

### The Role of Natural Law in Gandhi's Social Utopia

In the history of Anglo-European political thought it was commonly believed that the basic precepts of human practical rationality were to be found in the natural law doctrine. Enduring in human nature, these precepts were said to be knowable by all human beings. In addition, due to their power to direct these beings towards intrinsic goods, these principles were considered to be equally binding on all such beings. Taking this history into account one could, today, surmise that a viable grounding of universal human rights should implement the ground already coof Anglo-European political thought it was commonly believed that the basic precepts of human practical rationality were to be found in the natural law doctrine. Enduring in human nature, these precepts were said to be knowable by all human beings. In addition, due to their power to direct these beings towards intrinsic goods, these principles were considered to be equally binding on all such beings. Taking this history into account one could, today, surmise that a viable grounding of universal human rights should implement the ground already coof Anglo-European political thought it was commonly believed that the basic precepts of

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In the intercultural/cross-cultural context, however, some authors are more cautious and hesitate to apply this model to non-Anglo European contexts on two counts (see Panikkar 1982): The natural law doctrine, *firstly*, arose in a specific European context and was profoundly shaped by contemporary philosophical assumptions and concerns. Were this doctrine to be applied globally, it would unfairly privilege the context in which it arose, and thus be skewed. Yet, if this model, despite its historicity, were, *secondly*, to be applied to non-Anglo European contexts, it would mistakenly lead one to believe that indigenous resources are not conducive to the development of any concept similar to universal rights. In consequence, these rights are, and continue to be, unique achievements of the Anglo-European context.

One reason driving this critique is the view that the universality of human rights cannot be achieved by declaring them

to be self-evident truths which are to be established by unilateral fiat. Human rights cannot be reasonably considered to be postulates which are beyond debate. In fact, to be truly universal, these rights must be grounded and justified to the human beings who are subjected to them. They “gain their normative force by being reflexively tested, interpreted and negotiated *en passant*” (Tully 2012: 4).

My paper can be squarely located within this framework. Human beings, I believe, cannot be subjected to any institutional norms which are not justified to them. In the human rights context, for example, justifications cannot exclude the human beings affected by them. As Rainer Forst writes in a general vein: “[W]hen it comes to grounding fundamental human rights, the starting point is a basic claim to be respected as a ‘normative agent’ who can give and who deserves justifying reasons” (2010: 724).

The paper's focus is specific: it examines the conception of natural law and rights of Mohandas Karamchand Gandhi (1869-1948), and endeavors to develop a reasonable, immanent account of it. Why, one would ask, should Gandhi's understanding of natural law merit scholarly attention at all? At least two different reasons come to mind. A *first* reason can be drawn from comparative philosophy. Given the interdependence of our

pluralistic societies, scholars cannot, without further reason, continue to use the resources of a single and dominant tradition to capture, inquire into, analyze, and explain political life in the global context. “[O]ne segment of the world’s population cannot monopolize the language or the idiom of the emerging ‘village,’ or global civil society. Shared meanings and practices—to the extent that they are possible—can only arise from lateral interaction, negotiation, and contestation among different, historically grown, cultural frameworks” (Dallmayr 2004: 249).<sup>133</sup> A sustained reflection upon the status and meaning of political life in the global arena is called for, such that it sifts through and isolates ideas, thinkers, and positions located in different, local, contexts. To do otherwise, would be a sign of “intellectual inhospitableness” (ibid.: 250).

A *second* reason stems from a core concern of public philosophy. One crucial task of philosophers engaged in this field would be to critically engage with phenomena in the public sphere in order to develop models which, in their own ways, can abet societal debates because they are, for example, closer to the

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<sup>133</sup> Cf. Bilgrami (2002: 83).

interpretations on the ground.<sup>134</sup> Given that the post-independent Indian polity makes use of individual rights to achieve its goals of justice, liberty and equality for all its citizens,<sup>135</sup> it is easy to isolate a grounding of rights as one important area of concern. Philosophers working in this area should engage with, inquire into, reconstruct, and critique all those (contrasting) narratives which in their own ways deal with these rights. The general idea underlying

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<sup>134</sup> Tully writes: "Public philosophy as a critical activity starts from the practices and problems of political life, but it begins by questioning whether the inherited languages of description and reflection are adequate to the task" (Tully 2008: 19).

My reconstruction of Gandhi's understanding of natural law is an attempt at resurrecting an understanding developed in the Indian context. I will not pit it against any 'standard' way of interpreting natural law in political philosophy. Rather, I will attempt to articulate an understanding of rights found in this specific context. Keeping with Tully's pragmatic understanding of political philosophy, I will, thus, critically survey one specific solution proffered to address the problem of social justice in India (cf. *ibid.*: 26). This, however, does not rule out the possibility that the Gandhian conception could become relevant in other cultural contexts as well.

<sup>135</sup> The Preamble of the Indian constitution asserts that it will attempt to secure social, economic and political justice of all citizens; liberty of thought, expression, belief and worship; and equality of status and opportunity (See <http://www.constitution.org/cons/india/preamble.html>; last accessed on 9 May 2014).

this exercise would be that these narratives work into, inform, and influence citizens' background assumptions on how they understand and interpret the "conceptual cluster" related to rights.<sup>136</sup> In today's post-independent Indian society, one could doubt whether Gandhi's rendition of natural law and rights plays any active role at all. Yet, it would be difficult to categorically deny that it does exist as a narrative in this society. As Ananya Vajpeyi puts it: "Today, in the early part of the twenty-first century, we live as much in Gandhi's India as we do in the India of Nehru, Tagore or Ambedkar, in certain ways; in other ways, India has pursued directions, that none of these men would have pursued or endorsed" (Vajpeyi 2012: 201).

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<sup>136</sup> Henry Rosemont, Jr. has coined this useful phrase to denote how a battery of concepts comes into play in processes of cross-cultural comparison (Rosemont 1988: 60-66). When a scholar situated in a Anglo-European philosophical tradition attempts to ascertain the presence or absence of the human rights concept in a non-Anglo European tradition, for example, he or she also draws on related concepts clustered around the former, like liberty, the individual, property, autonomy, freedom, reason, and choice (Rosemont 2004: 54). This aspect leads Rosemont to believe that comparative philosophers engaged in cross-cultural work must help articulate alternative conceptual-clusters.

Before we examine this aspect of Gandhian thought, let us briefly sketch the paradigmatic view of the natural law doctrine and its relation to natural and human rights in the remaining part of this introductory section.<sup>137</sup> According to the paradigmatic view, all human beings participate in the plan of creation by acting according to natural law; its precepts are universally binding by nature. If it can be ascertained that a being shares our human nature and therefore can be rightly said to be a human being, for example, it is bound by these precepts and is expected to act accordingly. These precepts, likewise, are universally knowable by using one's mental faculties, the foremost being human reason.<sup>138</sup> With the help of these precepts, natural law is said to direct us towards certain goods and it, moreover, defines the main parameters of right action. Its precepts, furthermore, can be captured and formulated in the form of general rules. Natural law

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<sup>137</sup> For a lucid introductory account see Boucher (2009).

<sup>138</sup> John Locke instantiates this view when he states: "The state of nature has a law of nature to govern it, which obliges every one: and reason, which is that law, teaches all mankind, who will but consult it, that being all equal and independent, no one ought to harm another in his life, health, liberty, or possessions: for men being all the workmanship of one omnipotent and infinitely wise Maker; all the servants of one sovereign master, sent into the world by his order, and about his business [...]" (Locke 1824: 133).

itself is, thus, immutable, self-evident, and absolute; its principles can, however, be adapted to individual situations.

In the history of political thought, natural rights were gleaned from the natural law doctrine; in the course of time these rights were further developed into human rights. Explaining the shift from the “natural” to the “human,” David Boucher states: “It reflects an unease about whether nature, or any derivative term for the world as it is, is capable of generating any normative principles. The term ‘human rights’ shifts the focus from the source of the rights on to those who possess them. The basis of such rights is left uncomfortably vague” (Boucher 2009: 245). Nevertheless, the notion of inalienable rights “form[s] part of the current landscape of moral, political, and legal discourse” (ibid.: 247). Human beings, moreover, are said to possess an ability to recognize these rights and act accordingly, such that, at least in theory, all of them are driven by an equal consideration of the other. Thus, a human right in this view is a general, categorical, moral entitlement of all human beings. As the term “human right” implies, its scope cannot be restricted within the human community by, for example, taking into account status, gender, membership in a particular nation or other contingent and ascriptive factors. Such a right has to encompass all human beings in a given time-frame.



Let us now turn to Gandhi's understanding of natural law and rights. For this purpose, section two will attempt to reconstruct the main features of Gandhi's social utopia (Section II). Section three will attend to his understanding of natural law and rights (Section III). In examining the relevance of such reconstructions in the final section, I will return to the justificatory aspect mentioned in this introduction (Section IV).

## II Gandhi's Social Utopia

Gandhi's ideal society is a self-sufficient unit which can cater to all the needs of its members. Furthermore, its members share commonly held moral values. They believe that moral progress can only be achieved by curbing material development, which leads to greed and avarice. Commodities essential for daily life are produced through the labor of all capable members. Importantly, only as much as is needed to satisfy members' daily needs is produced; any kind of surplus is avoided. Needless to say, such a society does not seek to maximize its profits.

How can such an ideal society become self-sufficient? Gandhi, firstly, would ask one to differentiate between basic needs and other non-essential inclinations, which on first impression appear to be elementary, and vital. A closer scrutiny, however,

would reveal that the latter are not necessary in leading a human life and should, therefore, be given up. Given that goods cannot be replenished over an extended period of time, he is, additionally, of the opinion that the fulfillment of basic needs must be minimized too. Nature only produces as much as is needed by all living beings for their daily sustenance:

“It is theft to take something from another even with his permission if we have no real need of it. We are not always aware of our real needs, and most of us improperly multiply our wants and thus unconsciously make thieves of our selves. If we devote some thought to the subject we shall find that we can get rid of quite a number of wants” (Gandhi 1987: 471; see also *ibid.*: 473).

Teasing out some implications of this model, it could be argued that such an ideally self-sufficient society, *firstly*, does not necessarily depend on money to regulate its exchange of goods. Theoretically, any other viable means of exchange could be implemented too. *Secondly*, individual tasks cannot be ranked according to their order of importance since every chore is

essential to the sustainment and flourishing of the society as a whole. This would, in turn, mean that every task has to be remunerated equally, regardless of the amount of energy required in carrying it out, the time needed to learn it, or the qualifications acquired for it. With an equal remuneration, societal members will not compete with each other for social goods. *Thirdly*, an improvement in productivity does not necessarily prove to be advantageous. It could lead to an overabundance of, say, consumer goods. It is more important, *fourthly*, that a society ensures that every member has access to labor; only then can it claim that it is well-ordered:

“In well-ordered society, the securing of one's livelihood should be and is found to be the easiest thing in the world. Indeed, the test of orderliness in a country is not the number of millionaires it owns, but the absence of starvation amongst its masses”  
(Gandhi 1986: 357).

Gandhi was well aware of how utopian his blueprint of an ideal society was. To take up some of his arguments: The onset of modernization in India made clear that the abilities needed were task-specific, which in turn meant that a uniform remuneration was

not possible. Furthermore, economic disparities between social classes were a consequence of colonization. The British land policy had led to the rise of a class of parasitical landlords who had a detrimental effect on villages, which had been economically self-sufficient until then. Moreover, Gandhi thought that the problem of corruption could not be tackled by idealistically wanting to do away with money altogether. Rather, one would have to come to terms with the monopoly of money. As he observed, many people are not completely able to abandon their pecuniary ambition (ibid.: 359). Furthermore, the relativity of wealth and poverty did not escape him. At any given period of time, members of a single society can be thought of as being wealthy or poor only in relation to each other. Without such an internal standard of comparison, it would, therefore, be meaningless to believe that they should be made equally rich or poor (ibid.: 339; Gandhi 1987: 420).

However, this did not lead Gandhi to simply resign and completely accept human frailties. He actively tried to reconcile his social model with what he took people to be. For example, the rich were not expected to completely relinquish their wealth. They were called upon to earn their money truthfully and use it for the common weal (ibid.: 441). Given that the labor of the lesser privileged (or underprivileged) was crucial in the creation, retention, and in the increase of capital, the privileged had to

regard themselves as their trustees. If the latter were to engage in daily physical work, they would be in a better position to appreciate that certain basic amenities could only be procured by physical effort. Moreover, Gandhi optimistically held that only physical exertion would make the rich aware that their avarice could but be pursued at the cost of others. Such an experience, he thought, would make them reduce the amount they needed for their daily sustenance. In the long run, therefore, such an enriching experience would lead to a reduction of economic inequality, because the rich would voluntarily reduce their consumption of goods.<sup>139</sup>

Gandhi's attempt at reconciling his utopian vision with given social conditions, however, leads to many questions: How does one determine, for example, and differentiate between basic,

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<sup>139</sup> As Bilgrami (2002: 86) rightly points out, Gandhi stresses the role of exemplars as against moral principles: "One is fully confident in the choices one wants to set up as exemplars, and in the moral values they exemplify. On the other hand, because no principle is generated, the conviction and confidence in one's opinion does not arrogate, it puts us in no position to be critical of others because there is no *generality* in their truth, of which others may fall *afoul*. Others may not follow. Our example may not set. But that is not the same as disobeying an imperative, violating a principle."

fundamental needs and secondary inclinations?<sup>140</sup> Should a society specify what the basic needs of its members at a given time should be? Or are basic needs an immutable, essential feature of humanity? This open-ended postulation of basic needs leads to a further difficulty: Gandhi's social utopia is perfectionist; a good life is determined with the help of specific values (with modesty and honesty being good candidates in this regard<sup>141</sup>). In countering this objection on his behalf, one could argue that his social utopia is, first and foremost, a critique of the status quo. Beginning with a critical review of social problems, he proceeds to chalk out the contours of a good life. Yet even if this were to be conceded, Gandhi's perfectionism gets him into (at least one) serious difficulty; it leads one to believe that certain life-forms are not desirable. Let me explain.

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<sup>140</sup> In this regard, Amartya Sen's capability approach could prove to be valuable in differentiating between basic needs, desires, wants and secondary inclinations. Is a person actually able to do the thing she would value doing? This question, which seems to set the frame for Sen's capability approach, would be salient to the Gandhian conception too. Sen explores the relationship between capabilities, justice and rights in, for example, (Sen 2005b, 2010).

<sup>141</sup> Bilgrami's (2002: 90-91) argument that truth is a moral value for Gandhi seems to tally with the interpretation offered here.

A member of Gandhi's utopia cannot automatically claim a reward for the work one has done. In all probability, this society will tend to favor only those tasks which are of immediate use to it; other activities will most likely be sidelined. This would entail that certain ways of human flourishing are privileged within this society; the complete gamut of human flourishing will, as a result, be reduced in its scope. But if members at a particular stage are unable to ascertain the utility of certain activities should they, then, be given time to prove their utility (cf. Gandhi 1987: 546)? If so, how does one determine the time span needed for doing so?

I presume that Gandhi would not have been particularly moved by these questions and doubts. He invoked his understanding of the Hindu tradition to stress the role of duties in a life well-led. Every human being, he believed, is born with duties which one has to fulfill according to one's station in life. These could be discharged most effectively by adopting an attitude of detachment and renunciation. Actions would then be carried out without taking into consideration the positive consequences which would ensue. This attitude would be meaningful for both the collective and the individual themselves—social duties would be performed well and the individual would be able to reduce the duties which one was born with during the course of one's

lifetime. In fact, Gandhi takes this spirit of renunciation as a distinctive feature of being human:

“For human beings renunciation itself is enjoyment. This is what differentiates man from the beast” (Gandhi 1987: 465).

Accordingly, he firmly believed that a society should not seek to increase the standard of living of its members, but rather try to establish conditions which would enable them to fulfill their duties properly.<sup>142</sup> Every human being should make her resources available to all living beings, human and otherwise. If this is indeed the case, does this understanding have any use for rights at all?

Although Gandhi’s understanding of rights will be fully developed in the following section, it suffices at this point to underscore the derivative nature of rights found in this conception. Rights result from actions well done. They are earned when social activities are successfully completed and cannot be meaningfully understood as claims to fight for. In his famous letter to the UNESCO in 1947 he stated in no uncertain terms:

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<sup>142</sup> “We can only strive to increase man’s opportunities of realizing and fulfilling his duties and of getting nearer to God” (Gandhi 1987: 502).



“I learnt from my illiterate but wise mother that all rights to be deserved and preserved came from duty well done. Thus the very right to live accrues to us only when we do the duty of citizenship of the world. From this one fundamental statement, perhaps it is easy enough to define the duties of Man and Woman and correlate every right to some corresponding duty to be first performed. Every other right can be shown to be a usurpation hardly worth fighting for” (Gandhi 1950: 18).

Prudential considerations, thus, seem to play a crucial role in this understanding of rights. Duties lead to a stable social order and can equally ensure that every person obtains that to which she is entitled to (see below). But how does Gandhi ensure a just distribution?<sup>143</sup> To answer this question meaningfully, let us draw on his understanding of natural law and rights.

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<sup>143</sup> Writing on the eve of Indian Independence on 6th. July 1947, he said (1987: 496): “If all simply insist on rights and no duties, there will be utter confusion and chaos.

If instead of insisting on rights everyone does his duty, there will immediately be the rule of order established among mankind. There is no such thing as the divine right of kings to rule and the humble duty of the *ryots* [peasants] to pay respectful obedience to their masters.”

### III Gandhi's Conception of Natural Law and Rights

#### *Gandhi's Natural Law*

The starting point of the Gandhian conception of rights is a transcendental natural law which seems to bestow an inalienable, natural right on every living being; in regulating human relations it can be invoked as a just measure.<sup>144</sup> Its mode of operation is harmony and order, which are thought of as reflecting the natural way of things. With the power of one's conscience, a human being can gain an insight into this law and can adapt his or her behavior accordingly. Furthermore, one's conscience allows one to easily comprehend that nature produces only as much as needed by her creatures:

“Nature provides for the needs of every living creature from moment to moment, and I also see that, voluntarily or involuntarily, knowingly or unknowingly, we violate this great law every moment of

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<sup>144</sup> Bilgrami attributes Gandhi's view that the human body is quite continuous with a “*spiritually suffused natural environment*” to the pervasive influence of Vaisnavite and Bhakti ideals on him (Bilgrami 2009: 49; cf. Bilgrami 2012: 10). The influence of Advaitic metaphysics will be sketched below.

our lives. All of us can see that, in consequence of doing so, on the one hand large numbers suffer through over-indulgence and, on the other, countless people suffer through want" (Gandhi 1987: 439).

### *Gandhi's Natural Rights*

In a further step, the transcendental natural law is used to legitimize certain rights. These rights are natural rights insofar as they are bestowed by nature. A basic right in this regard is the right to life. If every creature is entitled to a share of natural resources, it is evident that it has a natural right to its life and to secure its livelihood.<sup>145</sup> From a human perspective, it follows that it is unjustifiable to accumulate possessions and property since this would imply taking away that which rightfully belongs to another. Gandhi repeatedly stresses that one should only stake a claim and

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<sup>145</sup> "Every human being has a right to live and therefore find the wherewithal to feed himself and where necessary to clothe and house himself" (Gandhi 1986: 256).

If every creature has a natural right to life, it can be argued that human beings cannot reasonably place themselves above other creatures. This trail cannot be followed within the scope of this paper.

consume that which is needed for one's daily survival, while ensuring that others get their due. These thoughts, incidentally, encapsulate Gandhi's concept of *sarvodaya*: the greatest good of the greatest number. This good would ensue when members are ready to give up their own short-term interests for the good of all. In addition to this right to life, human beings are said to possess an unhindered freedom to obtain and enjoy vital resources, and the freedom to develop their personality. More importantly, however, these rights are incumbent upon particular cooperatives for their implementation.

Now, one could argue that these rights, understood in this context as liberties, somehow support the process of individuation. With their help, human beings can elicit ways of leading a life as they see fit. In a crucial way, however, many such rights (like the right to life, the right to bodily integrity etc.) depend upon the acquisition of property. Why does this conception choose to oversee this aspect? Why is the acquisition of property conspicuous by its absence in Gandhi's conception?

Several reasons seem to plausibly explain this skepticism. Let us *firstly* begin with the understanding of freedom at play here. Gandhi takes pains to sever the link between freedom and any (individual or communal) acquisition of material goods. Being free, means having the opportunity to surrender everything one

possesses, including one's own body. Real freedom cannot be understood as an enjoyment of property because the latter entails taking something from another.

“[T]he only thing that can be possessed by all is non-possession not to have anything whatsoever. In other words, a willing surrender” (Gandhi 1971b: 52).

*Secondly*, his justification of equality is equally important. In this regard, Gandhi, like many other Indian thinkers of this period, drew upon Advaita metaphysics to justify the inherent natural equality of all human beings:

“I believe implicitly that all men are born equal. All [...] have the same soul as any other. And it is because I believe in this inherent equality of all men that I fight the doctrine of superiority which many of our rulers arrogate to themselves [...] He who claims superiority at once forfeits his claim to be called a man.” (Gandhi 1987: 499)

All human beings were said to be part of the same universal *atman* which, in turn, strove for its union with *brahman*. This union, furthermore, was considered to be the utmost goal of every human

being. This goal could only be achieved through moral progress, which in turn could be impeded by an accumulation of goods. Gandhi, however, did not try to universalize his justification of human equality. He emphasized the search for truth and denied that any particular metaphysical position could serve as a universal justification (cf. Bilgrami 2002).

*Thirdly*, Gandhi is sensitive to the exploitative nature of goods acquisition. In one's acquisition of material goods, every person tries to stake a claim to a maximum amount of resources at the cost of one's fellow members. This process is conflict-laden and highly exploitive of the other given that nature only provides for a limited amount of resources. A globally just distribution of these resources is, therefore, bound to be costly and time-consuming, to say the least. It would be more effective if everybody, especially the rich, voluntarily renounced the advantage they have accrued over the years. They should regard themselves as trustees of the common weal and ensure that every living being gets its rightful access to essential resources.

*Fourthly*, Gandhi was deeply concerned about the moral progress of a human being. The main motor of this progress is *Swaraj*. In this understanding of *Swaraj*, self-rule/self-discipline and individuality are closely intertwined. The notion of self-rule/self-discipline implies a voluntary internalization of our

obligation to others such that one is acutely aware of the larger social dimension of one's actions, without giving in to selfish desires. Since we can hardly ever completely isolate ourselves from others, we cannot abdicate our moral obligations to them too. Furthermore, the freedom which results from self-rule/self-discipline is a thoroughly individual process. It can only be claimed on the basis of self-awareness and presupposes self-effort. Thus, it cannot be bestowed upon one person or collective by another. For their part, collectivities cannot force this process either. Every individual has an "innate right" to err and even to sin.<sup>146</sup> Every individual has a right to experiment until he or she finds a way of life which is congruent with his or her stage of moral advancement.<sup>147</sup> Admittedly, collectivities stand to profit

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<sup>146</sup> "Freedom is not worth having if it does not connote freedom to err and even to sin. If God Almighty has given the humblest of His creatures the freedom to err, it passes my comprehension how human beings, be they ever so experienced and able, can delight in depriving other human beings of that precious right" (Gandhi 1971a: 253).

<sup>147</sup> "All progress is gained through mistakes and their rectification. No good comes fully fashioned [...] but has to be carved out through repeated experiments and repeated failures by ourselves. This is the law of individual growth. The same law controls social and political evolution also. The right to

from the moral progress of their individual members. Nonetheless, the reasons mentioned above underline that they should restrict themselves to establishing conditions conducive to individual moral growth. If such reasons underscore Gandhi's skepticism towards property, one would be inclined to hold that such a conception can forego with a state which cares for, and upholds, existent property relations. Would this view be tenable?

*Gandhi's Natural Law and the State*

As the Gandhian interpretation of natural law explains, departures from natural law result in an onset of moral corruption. And yet, human beings can collectively find their way back to this eternal law and use it as a standard of orientation to guide their social relations. For this purpose, however, a state is unnecessary. As sketched above, members of Gandhi's ideal society earnestly strive towards moral perfection and also support the moral progress of their fellow members. They abide by general moral norms because they are convinced of their truth and do not need an external, coercive authority like the state which pressurizes its members to follow certain norms. Members of a Gandhian society, thus, do not

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err, which means the freedom to try experiments, is the universal condition of all progress" (quoted from Iyer: 1973: 354).



need political institutions or political power to regulate their mutual relations. Their mutual life is regulated by an “enlightened anarchy” (Gandhi 1987: 602).

Nevertheless, Gandhi did not completely deny the importance of a state in practice. A coercive, centralized state could encumber the moral development of an individual. This made him believe, “that the ideally non-violent State will be an ordered anarchy. That State will be the best governed which is governed the least” (Gandhi 1971b: 122). The state as an institution could best be a second option.<sup>148</sup> More importantly, if the state did not carry out its tasks, the citizens could, Gandhi thought, legitimately try to alter it, or even abolish it.

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<sup>148</sup> For a historical development of his theory of state, see Parekh (1989). As is well-known, Gandhi envisaged an independent India to consist of a republic of villages, without a centralized state: “In this structure composed of innumerable villages, there will be ever-widening, never-ascending circles. Life will not be a pyramid with the apex sustained by the bottom. But it will be an oceanic circle whose centre will be the individual always ready to perish for the village, the latter ready to perish for the circle of villages, till at last the whole becomes one life composed of individuals, never aggressive in their arrogance but ever humble, sharing the majesty of the oceanic circle of which they are integral units” (Gandhi 1989: 378).

In social practice, Gandhi was very well aware that a host of reasons could lead to a breakdown of cooperation. In such situations, members of a society should not tolerate the injustices meted out to them. In fact, they are asked to actively endeavor to secure a just distribution of the fruits of cooperation and resist unjustifiable disparities. Precisely these situations, however, demand that individuals possess certain powers which will enable them to attain justice. Writing on the problem of class in his *Young India* 26.3.1931, he states:

“And since every right carries with it a corresponding duty and the corresponding remedy for resisting any attack upon it, it is merely a matter of finding out the corresponding duties and remedies to vindicate the elementary fundamental equality. The corresponding duty is to labour with my limbs and the corresponding remedy is to non-co-operate with him who deprives me of the fruit of my labour” (Gandhi 1987: 555).

As noted above, individuals are entitled to certain rights which will enable them to claim their just share of restricted, natural

resources. There are, in this view, good prudential grounds for attaining these resources by doing one's duties. These entitlements, nevertheless, do not lose their moral relevance. In fact, individuals and groups have a right to resist injustice. His famous draft (written with Nehru in 1930 for complete Indian independence) states:

“We believe that it is the inalienable right of the Indian people, as of any other people, to have freedom and to enjoy the fruits of their toil and have the necessities of life, so that they may have full opportunities of growth. We believe also that if any government deprives a people of these rights and oppresses them, the people have a further right to alter it or to abolish it” (Gandhi 1970: 384).

As is well known, Gandhi stressed that this right to resistance could only be sought for with the help of non-violent civil disobedience, which was an effective substitute for violence or armed rebellion. Both individuals and groups, he thought, should use the strategy of non-cooperation to increase the moral pressure on the wrongdoer.

We can, thus, see how Gandhi painstakingly tries to correlate duties with rights. A person in this utopia does not lose sight of the social dimension of liberty, even in his or her exercise of a liberty conferred upon them. Rights are essential and beneficial to human beings as long as they are linked up with natural justice and not private interests. Further, they cannot be totally relinquished. Notably, individuals do not necessarily entrust the state with a just implementation of natural law in this conception of an ideal society. They regard themselves as its ideal care-takers. Only thus can a just distribution of resources be guaranteed such that every living creature gets its entitled share of goods.

*Gandhi's Rights as Human Rights?*

Gandhi's understanding of natural law seems to lead him to hold that this law bestows certain fundamental rights on human beings, as on all living creatures. Evidently, these rights are pre-political; at least ideally, they can be upheld by a moral community without a coercive state. But can these rights be related to human rights? To be more precise, can they be thought of as human rights? Going by our analysis, it would be difficult to plausibly deny that this is the case. The use of inalienable rights does seem to suggest that certain human rights are being implemented in this conception. Although these inalienable rights are not restricted to the human

fold, they are clearly not a product of human agency. In a certain sense they can be considered to be a precondition of this agency itself. As was worked out above, the right to life and livelihood, the right to obtain and enjoy vital resources, and the freedom to develop one's personality are crucial in the satisfaction of human needs. All human beings are entitled to them and in addition, human collectivities seem to have an inalienable right to resistance of unjust political authority. But why is Gandhi hesitant in calling them so?

Richard Sorabji offers a plausible explanation when he relates this hesitancy with Gandhi's worry that "the formulation of rights does, and the performance of duties does not, lead to violence" (Sorabji 2012: 106). In other words: As entitlements, human rights can indeed be located in this conception. Nevertheless, this understanding seems to choose to foreground the moral appeal of human rights. In a just society, these entitlements induce the duty-bearer to act such that the justified entitlements of the right-bearer are secured.

If this interpretation makes sense, standard renditions on this score must be rectified, which claim that Gandhi's duty-based morality is continuous with the Hindu, or rather Indian, traditions of the subcontinent. These explain away Gandhi's stress on duties by pointing to his attempt to interlink the India of his day with the

Hindu political thinking on *rta* and *dharma*; the latter of which is said to solely emphasize duties. According to Judith Brown (2000: 97-98), for example, there was little place in Gandhi's vision for "rights". In addition, she asserts that he clearly was not engaged in the protection of human rights and believes that those who read him so, engage in the making of a "myth".

As sketched above, rights in Gandhi's understanding are closely related to duties and result from the latter. However, Gandhian morality is not completely exhausted by a list of stipulated duties. Being moral in this view consists in upholding an intricate web of duties *and* rights. The view that Gandhi solely propagated a duty-based morality cannot, therefore, be wholly sustained. As Sorabji (2012: 107) rightly highlights, duties must be performed so that *one's own* needs are met.

Gandhi, as we see, works from (human) duties towards (human) rights. In an ideal world, human beings are equipped with moral resources which enable them to perform their duties towards each other—every person can obtain his or her just share of resources which are essential for his or her survival and moral flourishing. In our less-ideal world, however, coercive instances like the state could be required when human beings, momentarily, stray from the path of the moral good. Clearly, such instances are short interventions, which merely bridge the gap between

individual episodes of moral struggle. It would be ill-conceived, however, to postulate such instances as constant features of social and political reality.

#### IV Conclusion

Let me, in this final section, return to a more general plane and take up some of the thoughts mentioned in the introduction. Why are reconstructions, like the one attempted in these pages and similar endeavors, relevant at all?

Gandhi's understanding of natural law and rights is, to the best of my knowledge, curiously under-illuminated in academia. This understanding, however, could prove to be of crucial practical significance in the (further) development of Indian narratives on rights and human rights given that this conception operates with concepts such as rights of all living creatures, austerity, renunciation, modesty, humility, the multi-faceted nature of truth, etc. All these concepts come to operate, and are instantiated, in different ways in the traditions found in the Indian subcontinent. Beyond this practical aspect, another reason indicates the need for this and similar reconstructions.

In order to understand what holds our normative vocabulary in place, we, as (political) philosophers, must draw on

similar examples, draw analogies and disanalogies, find precedents, exchange narratives, draw attention to intermediate cases, and we have to, in some cases, depart from the standard academic protocols ingrained in us during our formative academic years (cf. Tully 2008: 28). One upshot of this view would be that a more critical attitude towards the hidden assumptions of dominant models and their hegemonic universal applicability should be adopted. Models which were developed in a specific historic context cannot automatically be considered as the sole and ultimate standards of a good and viable theory, without sound reasons backing them up. A critical engagement with political practices found in different cultural contexts could pave the way for a richer and plural understanding of the political concepts used in academia. This view is steadily gaining currency in comparative philosophy.

In the search for truly global values, for example, attention is paid to those conceptual resources located in different cultural traditions which could back up these values. This work, however, seems to presuppose a readiness to strike new paths and, perhaps, abandon well-tread trails.<sup>149</sup> Amartya Sen warns about the perils of one such trail when he writes:

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<sup>149</sup> Cf. Hall and Ames (2003: 16).



“Different cultures are [...] interpreted in ways that reinforce the political conviction that Western civilization is somehow the main, perhaps the only, source of rationalistic and liberal ideas—among them analytical scrutiny, open debate, political tolerance and agreement to differ. The West is seen, in effect, as having exclusive access to the values that lie at the foundation of rationality and reasoning, science and evidence, liberty and tolerance, and of course rights and justice” (Sen 2005a: 285).

Many comparative philosophers are optimistic that these new paths will prove to be rewarding for philosophy at large. The “sea change of great magnitude” to which Anglo-European philosophy is being currently subjected, will clear “the ground for mutual influence and enrichment” between different philosophical traditions (Tongqi, Rosemont and Ames 1995: 748). Human rights theorists, they believe, can augment this change by working out alternative ways of understanding (human) rights in non-Anglo European traditions and finding more plausible alternatives to the dominant individualistic way of explicating (claim) rights in the Anglo-European tradition.<sup>150</sup> Given the specific focus of this

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<sup>150</sup> See for example, Bilimoria (1993) and Rosemont (1991: 57-78, 2004).

paper, this relatively new way of thinking in philosophy cannot be explicated in detail here. It does, however, open up the space to understand Gandhi's interpretation of natural law and rights in its own light. And if my account is in any way convincing, it would be a small contribution to the larger goal envisaged by some comparative philosophers:

“If we are seeking new perspectives in and on philosophy, if the discipline is to become as truly all-encompassing in the future as it has mistakenly been assumed in the past, we must begin to develop a more common philosophical language to take its place alongside the other languages of the world” (Rosemont 1988: 69).

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