has identified among its primary objectives an increase in the number of opportunities for people to record the decision to donate and the enhancement of donor registries to ensure full access to and sharing of donor registration data.

Requiring consent is consistent with one of the corner – stones of medicine and bioethics; respect for individual autonomy. Among other things, the process of obtaining consent must include the provision of an appropriate quantity and quality of information so that the person can make an informed decision. Currently, the consent for DCD is requested with disclosure of similar information as with brain – death donation. Given the medical and

ethical uncertainties surrounding DCD, its consent process should be expected to be different from that used in brain – death donation. Given the medical and ethical uncertainties surrounding DCD, its consent process should be expected to be different from that used in brain death donation with regard to timing and the nature of the procurement procedure, non – beneficial interventions and trade – offs in end – of – life care are not often clarified to potential donors or surrogate decision makers at the time of consent DCD also exposes donors to the risk of failing to die within the allotted time frame for successful organ procurement after the performance of predonation procedures.

Considering that actual donation or procurement process differ according to the death criteria, one might expect the consent process to include details about the various death scenarios. In 2006 Woen et al examined the quality and quantity of information about consent that is disclosed to the public and to potential organ donors on OPO Web sites. The information content about relevant aspects of medical interventions, procedures, protocols and changes to the quality of end – of – life care was found to be deficient because it was focused primarily on the encouragement and reinforcement of consent to donation. This lack of disclosure on OPO Websites and in online consent documentation raises doubts about whether organ donors actually receive and understand the pertinent information necessary to making an informed decision about whether to participate in deceased organ donation.

The lack of detailed and accurate disclosure violates the tenet of informed consent and abuses the public's trust in the deceased organ donation system.

The medical community is expected to be transparent and to fully inform the public about the different donation practices and their implications. Yet disclosing more detailed information about organ donation to the general public may very well result in a decrease in donor registrations. Suggestions that the organ supply shortage is a health care crisis may also have a detrimental effect by exacerbating public fears and by feeling excessive worry or speculation that procurement decisions may ultimately go beyond socially accepted thresholds. The Institute of Medicine has proposed changes in the consent format as a way to increase the organ donation rate in the community while also reducing the risk of increased public fear. The explicit or express consent of competent adults or surrogate decision makers is the current standard for organ donation consent. Other consent options include the presumed consent, conscription (sometimes referred to as routine removal) or mandated choice.

Presumed consent

Presumed consent means either implied consent inferred from other actions to tacit consent that constitutes consent in the absence of explicit dissent. Presumed consent within the context of organ donation implies a default position of donation for those

persons who do not take action to dissent (opting out). The switch from explicit consent to implicit presumed consent has been advocated as an efficient method to increase the supply of transplantable organs. The ethical justification commonly given for a switch to presumed consent is twofold.

First, polls show that about 69% of Americans are “very likely” or “somewhat likely” to grant permission to have their organs harvested after death, which suggests broad public support. However, there has always been a gap between people’s perceived attitudes in polls on organ donation and what they do in practice. Perhaps this is not simply a reflection of knowledge but a personal experiences and beliefs. Also in a subsequent national survey of organ and tissue donation attitudes and behaviors (conducted by the Gallup Organization and prepared for the Division of Transplantation Health resources and Services Administration), most people either “opposed” or “strongly opposed” presumed consent. In the same survey about 3 in 10 reported that they would opt – out a presumed consent approach. Second, as some have argued, deceased organ donation should be considered a duty rather than an act of charity. Hester postulated that deciding not to release our organs for transplantation would constitute a serious moral wrong” in light of the desperate need for transplantable organs.

Presumed consent certainly poses a challenge to the principle of protecting a person’s right to fully informed agreement

(consent) and its moral justification therefore falls short. First, the issue of a moral obligation to donate organs at death is still subject to debate; a public discourse on this topic has not yet taken place. Second, access to health care including organ transplantation services is not universal. Data released in August 2006 by the U.S. Census Bureau showed that more than 46.8 million people are uninsured and 24.4% of those earned less than \$ 25,000, an unknown number of people had limited health care coverage, and 12.6% of the U.S. population lived below the poverty margin. As the erosion of employer – based health insurance continues, the numbers of underinsured and uninsured persons are likely to increase. In addition 82% of kidney recipients are white which leads one to speculate that there may be racial discrepancy in organ allocation. Third, the duties of relevant stakeholders in health care remain poorly defined. The question of who is responsible for what in health care has yet to be answered, which is even more troubling in the light of the fact that health care in the 21st century is more commonly understood solely in terms of a commodity operating in a self – regulating free – market environment. How complex social interactions are to be arranged is a subject of rational discourse for which every participant should assume responsibility and be held accountable.

Widespread public education and clear, easy and transparent ways for persons to register dissent are requirements

for an ethically acceptable presumed consent policy. Considering that the current process of donation consent is deficient in its provision of basic information about organ donation and that there is an absence of established social practices that would warrant the presumption of consent for organ donation, the justification is lacking for a switch from express to presumed consent in the United States.

Conscription, also referred to as mandatory donation, is the routine postmortem removal of organs for transplantation. As such, it presupposes society's right of access to the organs of any deceased person. Such a right would rest either on the claim that society "owns" the body of the deceased or on the premise of an enforceable moral duty all of us as humans have to allow postmortem organ retrieval. In the U.S. the govt. does not claim complete authority over the disposition of the bodies of the deceased. Some states in the U.S. have even interpreted the right of a person or family to decide whether to donate organs as an interest sufficient to endow some rights to the corpse that cannot be disregarded without due process. Such laws have assigned a property interest in the body to the next of kin. Consideration would depart from this legal principle as well as from the norm of expressed consent.

Although the routine removal of organs, after death is inconsistent with current U.S. federal and state laws, for opponents postulate the appropriateness of conscription on practical and

ethical grounds. Practical arguments include the fact that people with organ failure are dying daily because of the short supply of transplantable organs and that many usable organs are never made available, most commonly because of family refusal. Conscription would override family refusal for donation and produce an efficient rate of deceased organ recovery almost close to 100%. Conscription would eliminate the need for costly public education programs, training of requestors, and maintenance of donor registries, it might also alleviate concern about abuse or possible commodification of the human body. The duty based justification for conscription fails however, because organ transplantation practices are inconsistent with the requirement of universality. Not everyone is included in a fair system that is mutually beneficial. Conscription would maximize organ recovery but would do so to the detriment of respect for personal autonomy and accepted societal norms. It would also violate the religious value of some persons for the body to not to be buried whole.

Mandated Choice

The second consent option is that of mandated choice. Mandated choice would require all adult persons in the community to consider organ donation and to document their decision: All competent adults would be required to decide in advance to agree to organ donation or to refuse organ donations, and their wishes would be considered legally binding (unless they had a

documented, change of mind before actually dying). Mandated choice of would preserve altruism and the voluntary nature of donation, and as such proponents consider it to be consistent with the principle of respect for autonomy. Opponents of mandated choice postulate that it is unacceptable in a libertarian society to force people to make choices and that mandated choice is coercive and an intrusion on privacy concerns have also been raised that mandated choice would disallow consideration of the view of the family.

With the current view of the shortage of transplantable organs identified by many people as a health care crisis, one might argue that neither a mandate to make an autonomous prospective decision about organ donation nor the expectation of a family's compliance with the wishes of the deceased is unreasonable. A similar justification can be made about the intrusion of privacy associated with mandated choice. However, mandated choice would require full disclosure of relevant unbiased information about all aspects of organ procurement that, in turn, constitutes informed consent. The importance of public education in mandated choice is illustrated by the failure of a state initiative in Texas. In 1991, Texas enacted a law requiring citizens to make a "yes" or "no" choice about organ donation when they renewed their driver's license. The law has to be repeated in 1997 because the implementation of the mandatory choice resulted in a refusal rate of 80%. This high rate of refusal was attributed to the lack of

public education about organ donation. It is therefore a great concern that OPOs today have focused their efforts on convincing members of the public to become organ donors rather than on providing adequate unbiased information and education about organ donation. A 2006 report from the Institute of Medicine suggested that optimal public education would be cost prohibitive and labor intensive.

Paradigm Transformation of organ donation ethics

There is growing doubt among scholars and medical practitioners that DCD can comply with the principles on which it was introduced into society as an ethically acceptable practice. We have highlighted several concerns indicating that the current DCD practice not only violates the dead donor rule but also puts the moral legitimacy of consent for donation in question. Unless the current DCD practice is re – evaluated, the erosion of public trust and damage to the integrity of the medical profession are likely to develop over time. To avoid these negative consequences, we are faced with implementing only or all of three strategic options. The first strategy would be to discontinue DCD and instead focus on reducing the demand for transplantable organs by promoting healthy lifestyles (i.e. primary and secondary prevention programs for chronic diseases such as diabetes and hypertension). This strategy might decrease the future incidence of end stage organ

disease and the resulting need for transplantation. However, it would not resolve the current imbalance between the supply of and the demand for organs. The second strategy would be to revise the uniform definition of death/allow the definition of “dead” to be applied to dying persons so that the recovery of transplantable organs from DCD can be continued in an ethical and legal manner. Bernat, for instance has argued for a change in the standard determination of death that would substitute “permanence” for “irreversibility” and thereby permit the classification of dying persons as truly dead. Bernat’s proposal to change the death determination implicitly acknowledges that the current DCD practice is inconsistent with the dead donor rule and there is no need to distinguish between the ‘dying’ and the ‘dead’ for the purpose of organ procurement for transplantation. The justification put forward by Bernat conflicts with the President’s Commission views on when and how the death statute is applied to distinguish the dead from dying and to prevent “the mistaken impression that a special “definition” of death needs to be applied to organ transplantation which is not the case and that it “ought not to reinforce the misimpression that there are different “kinds” of death, defined for different purposes, and hence that some people are more dead than others.

The word “performance” conveys the absolute accuracy of the “prognosis” rather than a determination or diagnosis of death. However, opponents of the criterion of absolute certainty of

prognosis of death may consider as homicide its application to persons for whom the consent to withdraw artificial life support is made. Revising the UDDA in this manner would have far – reaching ethical implication not only for society but also for criminal and homicide laws. Criminal persecution, inheritance, taxation, treatment of cadaver, and mourning are all affected by the way society draws the dividing line between life and death. More importantly, it can violate the principle of non male faience by allowing the introduction of errors in prognostication that may have a detrimental effect on end – of – life care and palliation. The third strategy would be to abandon the dead donor rule for organ procurement so that procuring organs becomes permissible during the terminally ill person’s dying phase after voluntary informed consent has been obtained. The abandonment of the dead donor rule would constitute a paradigm switch in the ethics of deceased organ procurement for transplantation from donor beneficence to autonomy and normal faience. Donors would be solely responsible for their decisions, and the medical community would have to comply with the do – no – harm principle at the end of life. As is the case with revising the determination of death, this paradigm switch would require changes in criminal and homicide laws to legitimize DCD legally, ethically and medically. In addition, changing the paradigm would require public discourse about permitting autonomy – based end – of – life decisions. The preservation of a person’s autonomy and the voluntary nature of

the decision are fundamental for such as profound paradigm shift and as such, they require comprehensive public education and disclosure of all relevant information. The mandated personal choice in conjunction with the paradigm shift would protect an individual's right to agree or refuse and thereby would eliminate coercion in the organ donation consent process with minimal infringement on privacy. Within this context, mandated choice restores the public trust and eliminates the individual's fear of manipulation of the dying and death process for the interest of organ procurement. Mandated choice restores is compatible with the principle of respect for individual autonomy and decision making and it does not require additional consent from a person's family to procure organs after death.

Conclusion

The long term solution for overcoming the shortage of transplantable organs is to focus on, and to broadly implement, universally accessible preventive health – care programs for the short term, increasing the number of potential donors while also maintaining the public education a consent process characterized by full disclosure of relevant information, about organ donation and procurement procedures critical to the decision making about organ donation, and a switch of the ethics paradigm from beneficence to nonmaleficence and respect for individual autonomy to allow for DCD to comply with legal and ethical

standards. The implementation of mandated choice for obtaining consent would appear reasonable and morally justifiable to assist with the objective of increasing the number of people who consent to organ donation after death. Ultimately, the outcome of public debate must be the decisive factor in determining the conditions under which DCD should be considered legitimate.

Empirical Ethics Testing the Embryo, testing the fetus

This article on this topic stems from an ethnographic, multidisciplinary study that explored the views and experiences of practitioners and scientists on social, ethical and clinical dilemmas encountered when working in the area of pre – implantation genetic diagnosis for serious genetic disorders. We focus here on staff perceptions and experiences of working with embryos and helping women/couples to make choices that will result in selecting embryos for transfer and disposal of affected embryos, compared to the termination of affected pregnancies following prenatal diagnosis. Analysis and discussion of our data led us to consider the possible advantages of pre – implantation genetic diagnosis and whether a gradualist account of the embryo's and fetus moral status can account for all of these, since a gradualist account concentrates on the significance of time (developmental account concentrates on the significance of time (developmental

stage) and makes no comment as to the significance of place (in *verto*, in *utero*).

We try to explore the ethics of embryo research and assisted conception as experienced by professionals working in these fields, in both the public and private sectors. We explored professional's accounts of their values and how they actively negotiated ethical codes and rules in the course of their day – to – day work. We are especially interested in how practitioners managed the codes and rules set out by the Human Fertilization and Embryo Authority (HFEA), public concerns about their work and their own informal 'moral thinking'.

We have focused upon five main topics to explore these issues in depth: the 'welfare of the child', single embryo transfer, the risk of audit, managing mistakes and errors and the development of tests for embryo viability.

The way in which practitioners interpret the requirement that clinics consider the 'welfare of the child' in families accessing assisted conception services has changed as attitudes to IVF, single parents, and same sex couples have become more liberal. The HFEA recently change the assessment procedure for clinics, focusing upon measurable risks and reducing the involvement of GPs. This reflects practitioners' ambivalence about judging people's suitability as parents. However, the process of deciding upon child welfare remains flexible, allowing for considerable subjective judgment on the part of professionals. This allows them

to manage a complex range of professional, public and personal ethics around families, disability and sexuality in reaching decisions about who and how to treat.

There has also been a recent shift towards single as opposed to multiple embryo transfer is assisted conception, to reduce multiple births in the public interest, as well as the interests of parents and their babies. Professional organizations and key practitioners have led this campaign, linking it to their efforts to secure more public funding for assisted conception. These assisted conception professionals are adopting a reflective, sociological approach to self – regulation that moves beyond their traditional efforts to protect clinical autonomy to more complex efforts to protect clinical autonomy to a more complex negotiation of public and private interests and expertise.

Both these developments are part of the growing culture of audit in assisted conception, where internal control systems based upon risk assessment have proliferated in the interests of political accountability. Although we found that practitioners broadly welcomed these developments as means of securing public interest, there was more differentiation in their views of the pros and cons of particular audit mechanisms. We found that some more junior or marginalized staff were more positive about developing and following protocols when this empowered them in relation to their senior colleagues, but that other procedures such as public witnessing could generate anxiety and distrust rather than

simple reduce error. Audit worked best when it involved ongoing feedback between the design and enactment of audit mechanisms.

This reflexivity was also at the heart of how professionals managed mistakes in assisted conception, as individuals, clinics and as a sector as whole. Embryologists in particular have an acute sense of responsibility for the eggs and embryos that they steward system' errors were easier to recount and resolve than situations where an individual was at fault. The codes and procedures that are put into place to prevent errors from recurring nonetheless involved individual staff and clinics sharing their personal experiences, including their sense of guilt and loss, with colleagues and the wider sector – a process that is generally welcomed by practitioners, for all of its difficulties. Refining risk management routines goes hand in hand with this kind of emotional labor – both are forms of ethics work.

Ethics also goes to the heart of the research process in a assisted conception, especially efforts to find better ways of identifying 'valuable' embryos. Research becomes here an ethical imperative in its own right, to improve success rates. However, this involves building a research culture in IVF and standardizing the largely tacit knowledge and experience that embryologists use to assess embryos by looking at their morphology. Scientists, clinicians and commercial companies must therefore construct and market their notion of the 'viable, embryo', being careful to stress its part of a wider move towards a more risk – aware IVF at the

same time as distancing it from eugenic associations with 'better babies'. We conclude that the ethical framework set down in the HFEA's Code of Practice is both flexible and iterative, in terms of how it is interpreted by practitioners and how it evolves in relation to social and scientific change. Ethics goes beyond the Code, involving a dynamic configuration of values, practices and procedures, which are embedded in research and treatment in assisted conception, as well as the wider work of practitioners on public and policy stages. There is considerable ambivalence amongst practitioners about the ethics of their decisions and about ethical scrutiny and controls of their work and their patients. Rather than viewing this as a cause for concern we suggest that doubt is a necessary condition of ethical practice in this complex and ever changing field of science and medicine.

The public is to be asked if embryo screening should be extended to check for faulty genes which are not guaranteed to cause disease.

Embryos are now screened for inherited diseases such as cystic fibrosis. But the Human Fertilization and Embryology Authority is asking if embryos should also be checked for genes linked to cancer and Alzheimer's. Carrying these genes does not mean a person will definitely develop disease, but puts them at an increased risk. The HFEA issues licenses permitting fertility clinics to use the embryo screening technique, called pre –

implantation genetic diagnosis (PGD). Ten clinics are currently allowed to use PGD to test for inherited conditions. In the future it is possible that women who carry high risk breast cancer genes like BRCA 1 and BRCA 2 and have a family history of the disease could opt to have fertility treatment using PGD just to screen out these genes – even if they were able to conceive naturally. The HFEA is asking for views to inform its response to such applications.

Balance of opinion

A discussion document published by the HFEA looks at the ethical questions over whether it is right to test embryos for these conditions in order to avoid passing on a condition that a person might not develop. Suzi Leather, chair of the HFEA, said: “We would like people to understand the possible uses of embryo testing techniques – both now and in the future – and to hear their views on testing for serious diseases that people have a lower chance of getting or that occur later in life. “Looking ahead, we may be asked to consider applications for these kinds of diseases in the near future and will therefore need to make choices about the types of conditions PGD can be used for. We would like to hear the views of anyone who might be affected by these choices: from patients, carers and affected families to doctors and staff in treatment centers to parliamentarians, academics and the wider

public. This way we can begin to balance the viewer and interests of all groups and move towards building a consensus.”

Health Children

Dr Gilhan Lockwood, who chairs the ethics committee of the British Fertility Society, said, “Genetic disease is increasingly the principal cause of premature death in the developed world. “The embryo screening technique of PGD would allow potential parents who know that they carry damaging genes to realize every parent’s ambition to have healthy children”. Dr Ainsley Newson, a medical ethicist at Imperial College London said: “For couples at risk of passing on a genetic condition, PGD offers a real alternative to terminating a wanted pregnancy. “Questions about seriousness will always arise, but if we wouldn’t wish these diseases on anyone then why shouldn’t we let couples avoid this happening to their own children?” She added, “We must also listen to those living with genetic disease. “Having children who won’t face the same problems can bring huge relief”. But some expressed reservations about the idea of extending the use of PGD.

‘Ridiculous’

Josephine Quintavalle of the group Comment on Reproductive Ethics, said: “This is moving towards eugenics. “It is all about making endless decisions about who is better off dead.” She said with the breast cancer genes, it could be a 50/50 chance of developing the condition. But she added: “what we don’t know is

why some people develop it and others don't – and that's the information we need.” Mathew O' Gorman, of the pro – life charity life, said the public consultation' on pre – implantation genetic diagnosis (PGD) was “ridiculous”. He added: “The powers of the HFEA should be curtailed they should inspect clinics and make sure the law is being adhered to. “A separate bioethics committee should be established as a tough watch dog that will be truly representative. “A public meeting will also be held in London on December 12 where the issue of extending PGD can be debated.

Case by case decision making in embryo testing

Background

On October 1, 2009 the HFEA moved to licensing Pre – implantation genetic diagnosis (PGD) on a condition by condition basis. This means that once a condition has been licensed by the HFEA, any clinic in the UK licensed for PGD can test for that condition.

This decision did not apply to two categories of embryo testing, which continued to be licensed on a case – by – case basis. These conditions were to be licensed for use in a specific family, one family at a time.

These conditions are:

- Conditions defined as ‘later on set’ and ‘lower penetrance’. These are often tests for genes associated with an increased susceptibility to particular forms of cancer. An example in

BRCA 1, which is linked to an increased risk of breast cancer.

- Embryo testing which involves HLA (human leukocyte antigen) tissue typing for the purposes of conceiving a tissue – matched sibling to provide cord blood (or other tissue) for a sick sibling.

From September 2009 to January 2010 the HFEA carried out a review evaluating the benefits and draw backs of continuing to license these conditions on a case by case basis.

Review aim

The aim of the review was to evaluate licensing these categories of condition on a case – by – case basis. The review assessed whether licensing on a case – by – case basis remained a proportionate system when compared with other examples of PGD. On the basis of this evaluation of recommendations was made to the Authority for future licensing of later on set, lower penetrance conditions and tissue typing conditions.

Review process

The review was carried out through:-

1. Analyzing case by case decisions, by gathering evidence from license applications and minutes of decisions taken.
2. A public even held on 1 December at which clinicians, patient groups and other interested parties will be invited

to give their views on the current system, and on proposals for future licensing.

3. Gathering the opinions of experts in cancer genetics and consultants involved in the care of children where an HLA tissue – matched sibling is the only available treatment.

The outcomes of the evaluation were considered first by the Ethics and Law Committee (ELAC) of the Authority in December 2009. The Authority was then asked to consider the outcomes of the project and the recommendations of the Ethics and Law Committee at their January 2010 meeting.

Conclusion

Following the proposals made by this review and recommendations made by the Ethics and Law Committee, the Authority made the following decisions:-

1. The Authority decided to bring later onset, lower penetrance conditions into line with the main PGD licensing system. This means that they will be licensed on a condition by condition basis, with PGD centers deciding whether PGD for a licensed condition is appropriate for a particular family.
2. The Authority decided to continue considering preimplantation tissue typing on a case by case basis. The Authority noted concerns raised by contributors during the review period, and agreed to further reduce the time taken

to make decisions in these sensitive cases. The Authority also agreed to provide more comprehensive patient information regarding tissue typing on the HFEA website, including links to relevant patient groups and professional bodies.

The Ethics on Homosexuality

Homosexuality and the Law

Since the 1960s western culture has progressively legalized private homosexual acts between consenting adults. In the UK, the Sexual Offences Act (1967) decriminalized private sexual acts between men 21 years or over in England and Wales. The minimum age of consent at which a person may lawfully consent to buggery and to certain homosexual acts was then reduced to 16 in England and Wales by the Sexual Offences (Amendment) Act 2000. This came into force in 2001. In 1973 the Dutch mental health institutions stopped treating homosexuality as an illness and the military lifted its ban on homosexuals. The Netherlands was the first country in the world to legalize gay marriage in 2001. In America the U.S. Supreme Court eliminated all state sodomy laws in 2003 opening the floodgates to the legalization of homosexuality and same sex marriages state by state.

In Europe, social and employment law surrounding homosexuality has been formalized and prompted by EU legislation. The European Union Article 13 Race and Employment

Directives require EU member states to introduce legislation outlaw unfair discrimination on the grounds of race, sex, religion or belief, disability, age or sexual orientation. This applies in the fields of employment and training, and in the provision of goods and services. In response to such directives the UK gov. introduced the Equality Act (Sexual Orientation) Regulations 2007.

Homosexuality and Free Speech

In order to avoid conflict with Human Rights Law on free speech (specifically, the right to publicly manifest religious belief), the UK 2007 Regulations included exemption to cover the activities of religious organizations. The exemption applied for example when it is necessary to comply with the doctrine of the organization. In principle, therefore, it was still possible for a church to publicly state the biblical teaching on the subject of homosexuality, even when it conflicted with homosexual practice. In principle free speech was protected.

Then in May 2008 the Criminal Justice and Immigration Act was passed. The Act created the criminal offence of ‘incitement to hatred on the grounds of sexual orientation’ and the Government, at the instigation of ‘gay rights’ lobby groups, initially refused to make exceptions that would allow for free speech by those who wish to express their disagreement with homosexual practice. In order to protect free speech a group of

dedicated Peers in the House of Lords tabled an amendment as section 29JA in the Public Order Act 1986. This free speech clause read:

“In this part, for the avoidance of doubt, the discussion or criticism of sexual conduct or practices or the urging of persons to refrain from or modify such conduct or practices shall not be taken of itself to be threatening or intended to stir up hatred.”

What the Bible says

The biblical case against the act of homosexuality is quite clear:

“You shall not be with a male as one lies with a female; it is an abomination” [Lev 18.22]

“If there is a man who lies with a male as those who lie with a woman, both of them have committed a detestable act” (Lev 20.13)

“You shall not bring the hire of a harlot or the wages of a dog (male prostitute) into the house of the Lord”

“Do not think, that I came to abolish the law...” (Mat 5.17)

“The men abandoned the natural function of the woman and burned in their desire toward one another, men with men committing indecent acts...” (Rom 1.27)

“Do not be deceived: neither fornicators, nor idolaters, nor... homosexuals.....will inherit the kingdom of God.” Summarizing the above:

The Old Testament books of Leviticus and Deuteronomy State God's moral Law regarding homosexual acts and lifestyle. God sees these acts as detestable and an abomination, and He, underscored His word by destroying the sodomy of Sodom and Gomorrah (Gen. 19.5.24)

Moral law is timeless and Jesus upheld it in Mat 5.17. So we find the same moral view throughout the New Testament right up to Revelation. Those who willfully persist in immoral behavior, as defined by God's moral law, will be left outside the Kingdom of God (symbolized by the heavenly city)

The Main Point

God is holy and instructs man to be likewise: "You shall be holy, for I the Lord your god am holy". (Lev 19.2) (1 Pet 1.15.16)

A good definition of holiness is "to conform to God's character, to be set apart for His purpose." God cannot co – exist with unholiness and this point is made at the very end of the Bible. Regarding that heavenly city, God says "and nothing unclean and no one who practices abomination...shall ever come into it....."

"Outside are the dogs (male prostitutes) and the immoral persons... (Rev 22.15)

This raises the question of what happens after death. The Bible says we are either included in or excluded from that heavenly city, the Kingdom of God. To be excluded means eternal separation from God.

The World Ethic on Homosexuality

If homosexual feelings are not 'normal' what about homosexual acts? Is there a 'correct' worldview on homosexual acts? Is there a guiding standard or ethic on the matter stating that such acts are 'right' or 'wrong'? Western society tends to go by a majority or cultural ethic, whereby whatever a cultural group approves of is deemed 'right' and whatever the group disapproves of is 'wrong' A quick way of determining the current majority or cultural ethic on some matter is to carry out an opinion poll. A Canadian poll (Enviro-nics Research Group, May 2001) asked Canadians "do you personally strongly approve, somewhat approve, somewhat disapprove or strongly disapprove of homosexuality?" In 1996 22% approved and in 2001 44% approved, showing a rapid change in social ethic. According to this poll, homosexuality (and by implication, homosexual sex) is rapidly becoming 'right'. Similarly, a 2001 Gallup poll showed a continuation of a slow, but steady, liberalization of American public opinion towards homosexuality (Newport, 2001) A poll in the same year by the Barna Research Group found that nearly half of all adults (48%) believe that sexual relations between consenting adults of the same gender relations should be legal. Two years later Gallup found that six out of ten consenting adults should be legal.

Clearly, a majority or culturally defined ethic is variable and unreliable. This is cultural relativism and the social consequences can be disastrous, e.g. liberal sexual ethics has led to a dramatic increase in HIV cases and sexually transmitted infections. Moreover, opinion polls only tell us what a society is currently thinking, not what it should be thinking – assuming an absolute ethic exists. Consider again the core question: “Is there an absolute ethic on homosexual acts?” Can we say homosexual acts are definitely ‘right’ or definitely ‘wrong’? Some maintain that any absolute ethic (moral standard) cannot come from man, a finite and fallible being. It must come from a transcendent source, from beyond mankind, if such a source exists. As the philosopher Wittgenstein said: The Sense of the world must lie outside the world.... ethics is transcendental’.

The Biblical Ethic on Homosexuality

Christianity maintains that absolute ethics exist and are based upon the nature of God, and in particular on the absolute moral standard of a Creator God. This ethical view escapes the unreliability of cultural relativism. It presupposes that God exists and has revealed absolute standards. It maintains that these standards are compatible with His creation and are true and correct. Such ethic is timeless and is for man’s well – being. It comes from an authority higher than man, and is revealed in Jesus and the inspired scripture of the Bible.

According to the Bible, God created kinds (including man) and instructed them to 'multiply' (Gen 1). In order to multiply, the 'kinds' had male and female gender. Moreover, everything that was created was good. So, the natural state of things before the so called 'Fall of Man' was for a male and female of a kind to procreate. This is not saying that same – sex relationships are wrong – far from it. Male bonding can have great social benefit and in the Bible we are told that Jonathan loved David and become his close friend (1 Sam 18.1). It is simply saying that same – sex sexual relationships were not on God's creation agenda. In God's perfectly created world, they were simply not natural and intended and so must have been completely absent. The biblical concept of the Fall of Man brought a different scenario. For man, one consequence was sexual sin in the sight of God and that includes homosexual acts. The biblical case against the act of homosexuality is found in Lev 18.22, 20.13, Deut 23.18, Mat 5.17-19, Rom 1.18 – 27; 1 Cor 6.9 – 11 and Rev 21.27, and God underscored His word by destroying the sodomy of Sodom and Gomorrah (Gen 19.527). Some argue that the QT Law on homosexuality is outdated, just as we no longer stone people to death have slaves, or offer a ram for guilt offering. But they fail to distinguish between civil, ceremonial and moral law. While civil law changes with time and the law requiring ceremonial sacrifice was abolished by the sacrificial death of Jesus, God's 'moral' law is timeless. For instance, written several thousand years later, the

New Testament still labels the critics of Sodom and Gomorrah as sexually corrupt in God's sight (2 Pet 2.4 – 10). Today, the UK Sexual Orientation Regulations' (SORs) now force individual Christians and Christian organizations who offer goods and services to compromise their Christian ethos in favor activities violating God's timeless moral law in contrast to the UK government, Jesus upheld the OT moral law and did not abolish it (Mat 5.17) and the Bible holds this view of homosexuality right upto the book of Revelation.

The fact that homosexuality is found in nature is no excuse for man. Man, as distinct from an animal, is a moral being and has been given God's injunction on the matter. Animal homosexuality is simply demonstrating one effect of the Fall and God does not appear to have created them this way. As to the future, those who deliberately live immoral, unclean lives n the sight of God are excluded from the heavenly city (Rev 21.27, 22.15), the New Jerusalem, Revelation 22.15 uses a term similar to that in Den 23.18 which implies 'male prostitute' or 'somodite'. Based on such scriptures, Christian Theism maintains that: Human nature has been worked by the Fall Homosexual to lobby groups then persuaded the UK government to include a clause in the Coroners & Justice Bill 2009 (clause 58) that would remove the free speech clause. Such law, if brought into force, could overrule Article 18 of the Universal Declaration of Human Rights (or article 9 of the European Convention on Human Rights) in the Courts.

In all this it is important to recognize that, if absolute morality exists, the fact that the law sanctions homosexual acts and tries to muzzle free speech on such acts does not make homosexual acts moral.

Is Homosexuality Normal?

Western ethics tend to be those of Post modernism. They maintain that:

- What is, is ok
- All homosexual activity is a viable choice, and there is no guilt
- Homosexual feelings are normal; youth are advised “there is nothing among with you.”

But are homosexual feeling normal? Indeed what is ‘normal’? Homosexual claim that scientific studies have shown that there is a biological basis for homosexuality. Three main studies are cited by ‘gay rights’ activists in support of their argument: Hamer’s X chromosome research, he Vay’s study of the hypothalamus and Bailey and Pillard’s study of identical twins who were homosexuals. It is claimed that in all three cases, the researchers had a vested interest in obtaining a certain outcome because they were homosexuals themselves, and that their studies did not stand upto scientific scrutiny by other researchers (Baptist Union of Western Australia (BUWA) Task Force on Human Sexuality). The BUWA concluded that “There is no reliable

evidence to date that homosexual behavior is determined by a person's genes." Even so, some scientists still maintain that homosexuality is due to a complex combination of social, psychological and biological factors (National Association for Research and Therapy of Homosexuality, NARTH)

Other support the BUWA and maintain that NARTH 'biological factor' is not a fundamental genetic one: "No researcher has found provable biological or genetic difference between heterosexuals and homosexuals that weren't caused by their behavior. No one has found a single heredible, genetic, hormonal or physical difference between heterosexuals and homosexuals." (Family Research Institute, Colorado Spring)

For example studies of 1700 homosexuals in the 1940s and nearly 1000 homosexuals in 1970 reported that homosexuals overwhelmingly believed that their feelings and behavior were the result of social or environmental influences. Similar studies conclude that homosexuality is learned; that the root cause is psychological rather than biological; and that the problem is relational rather than genetic (Family Research Institute, Colorado Springs). According to NARTH, the relational problem leading to male homosexuality can be a complex combination of gender nonconformity e.g. avoiding competition and lack of male bonding temperament e.g. a tendency to personalize criticism, poor (distant) father – son relationship and over intimate mother – son relationship.

In conclusion, scientific studies point to homosexuality being what a person does in contrast to gender, race and impairment which relate to what a person is.

Given that relational issues appear to be the prime cause of homosexuality, we can now challenge the postmodern idea that homosexuality is ‘normal’. Are homosexual feelings really normal? A perceptive definition of ‘normality’ has been given as “that which functions according to its design.”

On this definition, the relationship problems outlined above are clearly not normal in that they don’t follow the perceived design pattern. For example, the natural and preferred father – son relationship is for a father to lead and help his son in a close and friendly manner. And of course sexual acts of homosexuality are perceived by the majority as conflicting with the design pattern. How can anal intercourse be perceived as part of natural design? On this basis homosexuality is clearly not normal – it is not a normal sexual variation.

Statistics also bear this out; typically less than 1% of men are purely homosexual (Family Research Institute, Colorado Springs) To counter this, some point out that there are many examples of homosexuality in nature itself, and so it must be normal. For example, it is claimed that lizards can be lesbian and gay male swans can make good parents. (‘Evolution’s Rainbow’ Rough garden, Stanford) But male swans cannot create a family via procreation – they are not designed that way’ so,

1. Homosexual feelings are abnormal
2. All homosexual activity (sexual acts) is sin in God's sight.

The Christian Response to Homosexuality

The legal position and the sympathetic postmodern world ethic on homosexuality pose a challenge for the church. How is the Church to respond? Since Christians are commanded to be salt and light in society (Mat 5.13 – 16), it is their duty to state God's moral law on homosexual acts, and other ethical and moral issues. But this must be done in the context of a loving, caring, non – judgmental way – Jesus always gave the truth in love. The Christian should have Christ's love, humility and compassion for those caught up in homosexuality, without compromising the God – given principles in scripture. Homosexuals, like any other sector of society are to be welcomed into God's church. Here we all strive to understand God's way for man, and try to adhere to His word in the Bible. Here we all acknowledge the need for repentance, the saving grace of Jesus and the new life. He offers through His opening and resurrection. But someone openly flowing God's word within His church (on homosexuality or any other issue) should not hold a position of authority or ministry within the Church (1 Tim 3.1 – 14)

Ever so that homosexuality has been legalized in some of the countries of the world, and in some others with strong

supporters of homosexuality; some of the facts/views become clear after a detailed discussion on it. They are as follows:

- a) Homosexuality is an abnormal act.
- b) It is a sin according to most of the world's living religions: Hinduism, Islam, Christianity, and Sikhism.
- c) It is against Nature, which is God's beautiful creation.
- d) So no ethics can prescribe for it.

Ethics and Cloning

Discussion of ethics at the UN level, often brings to mind the notion of deep, profound, commonly held principles to guide human actions in accordance with some higher purpose. It may emanate from belief of a religious nature, or from concern for human, animal, environmental welfare. Definition of the boundaries and scope of any ethical principle and the measures necessary to adhere to it faithfully is however not an exact science, especially when recognizing that there are several thousand different ethnic groups in the world and their cultural ethos vary. While general ethical principles such as the principle of doing no harm in medical practice are widely respected the question of what amounts to harm is less easily defined. The debate on reproductive and research cloning has demonstrated the fluidity and diversity of ethical beliefs in this area. It is interesting for instance to note that while there is an almost complete consensus amongst countries with regard to the need to ban reproductive cloning, a number of

academics and some religious groups do not necessarily believe that such cloning is unethical.

Perhaps, unsurprisingly, the ethical debate on cloning tended to blur the lines of separation between the church and state, to an extent that had not been so obvious at the international levels for some time. The highly charged issue challenges the bases of many religious beliefs and places, science and religious at logger hands. Questions were raised such as whether it is appropriate to allow for the creation and destruction of embryos for the sole purpose of harvesting stem – cells which may save the life of a sick person, is at the very heart of this debate. Whether responsibility to respect the human dignity of a person dying with debilitating illness outweighs responsibility to prevent scientists from culling cells from destroyed is a dilemma which cannot be easily resolved through impassioned international debate. In the search for a common ethical standard by which to be guided the global community is frequently hampered by intransigence, dogma and personal and institutional ambition. This polarized atmosphere is not conducive to development of a consensual position based upon the need for respect of diverse and sometimes conflicting views. While national governance mechanisms can be constructed to reach compromise decisions, it has not proved possible at the global level.

Discussion of the broad range of ethical perspectives that address the issue of cloning is beyond the scope this study.

However, it is considered important to provide readers with a brief overview of some of the key ethical concepts that have direct bearing upon the development of international law and policy in the area to this ethical consideration will be looked at under the following five areas: a) Human Dignity b) Cloning and Nature c) Human Health d) Social Justice e) Freedom of Research and Choices

a) Human Dignity

Protection of human dignity is one of the cardinal principles of bioethics and has been enshrined in a number of international instruments. Most notable in relation to the present discussion is the UNESCO Universal Declaration on the Human Genome and Human Rights which state in Article II that “Practices which are contrary to human dignity; such as reproductive cloning of human beings, shall not be permitted. States and competent international organizations are invited to co – operate in identifying such practices and in taking at national or international level, the measures necessary to ensure that the principles set out in this Declaration are respected.”

This unequivocal statement on reproductive cloning is a clear indication of the existence on reproductive cloning is a clear indication of the existence of an emerging principle of customary international law banning such cloning, an issue which will be discussed in detail below. The Declaration does not specifically

refer to research cloning, which will be read by some as an indication that the international community did not consider this to be contrary to human dignity. Conversely, some will argue that the ban extends to all cloning which brings about life, which depending upon the definitions of life may include embryos produced by cloning technique. The Declaration did not therefore resolve the underlying differences regarding the ethics of cloning and nature did the UNESCO International Bioethics Committee (IBC). The IBC subsequently released a report on stem cell research in 2001.

Dignity may be considered from both intrinsic and extrinsic perspectives. Intrinsic dignity relates to the internal sense of dignity felt by an individual due to their own feeling of self – worth, capacity for autonomous decision making and ability to meet their responsibilities. Extrinsic dignity relates to manner in which individuals respect the dignity of others and are entitled to be free from external harm to their own dignity. The concept of dignity is inherent in foundational UN texts that were written at the end of World War II when there was political unanimity that abuses of war were against human dignity, and it was accepted that everyone knew what was meant. However, 60 years after there is a need to more fully explore this concept in the international context with respect for numerous cultures of the world, which will take more research than possible in this report.

Amongst the arguments raised against cloning has been concern that reproductive cloning would lessen the respect for individuals because of the feeling that they could easily be replaced. Every form of reproductive technology raises some questions of human values, dignity, worth and juridical rights. Some linked to the notion that the person should not be used as a mere mechanical instrument and that every human individual is a non – repeatable being. Disruption of family relations and sexual relationships has been suggested to be also a common concern with other forms of reproductive technology. The same is true of other concerns including individual psychological problems of the cloned persons. All these issues are felt to influence the individual's sense of self and thereby their sense of personal dignity.

One of the key considerations in the debate on dignity and cloning relates to the science of cloning, its exactness and the extent to which it may to which it may cause significant suffering to humans. The issue of the scientific merits challenges and impediments to cloning are discussed further below as are issues regarding human death and well – being. This section will, therefore, focus primarily on the notion of dignity and its relationship to identity.

a) Persona Perceived and Legal Dignity

The relationship between identity and dignity has been the subject of debate for centuries. Identity may be considered from a

number of different standpoints including personal perceived and legal. From the standpoint of personal identity the question arises as to whether a cloned individual will have a full sense of personal identity. In more recent times individualism linked to identity may be seen to have played an ever increasing role in the conception of personal dignity. As identity becomes more and more personal and less community related concept, the notion of personal dignity has been in new connotations which demand a degree of individual recognition less prevalent in more communally based societies. Consideration of the potential identity crises of a cloned human is closely linked to consideration of the possible perception of the clone as a full human being. There may of course be cases where cloning may be linked to the desire of an individual to continue their own life in some form or fashion through the production of cloned offspring. However, the ontological identity of each individual is drawn from their education, relationship and life experiences and a cloned individual may be no more condemned to live in the shoes or mind their biological parent than are children born by natural means. As the Universal Declaration on the Human Genome and Human Rights states, a person cannot be reduced to their genetic characteristics. While some parents may wish to “replace” dead children, the person made through would always be different to their predecessors. In governance debates we need to separate science fiction images of replacement persons from the

facts which have been introduced in the documentation of numerous scientific academics.

Many human societies have tended to identify and marginalize all kinds of people based upon their real or perceived difference to an accepted common standard whether racial, physical, cultural otherwise. Fear of diversity has led to prejudice, victimization and oppression. It is hardly inconceivable to imagine that cloned humans at least during the early stages of introduction of clones into society may be the subject of abuse which runs contrary to their well – being. Prejudice and small – mindedness in the population at large would not in itself however seem to be a strong argument against cloning, but rather an argument for the development of awareness building programs to educate the populace and protect human dignity of all humans.

The legal status and identity of a cloned individual is like to prove a complex but not insurmountable problem for the legal community to resolve. However, ethically, as a human being any cloned individual would have equal rights under the UN Declaration of Human Rights.

The intrinsic and extrinsic dignity of a cloned individual depends on the manner in which they are treated by family, society and the law. Respect for any person's dignity and the manner in which it is respected is a societal issue rather than an individual one of the question then arises whose dignity would be affected by

the cloning of humans and why has the international community sought to ban reproductive cloning as being against human dignity.

b) Dignity of the Individual or of Society

If it cannot be seen to be the dignity of the clone individual which is in question then it must be the collective sense of human dignity of society which would be the subject of infringement by cloning. This may be viewed from a number of differing angles. It is frequently argued, for instance, that reproduction should occur by chance and through natural selection. This argument may be based upon religious lines, which defer to a supernatural or higher power for choice, or to natural selection and the importance of ensuring continued human diversity. More convincing for some are arguments against the commoditization of life. Fears exist that allowing reproductive cloning will lead to a spare parts market for harvesting human organs from cloned “brain – bro – bodies” for the rich as they seek to extend their life – span. A result which may see as a contravention of individual and collective human dignity.

These are not issues which can be lightly dismissed. However, it is clear that any debate on human dignity needs to separate the various elements of the debate in order to consider opposition to cloning stems concern for human dignity or respect for divine dignity. As well as to determine whether it is designed to protect the individual that may be cloned or the society whose sense of personal and collective identity might be challenged by the concept of sharing the world with cloned individuals.

There has been extensive debate regarding the potential of cloning technology to help infertile couples to have children which are genetically linked to its parents. This has included claims that preventing couples from seeking out cloning as a means to realize their desires to be parents is a breach of human rights and individual dignity which is seen as being linked to the capacity to reproduce. This is an emotive issue and one which further impassions the debate on cloning. It is however at this time a distraction rather than an aid to dealing with the underlying ethical questions regarding the cloning of humans which must be linked to the rights of any child or embryo which arises from the sue use of cloning technology. If there is any right to reproduce using safe reproductive cloning technology it is to a general sense of having a child, and not intended to allow making a copy of oneself.

The foregoing debate is however largely superfluous in the face of the current level of cloning technology which could not guarantee the birth of healthy humans and would be likely to lead to many failed births, deformities and cloned humans with debilitating and wasting diseases. To quote the Inter Academy Panel statement of 22 September 2001, scientific research on reproductive cloning – in mammals other than humans “shows that there is a markedly higher than normal incidence of fetal disorders and loss throughout pregnancy and of malformations and death among newborns, and that there is no reason to suppose that the outcome would be different in humans. Therefore, the statement

asserted, “even on a purely scientific basis, it would be quite irresponsible for anyone to attempt human reproductive cloning given our current level of scientific knowledge”

Concerns about the level of technological capability make it much easier to build a consensus regarding the need to protect human dignity by preventing experimentation in cloning. For now there is an alliance between both the religious and scientific communities regarding the need to ban reproductive cloning. This alliance may however disappear in coming years as advances in cloning techniques developed for animal cloning, as well as that carried out in research cloning for the purposes of harvesting stem cells show greater possibilities of achieving successful cloning in humans. Failure to exploit the current consensus on the need to ban human cloning may in the future be seen as the defining moment after which human reproductive cloning became inevitable.

There could be changes to social structure by clones. However, if we note that the clones would always be different to their predecessors. In governance debates, we need to separate science fiction images of replacement persons from the facts which have been introduced in the documentation of numerous scientific academics.

c) Research Cloning

There are varieties of religious views that oppose the destruction of human embryos that is needed in creation of 15 cell lines. Although Thai Buddhists accept the possibility of human

cloning as a technique they are reserved about therapeutic cloning primarily because it involves the destruction of embryos in the procedure. Many Christian faiths consider human life to begin with conception and see the destruction of embryos as equalizing with the destruction of life. Reproductive cloning has been viewed by the Holy see as the creation of life for the purpose of its destruction. The official Roman Catholic position is in the 2000 Declaration of the Pontifical Academy for life, which stems firstly on the destruction of human embryos as human life.

In the area of research cloning an alliance between such views and science has not been achieved. In fact, the potential of science in this area acts as a beacon for church opposition to cloning. Here the church has found new allies amongst the non – governmental and civil society organizations who have opposed the turning of life into a new market product. Books such as the ‘Human Body Shop’ have helped to highlight the potential abuse of cloning techniques for the purpose of building life science industries, involving not only commoditization of body parts but the allocation of rights over the products of research and development. There is concern that if the market allows, and intellectual property rights regimes and other instruments of market control are available then cloning technology may be utilized to develop spare parts industry based upon the use of donor clones which are treated as less than human in this scenario the possibilities for abuse of

human dignity are indeed multiple. However, the generation of isolated human organ parts such skin or even replacement hearts are not usually considered against human dignity.

Cloning and Nature

The issue of human control over reproduction is not fundamentally new, but one of degree. A number of persons have said that human reproductive cloning too far because it is no longer sexual reproduction. The key concern here is the extent that humans control nature, as well as the potential impact this control will have on genetic diversity and human psychology. It is argued that design of persons takes away autonomy of children whose biological characteristics would be due not to chance, as in sexual reproduction but to the choice of the person responsible for the cloning. On the other hand it has also long been argued that for a child to exist at all cannot be against their interests.

Human biological diversity is considered a fundamental part of human natural heritage and diversity is recognized as part of the concept of human dignity in the Universal Declaration on Human Genome and Human Rights. This has led some to oppose any attempts to clone persons who would be identical to the cell nuclei donor. However biologists would argue that a clone is not “identical” to its original. Not only genes influence the development of an organism, Gene plasticity, environmental factors and natural topography structures differentiate clones from their parents. Thus while there are concerns of human dignity with

respect to decrease in human diversity, it would only become significant if it was very widely practiced. The continuous mix of genetic data via sexual reproduction is a basic mechanism of natural evolution. The possibility of continuously recombining genetic data allows adaptive processes.

Human health

The ethical relation between cloning and human health may be best considered from the perspective of biomedical ethics. One of the common approaches to modern bioethics is principlism, which commonly asserts four principles: autonomy, non – maleficence, beneficence and justice. Autonomy means respect for self – rule of the individual and their ability to make choices and decisions with regard to their own health and future. Beneficence is the principle of doing good, which argue that we should develop science and technology that may help all Non – maleficence is the principle of avoiding harm, well expressed in the ancient medical maxim, *primum non nocere* (first do not harm). Justice in the ethical sense means social justice or distributive justice, being fair or just to the wider community in terms of the consequences of an action. Some of these principles are discussed here under “Human dignity” and “Social Justice”. Regarding beneficence and non – maleficence principle, there are arguments that cloning offers both potential benefits and potential harms to human health.

Research cloning used for regenerative medicine in one area which has been promoted as offering great hope for producing replacement tissue without the fear of immunological rejection. This techniques, if successful may enable millions of people suffering from the most common diseases of the industrialized world – diabetes, oral injury, neurodegenerative diseases such as Alzheimer or Parkinson’s – to be cured whether embryos should be used for research and how research activity should be regulated are crucial questions. The embryonic stem cells are obtained from aborted fetuses or spare early – stage embryos donated by couples underlying in verto fertilization (IVF) treatment for infertility. Their uses raise concerns about respects for human life and the extent to which cell perhaps representing such life may be used or destroyed to provide material for therapy or research.

The serious safety concerns based on the non – maleficence principles apply to reproductive cloning. The high prenatal morality rate suggests that cloned individuals have physiological weakness. Even if a few cloned babies are born apparently normal we will have to wait up to 20 years to be sure they are not going to have problems later – for example growing old too fast. The doubts include the current immature state of cloning technology, the possibility of mutations, potential physical harm and general long term health risks. The ethical impediment to cloning may change if technological advances fix those problems at some point in future.

The discussion also requires informed knowledge of the scientific differences in the types of nuclear transfer cloning that have been used in animals, because there are significant differences in mortality between clones made from adult cell nuclei, which is how human clones are envisioned to be made, and the high morality rate in animals cloned from nuclei from embryonic stem cell lines. There have been questions raised over the safety of using stem cell therapy, as those techniques will have to be subject to the same range of clinical trials as to their safety and efficacy when they are developed. There are currently clinical trials of a variety of adult stem cells underway around the world.

Social Justice

Many critics have argued that the funds direct towards research on human cloning could be put to better use on pressing global issues such as famine, desertification, infant mortality and diseases including the human immunodeficiency virus/acquired immunodeficiency syndrome (HIV AIDS). This question of distributive justice on the use of research funds can be applied to many areas of scientific technology and even more broadly to the utility of human activities including research and development for global welfare.

Reported UN declarations have promoted more equitable sharing of the benefits of human knowledge. The UN Millennium Development Goals call for a global partnership for development.

Similarly the Universal Declaration on the Human Genome and Human Rights states. “The application of research shall seek to offer relief from suffering and improve the health of individuals and humankind as a whole.” One of the most contentious areas of global ethics discourse in recent years have been related to access to patented pharmaceuticals, necessary for dealing with major human diseases. This led to the acceptance in Doha Declaration of commitments to allow for developing countries to manufacture genetics drugs and override patents held by major pharmaceuticals in times of national health crises. This marks the first WTO acknowledgement that price of drugs manufactured by these large patent – holding companies are preventing access to medicine in developing countries.

At the same time that the UN was debating cloning UNESCO was developing a Universal Declaration on Bioethics that attempts to outline some practical expressions of a principle of social responsibility. Justice Michael Kirby chair of the IBC drafting committee stated that “Except in relatively few developed countries, the real urgencies of contemporary bioethics include access to health – care, to adequate nutrition and to drinkable water, to the reduction of poverty and illiteracy, the improvement of living condition and the elimination of unjust marginalization of individuals and groups.”

Concern that access to any eventual, beneficial scientific developments arising from human cloning technology has been

raised. Some commentators have questioned the need for such extensive UNGA debates on issues which may only bring benefit to a small and wealthy percentage of the global community. There are also fears that as research is curtailed in some countries, experimentation would be carried out in developing countries with weak or non – existent governance mechanisms. In this case, issues of social justice can be seen to be related to respect for the human dignity of all. This implies a global responsibility to prevent exploitation of poverty and lack of national legal capacity which may allow for unethical research activities to proceed contrary to human dignity.

There is a danger that cloned human beings may be exposed to the risk of discrimination, which needs to be prevented. Orphans of father and mother, the children produced by cloning would be simultaneously considered to be the offspring and the twin of an adult person. Legal complexities would need to be carefully examined and these are future topics for the governance of reproductive technology. Restrictions should not prevent an improvement in the proportion of persons who can reproduce nothing that in some developing countries infertility affects a third of couples.

Freedom of Research and Choice

Some commentators have argued that there are ethical issues in favor of cloning including freedom of science and

research as freedom of expression. These arguments are usually applied to research cloning, because the groups that have led to some campaigns against cloning have often religious ties. Some point out that the ethics of society should be secular, not religious. Freedom of science can take various views depending culture.

In September 2004, 66 members of the Inter – Academy Panel on International Issues (IAP) called on UN General Assembly to avoid voting on a second time on a resolution cloning. The IAP issued a statement that “Cloning for research and therapeutic purposes has considerable potential from a scientific perspective and should be excluded from the ban on human cloning.” Such efforts could foster new the therapies for millions of people suffering from diabetes, Parkinson’s disease and spinal – chord injuries.

There have been numerous academic societies that have argued for the need to explore scientific research on therapeutic cloning, while often at the same time rejecting research on reproductive cloning, at least at the current stage of research. The Human Genome organization released such a statement in Nov 2004.

When it comes to reproductive cloning, a few persons have argued that cloning is part of reproductive freedom. As regard above, we can see it is widely agreed that to attempt such a dangerous technology now would be unethical. However, as technology develops and it is expected to be safe support for the

use of cloning technology may increase under the guise of promoting human reproductive freedom. Arguments in favor of the use of cloning technology have sought to use the 1984 UN recommendation on basic human rights, “All couples and individuals have the basic right to decide freely and responsibly the number and spacing of children and to have the information, education and means to do so.” This in turn had led to questions regarding human rights to genetic freedom, such as the freedom to bring about the conception of a child with any characters, be they good or bad, or desired or undesired. Most experiments so far has been on cloning societies that use animal breeding and support wild life conservation by by captive beading programmes, there may be few moral concerns over the use of animal cloning when appropriate, consistent with the principles of bioethics for animal cloning scientists see these clear areas of application, to salvage endangered animals, to cultivate fenaspecies and to replicate transgenetic animals of great agricultural and/or medical value. There are still arguments to restrict the freedom of research against animals cloning because it may pose unpredictable risk of harm to animals formed in the process.

Input of ethics into Governance

Pursuit of better human health, increase reproductive choices and freedom of health, increase reproductive choices and freedom of research need to be tempered with concerns of human

dignity. Similarly freedom of research has to be tempered by social justice in the interest of human dignity and peace and security. Is cloning a special form of science that needs its own governance? These tensions bring out the contesting freedoms involved in regulating human cloning. The successful international governance of human cloning can result only from a careful deliberation of the interplay among these issues of the international level. The general conclusion of many academic studies is that reproductive human cloning is so novel that human society needs to carefully consider whether it wishes to allow this for a range of reasons, however at least for a decade or more any attempt to clone a human baby would pose unacceptable risk of harm to the child, so born that existing international guidelines on medical research need to be applied to forbid this.

Bioethics considers the ethical issues raised in biology and medicine, and especially those raised by human activity in society and the environment using biotechnology. A variety of ethical arguments are used in the discussions on cloning, and these discussions have a long history. There are a range of ethical perspectives regarding cloning, including a number of perspectives that go beyond the dominant 'western' 'anglo-saxon' 'Judeo - Christians', views that have been largely expressed in UNGA debates until now. This question about dignity of life, the moment when life has begun for a particular being considered in every culture. We need to find that issues are raised for people in

different cultures of the world. The UN is better not to issue Declaration if it can not adequately represent the diversity of cultures across the world when attempting to construct persons on difficult ethical issues. The academic level of discussion required suggests that is better to explore these bioethical issues in existing forms inside the UN system such as the UNESCO IBC.

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