CHAPTER 5

HUMAN RIGHTS IN GANDHIAN PERSPECTIVE
5.1 : Rights and Civilisation :

Gandhi was one of the first non-Western thinkers of the modern age to develop a political theory grounded in the unique experiences and articulated in terms of the indigenous philosophical vocabulary of his country. He conceptualised political life in an original and stimulating manner, placing new questions on the political agenda and offering new ways of tackling the old. From a distinctly community based Indian perspective, he highlighted some of the disturbing features of the modern state, detected its internal contradictions, and explored an alternative to it. He more or less completely bypassed the dominant nationalist vocabulary and showed that it was possible to articulate and defend the case for independence and rights of human beings in a very different language.

Gandhi showed that not every movement for independence is national, not every national struggle is nationalist and that not every nationalist movement need articulate itself in the language of European rather than home-grown theories of nationalism. He drew upon the long and rich Indian tradition of non-violence and explored both the sources
of and alternative to the dominant forms of violence in modern society. Reflecting the traditional Hindu understanding of moral life, he asked if morality could ever be adequately conceptualised in the language of rights and obligations, and wondered whether the dominant individualist theory of man could ever avoid reducing it to enlightened self-interest and thereby undermining its autonomy. Following the Indian philosophical anthropology he developed a fascinating theory of man which avoided the dubious concept of human nature, gave a wholly new meaning to the familiar idea of human unity and integrated the apparently contradictory demands of human sociality and uniqueness.

He was the first anti-imperialist leader of the modern age, the first man to mobilise millions for a political cause and fashioned the necessary organisational tools, the first man to invent an unusual method of political struggle and one of the few in history to fight simultaneously on moral, religious, political, social, economic and cultural fronts.

As an Indian he belonged to the oppressed race in South Africa and suffered racial insults and indignities. He was thrown out of a train in the middle of cold night for daring to travel first class, dragged down from a coach by a wearing conductor and only just saved by his fellow
passengers, and kicked into the gutter by a sentry for daring to walk past Paul Kruger's house in Pretoria. In Transvaal he was arrested for protesting against the Registration Act of 1990 and kept in a cell with common criminals who made homosexual overtures to him and carried on indecent activities in his presence. And he was stoned and kicked by a racist white mob in Durban and escaped lynching only because only of the sanctuary of a nearby police station which he was later able to leave disguised as a policeman. As an Indian he also belonged to a subject people in his own country and knew how much the colonial government humiliated and violated the basic dignity of his countrymen, of which the floggings and 'crawling orders' by General Dyer were the most notorious examples. He saw too that his fellow Hindus had for centuries put a large number of them beyond the pale of not only social but physical contact and consigned them to most degrading conditions. When in England he had noticed the pitiable conditions in which the working classes lived and the way they were systematically brutalised. In South Africa he observed the inhuman treatment of the blacks and was deeply pained by the way the Zulu warriors and prisoners were hunted and tortured.1

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By these and other experiences Gandhi became intensely sensitive to all forms of oppression and exploitation and saw himself as the spokesman and champion of the poor and the oppressed everywhere. He reflected on the nature, causes, consequences and complex relations between different forms of oppression and developed a theory of rights from the perspective of the victims of the established social order. Unlike Marx, whose political philosophy had a similar orientation, Gandhi refused to think in terms of antagonistic class interests. He argued that no man could degrade or brutalise another without also degrading and brutalising himself, that racism, economic exploitation and colonialism took their moral and psychological toll on both the masters and their victims and that no man could be human at the expense of another. He argued further that no system of oppression could come into being let alone last without the co-operation of its victims who were therefore never wholly innocent. As he repeatedly remarked, those who behaved like worms invited others to trample upon them and it was the coward who created the bully. Gandhi therefore preferred to concentrate his energies on building up the courage and organised strength of the victims in the firm belief that once they saw through the hidden mechanism of their oppression and gained a sense of power, the prevailing system of oppression based on and continuing only because of their ignorance and illusion of
powerlessness would not last a day. He also thought that much of the violence and oppression of the modern age sprang from the dominant 'materialist' view of man and could only be ended by creating a civilisation based on the spiritual conception of man.

As he put it, there is no such thing as Western or European civilisation, but there is a modern civilisation.² His apparently trivial redefinition was in fact intended to alter the terms of the debate in his favour and achieve several ideological and political advantages.³ First, he was able to reject the currently fashionable view among many British and Indian writers that the East and the West were radically different and shared nothing in common. For Gandhi such a doctrine had no basis in facts, denied the fundamental unity of mankind and confused the idea of human rights. Second, he was able to attack modern civilisation without attacking the West. He greatly admire Socrates and Christianity, such modern writers as Tolstoy, Ruskin and Thoreau and several Western values and practices, and wished to exclude them from his criticism. Third, the distinction enabled Gandhi to argue that modern civilization was of relatively recent origin in the

³. Ibid, p.298.
West and that its pre-modern counterpart was very different and more like the Indian. The basic idea of rights, in Gandhi's view has emerged from the Indian civilisation.

He hoped thereby to remind the West of its earlier traditions and values, evoke its temporarily suppressed historical memories and elicit its support for his fight against modern civilisation. He was able to argue that since Indian civilisation stood for values to which the West had itself for centuries subscribed and was only trying to preserve their common heritage by attacking and undermining if the West not only betrayed its own great past but also damaged its chances of future redemption. Fourth by arguing that industrial civilisation was modern and 'still very young', Gandhi intended to suggest that it lacked the wisdom and maturity conferred by age. Finally, Gandhi hoped to convince his countrymen that in fighting modern civilisation they were not being reactionary. They were only combating the arrogance and impetuosity of an historical upstart and helping to preserve the permanent values of the whole of mankind, including the West.

In his view the modern theory of rights was grounded in a fatally flawed theory of man. Unlike ancient civilisation which was soul or spirit-centred, the modern was body-centred and in that sense
'materialistic'. For Gandhi the body had two basic characteristics. First, it was distinct, self-enclosed and separated from and only capable of preventing its integrity by maintaining its separateness from other bodies. As such it was the ontological basis of the human sense of particularity, and the source of the illusion that each individual was an independent and self-centred ego only externally and contingently related to others and constantly concerned to preserve his identity by keeping the invasive others at a safe distance. Second, the body was the seat of the senses, and thus of wants and desires. By their very nature desires recurred with rhythmic regularity and were never satiated. They were also interrelated and one desire always gave rise to others. Qua sensual and desiring being man was necessarily propelled by his inherently limitless desires and was always restless and dissatisfied.

A body-centred or materialist view of man thus attributed two basic properties to him and regarded them as natural legitimate, namely 'selfishness' and an 'infinite multiplicity of wants'. A civilisation based on such a flawed view necessarily suffered from several basic and interrelated limitations. First, it lacked moral and spiritual depth. Second, since it had no guiding principles to decide

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what desires deserved to be satisfied and within, what limits, it led to a way of life devoid of meaning and purpose. Third, it de-humanised man and had a profound anti-human bias. Fourth, it perverted the human psyche and was suffered with the spirit of violence. Finally, it reduced wisdom to knowledge and the latter to a form of power only useful as an instrument of control over nature and other men. It thereby not only perverted the pursuit of truth but also lacked a system of knowledge capable of critically evaluating its basic assumptions and objectives.

For Gandhi modern civilization was propelled by the two interrelated principles of greed and want. It was controlled by ‘a few capitalist owners’ who had only one aim, to make profit, and only one means to do so, to produce goods that satisfied people’s wants. They had a vital vested interest in constantly whetting jaded appetites, planting new wants and creating a moral climate in which not to want the goods daily pumped into the market and to keep pace with the latest fashions was to be abnormal and archaic. Indeed, since self-discipline or restriction of desires, the very emblem of human dignity, threatened to cause mass unemployment, throw the economic system out of gear and cause human suffering, it was seen as anti-social and immoral. Not surprisingly men saw themselves not as self-determining moral subjects
but as consumers or vehicles for the satisfaction of externally induced wants.

The capitalist search for profits led to mechanisation and 'industrialism'. For Gandhi machines relieved drudgery, created leisure, increased efficiency and were indispensable when there was a shortage of labour. Their use must therefore be guided by a well-considered moral theory indicating how men should live, spend their free time, relate to one another. Since the modern economy lacked such a theory and was only propelled by the search for profit, it mechanised production without any regard for its wider moral, cultural and other consequences. Machines were introduced even when there was no obvious need for them and were in fact likely to throw thousands out of work. This was justified either in the name of increased leisure without anyone asking why it was important and what to do with it, or of cheaper goods, as if man was only a passive consumer and not an active moral being for whose sanity, self-respect and dignity the right to work was far more important than the futile gratification of trivial wants.\(^5\)

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\(^5\). *Young India*, 17 September 1925.

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For Gandhi the mechanisation or fetishism of technology was closely tied up with the larger phenomenon of industrialism, another apparently self-propelling and endless process of creating large and larger industries with no other purpose than to produce cheap consumer goods and maximise profit. He argued that since modern economic life followed and inexorable momentum of its own, it reduced men to its helpless and passive victims and represented a new form of slavery, more comfortable and invidious and hence more dangerous than the earlier ones. As a result people's moral life suffered a profound distortion. First, it became as abstract as the men it was supposed to relate, and was reduced to a set of self-consciously followed and externally legislated and enforced impersonal rules. Other men mattered not because one cared for them but because the moral rule so required. Second, rather than an expression and fulfilment of man's nature, morality was seen as a necessary but painful and widely resented restriction of freedom, a kind of tax he had to pay in order to be able to enjoy his residual freedom unhindered. It was therefore reduced to the barest minimum, requiring little more than what was needed to prevent men from destroying one another. Third, a society of basically amoral and internally unrelated beings was characterised by

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Ibid, 7 October 1926 and 12 November 1931

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a climate of suspicion, fear hostility and tension. each perceived the rest as actual or potential enemies who impinged on his consciousness only when and insofar as they posed a threat, and amongst whom he could hope to survive only by sheltering behind carefully planned and fiercely guarded physical, emotional and moral fortification.

Fourth, since in the absence of the nourishing soil of the sentiments of good will and mutual concern the moral life lacked roots and vitality, it had to depend on the non-moral motive of fear. Modern man took care not to harm others lest they should harm him, and he did a good turn to them as an investment for the future. Morality was reduced to reciprocal egoism of enlightened self-interest and was sustained by fear. Since self-interest was not a moral principle, Gandhi argued that enlightened self-interest was not one either. In modern civilisation morality was a form of prudence, a more effective way of pursuing self-interest was not one either. In modern civilisation morality was a form of prudence, a more effective way of pursuing self-interest, and was virtually exorcised out of existence. Finally, modern civilisation denuded morality of its vital internal dimension or what he called the quality of the soul. Jealousy, hatred, meanness, ill-will, perverse pleasure at another's misfortunes and sordid thoughts and fantasies were moral impurities reflecting an ill-developed soul.
Modern man, Gandhi went on, spent most of his energy trying to steady himself in a hostile and unsteady environment. He had neither the inclination nor the ability to slow down the tempo of his life, relax, compose himself, reflect on his pattern of life and nurture the inner springs of energy. He lived outside himself and exhausted himself physically and spiritually. Predictably he needed to depend on such ultimately debilitating sources of instant energy as intoxicating spirits, tea and coffee, in order constantly to whip himself into action. Inwardly empty and frightened to be alone with himself, he was always busy, turning to one activity after another, easily bored and feverishly looking for new sources of amusement. Gandhi thought that modern civilisation has depressing air of 'utility' and 'madness' about it and was likely to destroy itself before long.\(^7\)

Modern civilisation also involved an egregious amount of violence against nature, which was largely seen as man's property to do with it what he liked. Is resources were ruthlessly exploited and its rhythm and balance disturbed, and the animals were freely killed or tortured for food, sport, fancy clothes and medical experiments. In Gandhi's view violence 'oozed from every pore' of modern society and has so much become a way of

\(^7\) Hind Swaraj, p. 37.
life that modern man could not cope with his relations with himself or other men without translating them into the military language of conflict, struggle, mastery, subjugation, domination, victory and defeat. Deeply rooted in violence man felt suffocated in its absence.

For Gandhi a civilisation properly so-called placed man at its centre and measured its greatness in terms of its ability to produce men and women possessing such distinctively human powers as self-determination, autonomy, self-knowledge, self-discipline and social cooperation. Modern civilisation did the opposite. By encouraging them to alienate their powers to large organisations run by experts, it rendered men passive, helpless and heteronomous, Gandhi took the example of medical science, the pride and glory of modern civilisation.\(^8\)

Gandhi thought that the same dehumanising phenomenon was evident in the field of law.\(^9\) Men were intelligent and moral beings capable of resolving their differences by discussing them in the spirit of charity and good will or by seeking the arbitration of widely respected men and women in their community. Instead, everytime he

\(^8\) Ibid, pp. 58 f.
\(^9\) Ibid, pp. f.
failed to get what he thought was his due, modern man rushed to the court of law where trained experts in the esoteric body of legal knowledge conducted expensive and incomprehensible debates about him without his participation. Just as the medical establishment reduced him to a passive object, the legal establishment reduced him to a case to be discussed as if he were a child to be tutored into what to say about his own actions and incapable of participating in their evaluation. Even as medical science did little to develop the body's own resources, the legal system did little to develop and mobilise man's moral impulses and capacities for reflection and introspection. Instead it required him to alienate them to a central agency telling him how to run his life and conduct his relations with others, including his own neighbours, wife, ex-wife and children. Gandhi found it strange that modern man, who talked so much about this self-respect and dignity, did not find all this deeply humiliating.

5.2: The Modern State and Rights

Gandhi argued that the highly centralised and bureaucratic modern state enjoying and jealously guarding its monopoly of political power was a necessary product of modern civilisation. competitive and
aggressive men ruthlessly pursuing their own interests could only be held together by a well-armed state. since they were all strangers to one another and lacked the bonds of good will and mutual concern, their relations could only be regulated by impersonal rules imposed and enforced by such a powerful external agency as the state. The centralisation of production in the modern economy created social and economic problems of national and international magnitude, and again required a centralised political agency to deal with them. Unemployment, poverty and the social and economic inequalities created by the modern economy led to acute and legitimate discontent and required a well-armed state to deter its desperate citizens from resorting to violence. Shorn of all the camouflage the exploitation of the masses of Europe is sustained by violence, Gandhi argued. The centralised modern state was also necessary to protect international markets and overseas investments.

Gandhi argued that, although the state claimed to be a moral institution transcending narrow group interests and pursuing the well-being of the whole community, it was in fact little more than an arena of conflict between organised interests manipulated and controlled by the more powerful among them. Since men of independent spirit and honour generally avoided it, it was largely in the care of men and
women forging convenient alliances with powerful interest groups and using it to serve their interest. Gandhi thought that in these respects the democratic governments were no better than the undemocratic and belonged to the 'same species'. They were just as vulnerable to the pressures of the dominant class and just as 'ruthless' and ready to use violence in the pursuit of its interests. In its actual practice a democracy was basically a form of government in which a 'few men capture power in the name of the people and abuse it', a 'game of chess' between rival parties with the people as 'pawns'. 10 Although the fact that democratic government was periodically elected by and accountable to ordinary people made a difference, it also served as a 'camouflage' hiding the basic fact that they were often 'exploited by the ruling class... under the sacred name of democracy. 11 Democracy thus veiled and conferred moral legitimacy on the reality of exploitation, and had only a marginal moral edge over fascism.

Even as the state monopolised all political power, it tended to monopolise all morality. Since its atomic and morally depleted citizens lacked organic bonds and the capacity to organise and run their social

10 Ibid, p. 67
11 Young India, 3 September 1925.
relations themselves, the state was the sole source of moral order. It alone guaranteed civilised existence and saved society from total disintegration. As such it came to be seen as the highest moral institution, whose preservation was a supreme moral value. Whatever was prejudicial to its interests was immoral and, whatever promoted them was moral. All moral sentiments were sucked into it, all moral energies were appropriated by it, all were deemed to be the sole determinants of collective morality. Dying for the state was a supreme virtue, and fighting in its wars the highest duty. Disobeying its laws was strongly disapproved of and all attempts to weigh them in the highest moral scale were discouraged on the ground that political life was either amoral or governed by its own distinct morality. The human being was thus reduced to the citizen, and the latter in turn to a passive and uncritical subject.

Having led several anti-racist campaigns in South Africa, he understood the nature of political power and ideology better than most of his contemporaries and well knew how the state was interlocked with dominant interest and upheld the prevailing social order.

Gandhi was convinced that the creation of the new polity or swaraj could not be delayed until after independence. Unless its
foundations were laid and the necessary institutions and ethos created during the course of the struggle for independence, India was likely to take the lazy and seductive but suicidal option of reproducing the modern European state. His tripartite strategy of the constructive Programme, satyagraha and the cultivation of the swadeshi spirit was designed to prepare for the new polity. The swadeshi spirit was intended to develop an attitude of cultural self-respect and autonomy so that his countrymen did not blindly opt for European ideas and institutions. Sayagraha was intended to involve people in political life, build up their courage and capacity for concerted action, to expose them to common political experiences and create a feeling of collective solidarity and, above all, to help them shed their centuries-old fear of government. From about 1930 onwards Gandhi’s views on the nature of the state and the functions of government underwent an important change.

Gandhi began to appreciate that the state had a vital role to play in promoting social and economic justice. He put the point well at the round Table Conference in 1931: I am afraid that for years to come India would be engaged in passing legislation in order to raise the down-trodden, and the fallen, from the mire into which they have been sunk by the capitalists, by the landlords, by the so-called higher classes,
and then, subsequently and scientifically, by the British rulers. If we
are to lift these people from the mire, then it would be the bourden duty
of the National Government of India, in order to set its house in order,
continually to give preference to these people and even free them from
the burdens under which they are being crushed. And, if the landlords,
zaminadars, monied men and those who are today enjoying privileges-I
do not care whether they are Europens or Indians-if they find that they
are discriminated against, I shall sympathise with them, but I will not
be able to help them, even if I could possibly do so because I would seek
their assistance in that process, and without their assistance it would
not be possible to do these people out of the mire.\footnote{Collected works of Mahatma Gandhi, (Delhi: The
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If the state was to undertake the large range of functions Gandhi
now assigned it, it obviously could not be as loosely structured and
uncentralised as he had hitherto maintained. It had to have a failly
strong central government capable of taking and enforcing important
decisions in the relevant areas of collective life, an effective
bureaucracy, a system of national planning, an institutional structure
for articulating public opinion, and a coercive machinery to deal with
the discontented vested interests who would have to be dispossessed or carefully regulated. A polity with these and other features was not very different from the modern state. Although Gandhi continued to warn against the state, he increasingly began to appreciate that India could not dispense with it. As independence drew nearer his guidance was sought by his colleagues and followers about whether they should join the new government, fight parliamentary elections and support the new constitution setting up the modern Indian state. Not surprisingly his advice was ambiguous and sometimes confusing. However, there is enough evidence to show that he had come round to accepting the modern state.

Although Gandhi seems to have come round to accepting the modern state, he did not lose his suspicion of it nor abandon his theory of partnership between it and the people. Since the state had come to stay, he explored ways of taming and regulating it. He outlined his ideas in a series of speeches and statements, including his moving talk and the subsequent discussion at the Gandhi Seva Sangh meeting in 1940. Just before he died he crystallised his ideas in a fascinating

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proposal based on the strategy he had developed during the independence movement. When read together with his earlier statements, it gives a fairly clear idea of the way his mind was working.

For Gandhi not consent, nor will nor fear but co-operation was the basis of the state. Every state, democratic or otherwise, depended on the co-operation of its citizens, be it silent or vocal, passive or active, willing or unwilling. Since the state was an agency of action, co-operation with it consisted in rendering it specific services such as carrying out its orders, paying taxes fighting wars and obeying laws. The state did not exist independently of its citizens and was ultimately nothing more than a system of institutionalised co-operation between its members. Its actions were not only made possible by their own action, but they as self-conscious moral agents, all were ultimately accountable for its activities.

Since the state was a vast and complex organisation involving thousands of conscious and unconscious acts of daily co-operation among millions of citizens, they did not usually notice that they in fact

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14 Young India, 12 August 1920.

sustained it and were morally responsible for its actions. and if they did, they excused themselves on the grounds that each of them was only an insignificant cog in a mighty wheel which would relentlessly roll irrespective of what any of them did. Gandhi considered this most dangerous fallacy. A mighty river was made up of individual drops, each of which contributed to its creation; the state was no different. Further as a moral being, every citizen had a duty to ask how he personally contributed to the maintenance of the state and whether he was happy about it. He was responsible for his actions, and the responsibility was in no way diminished by what others did or did not do. In Gandhi's view it was wrong to say that what an isolated individual did had no wider consequences. Every action at least influenced those known to the agent, who in turn influenced others, and thus a ripple produced by it silently covered a long distance. In any case no individual could know in advance how his actions would effect others.

For Gandhi it was the citizen's sense of moral responsibility for his actions that ultimately determined the character of the state. Every government was tempted to misuse its power, and the democratic

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16 Young India, 20 July 192 ff.
government was in that respect no different from the autocratic. What distinguished the two was the fact that one did and the other did not succumb to the temptation. And this was so because unlike the autocratic, a democratic government knew that if it did, its citizens would refuse to co-operate with it. Notwithstanding all its institutional checks and balances, a democratic government could easily turn evil if its citizens became apathetic or vulnerable to corruption and manipulation. The virtues and vices of a government were not inherent in it but derived from those of its people. It was the coward who created the bully, and the worm who encouraged others to trample on it. As Gandhi put it: Rulers, if they are bad, are so not necessarily or wholly by reason of birth, but largely because of their environment. But the environment are we-the people who make the rulers what they are. They are are thus an exaggerated edition of what we are in the aggregate. If we will reform ourselves, the rulers will automatically do so. As a moral being citizen had a duty to decide to whom he should give his loyalty and support, under what conditions and when he should withdraw it. His self-respect and dignity required that his loyalty should not be unconditional or taken for granted Gandhi observed: Most

men do not understand the complicated machinery of the government. They do not realise that every citizen silently but nevertheless surely sustains the government of the day in ways of which he has no knowledge. Every citizen therefore renders himself responsible for every act of his government. And it is quite proper to support it so long as the actions of the government are bearable. But when they hurt him or his nation, it becomes his duty to withdraw his support.18

When a law was just, a citizen had a 'sacred duty' to give it his fullest co-operation and 'willing and spontaneous obedience'. The duty had a dual basis.19 As a moral being he had a general duty to do or support good. And as a citizen he had a specific moral duty to help sustain the community into which he was born and rooted, by which he was profoundly shaped, whose benefits he had enjoyed and to whose members he was bound by ties of mutual expectation. If a law was unjust or morally unacceptable, he had the opposite duty. to obey it was to 'participate in evil' and to incur moral responsibility for its consequences. it was a 'mere superstition' and an attitude worthy only to a slave to think that all laws, however unjust, deserved to be objectd

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18 Young India, 22 July 1920.
19 Ibid, 18 August 1920 and 1 June 1921.
or that a citizen was somehow exempt from the duty to just every law before obeying it.\textsuperscript{20}

Gandhi agreed that law could not be judged in isolation from the general character of the state concerned. If the state was intrinsically or mainly good, it deserved the fullest co-operation of its citizens and its occasional lapses should not be judged too harshly. All men made mistakes and no citizen had a right to magnify those of the state. Furthermore a good state was unlikely to want to act badly, and deserved the benefit of the doubt. Again, the state represented compulsory co-operation and no-one could be its member on his own terms. Respect for his fellow-citizens demanded that he should generally respect their views and go along with them.

Although Gandhi nowhere elaborated the criteria for evaluating the law and the state, he invoked one or more of the following whenever he felt compelled after careful consideration to disobey a law or withdraw his loyalty to the colonial state.\textsuperscript{21} For Gandhi a law was

\textsuperscript{20} Ibid, 1 December 1920, 1 June 1921 and 5 January 1922.

bad if it satisfied one or more of the following criteria. First, it demeaned and degraded its subjects in their own or others' eyes, insulted their manhood and required them to behave in a manner inconsistent with human dignity. Gandhi thought that apartheid in South Africa and slavery fell within this category.

Second, it was against a citizen's 'conscience' or deepest convictions. If a citizen felt strongly that he could not live with a law, that it violated his truth and that obeying it created an unacceptable hiatus between his beliefs and conduct, he had a duty of disobey it and pay the price. Gandhi, of course, thought that the state should respect his conscience and not punish him. In return he had a reciprocal obligation to ensure that his convictions were not based on mere prejudices or rationalisations of self-interest, but were products of a 'disciplined' reflection and embedded in his way of life.

Third, a law was bad if patently partisan in its intent or outcome. Gandhi had come across many laws in South Africa and India that were 'general' in form but 'particular' in content. The imperial British Government legislated in 1894 that no person coming from a country that had hitherto locked representative institutions based on the parliamentary franchise should be placed on the voters role in Natal.
Although the law did not specifically mention Asians, it was designed to and did in fact exclude them. And it neither clearly defined representative institutions and parliamentary franchise nor explained why citizens of the countries lacking them were unequipped to vote. In Gandhi's view it represented class legislation and had no moral claim on Asians. He thought that the laws blatently supporting an exploitative system and bearing heavily on the poor also fell within this category.

Finally, a law was bad if it was repugnant to the vast majority of citizens and opposition to it was universal. Its intrinsic merits, if any, were unimportant. The fact that it was passed in the teeth of widespread opposition implied that it treated its subjects with contempt. Such a law, further involved a great deal of violence in the sense that either most people disobeyed it and had to be punished, or obeyed it out of fear of violence. It also brought the state into disrepute and weakened respect for the law.

For Gandhi the fact that a law was bad did not mean that it must be disobeyed, only that it deserved to be disobeyed. whether it should be disobeyed depended on the likely consequences of doing so, how strongly a citizen felt about it and especially on the general
character of the state in question.

5.3: Rights and the Community

Gandhi concluded that for these and of related reasons the colonial government in India was evil. Its subjects had an inherent right and a sacred duty to withdraw their loyalty and support. Co-operation with it was a sin and non-cooperation a virtue. They had a right to disobey it because they had a right to their self-respect and dignity, and duty to do so because as moral beings they had a duty to fight for the self-respect and dignity of their fellow-citizens. Gandhi contended that they also had the derivative duty to warn those helping it, including the police and the army, that they were engaged in sinful activities and ought to desist from doing so. As he put it: You assist an administration most effectively by obeying its orders and decrees. An evil administration never deserves such allegiance. Allegiance to it means partaking of the evil. A good man will therefore resist evil system of administration with his whole soul. Disobedience of the laws of an evil state is therefore a duty.22

22 Young India, 27 March 1930.
Although Gandhi discussed a badly constituted state within the colonial context, he appealed to several general principles. When abstracted from their historical context, his view seems to have been that a state failing to satisfy most or all of the following criteria was bad. First, man's self-respect and dignity were integral to his sense of humanity and should never be violated. Second, his integrity, his truth as Gandhi called it, was his supreme possession. A state should make as much room for it as possible and violate it only in the rarest of circumstances. Third, since no human institution was perfect, every state must have a capacity for self-improvement and provide adequate avenues for the citizens to criticise and expose its limitations. Fourth, since every state had a tendency to abuse its power, its citizens must be able to secure judicial redress. For Gandhi the judiciary was the bastion of their rights and liberties, and its independence should never be compromised. Finally, human relationships were poisoned and moral life rendered impossible under a climate of terror. Any state that relied on an organised system of subtle or crude terror and created a suffocating atmosphere of fear and distrust struck at the very roots of moral life and was evil.

Gandhi was deeply troubled by the pervasive violence of the modern state. He was particularly exercised about three areas in which
its violence was massive but widely accepted as inevitable, namely wars, the punishment of crime, and the exploitative economic system. In his view wars were generally born out of the desire for wealth, power and ideological domination. Although these desires were not absent in earlier societies and epochs, they were intensified, spread throughout society and morally legitimised by modern civilisation.

Gandhi was disturbed by the silent and largely invisible but extensive violence daily committed by the state without a murmur of protest, namely the prisons. His views on the subject were derived not only from his theory of non-violence but also from his reflections on that imprisonment had done to him to his political colleagues and the ordinary criminals who sometimes shared prisons with him during his nearly six years of incarceration in India and seven months in South Africa.

For Gandhi there were only crimes, not criminals. to describe a man as a criminal was to imply that criminality was inherent in his nature and that he was nothing more than a criminal. A man committing a crime did not necessarily have a criminal disposition, both

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23 Harijan, 5 May 1946.
because an isolated act did not signify a pattern, and also because crime was often the result of a number of factors only marginally related to the agent's character. Even if he was in the habit of committing crimes, he did not cease to be a human being endowed with a moral and spiritual nature. He was always more than and must be separated from his actions and tendencies. While his crimes should be condemned and punished, he deserved to be treated with the respect and love due to fellow human being. Rather than brutalise and degrade him, punishment should help him reclaim his humanity. Men were responsible for one another, and if one of them turned delinquent, the rest could not disown their equal responsibility for his behaviour. even as he must search his conscience, they must probe theirs.

Gandhi detected a deep contradiction between modern society attitudes to disease and crime. 24 It viewed disease with a solicitous concern bordering on indulgence and devoted resources to inventing new drugs, instruments, more effective forms of treatment and acquiring greater knowledge of the human body. Diseases owed their origins to such causes as overeating unbalanced diet, smoking, bad habits

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consumption of alcohol, excessive stress and strain and an indisciplined life, all of which were moral lapses showing weak will-power and bad judgement. Society, however, attached no approbrium to and imposed no punishment on them, and took no steps to strengthen the intellectual and moral fibre of those involved. By contrast it treated crime with the greatest of severity. Even when petty and inadvertent, it condemned it in the strongest terms and punished it in a demeaning and degrading manner. Society devoted little attention to exploring effective ways of eradicating it, and continued with the same old method of imprisonment which not only did not reduce but even increased the incidence of crime.

Gandhi was convinced that much of the individual and state violence in modern society had economic roots. The economic system silently perpetrated daily violence against the employed as well as the unemployed, and depended on the institutionalised violence of the state to protect its domestic and international interest. In this respect he did not see much difference between capitalism and communism, the two dominant modes of organising the modern economy. His critique of them was essentially moral and is grounded in his theory of man.
Gandhi criticised capitalism on two grounds. First, the concept of private property lying at its base was logically incoherent and subversive of the social order. Second, it had profoundly inhuman consequences.

In Gandhi's view capitalism profoundly dehumanised both workers and capitalists and lowered the level of human existence. The workers worked under inhuman conditions found neither joy nor fulfilment in their jobs, were constantly had the fear or unemployment and poverty, and led poor, superficial and empty lives. Even as the prisons brutalised their inmates, the factories brutalised the workers. Since they were treated and referred to as commodities, the workers lived as if they were and did not care how they behaved, whether it was worthy of them what others thought of it. Thanks to their exploitation and degradation, their psyche too bore the scars of anger and hatred, and their relaions with one another and their employers were deeply distorted by envy, suspicion and cynicism.

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Gandhi thought that in addition to being inherently unacceptable, both capitalism and communism and indeed all such want-based and self-centred Western ideologies were incompatible with India's essentially spiritual civilisation. Rather than copy the West or indigenise imported ideologies, India should evolve a distinctively humane and spiritual economy both expressing and sustaining man's moral being. As he imagined it, the spiritual economy was based on the following principles.26

First, every man had a right to work. For Gandhi not material sustenance as such but the right to secure it by working for it constituted man's basic need. He took this view for two reasons. First, it was by means of work that man acquired such basic human qualities as a sense of self-respect, dignity, self-discipline, self-confidence, initiative and the capacity to organise his energies and structure his personality. Welfare payments by the state sustained his body but impoverished his soul. Second, since the social order was sustained by the spirit of yajana, an individual lacking the opportunity to work was denied the privilege of participating in it, and was thus both cut off from the moral and spiritual life of his community and involuntarily

26 Young India, 13 October 1921; 27 October 1921 and 26 October 1924.
reduced to the demeaning status of a social parasite.

Second economic life should be subordinated to and regulated by man's moral and spiritual needs. Gandhi thought that men could only gain their full moral stature in small, relaxed and interdependent communities. Since the latter lacked vitality without an autonomous economic basis of their own, he argued that production should be decentralised and each community become relatively self-sufficient in its basic needs. As Gandhi imagined it, the village land was to be owned in common, farming done on a co-operative basis, the produce equitably divided, and only the surplus land used for cash crops. The villages were to encourage locally based industries and crafts, to take pride in using local products and to import only that they could not themselves produce. Full employment or the right to work was the necessary requirement of man's spiritual nature, and Gandhi could not see how it could be ensured except in such self-sufficient communities.

Third, since the village communities were to form the basis of the Indian economy, the nature, pace and scale of industrialisation was to be determined by and subordinated to their requirements. Gandhi argued that although large-scale industries were necessary, they should be restricted to the minimum, located in the cities and only allowed to
produce what the self-sufficient communities themselves could not. Since competition between them could easily lead to present situation of unlimited production and consumerism, it was to be strictly regulated. A national plan was to be prepared based on a detailed survey of what could be produced locally, how it could be made efficient and helped by the large industries and what share of the market was to be reserved for each. This was the only way he thought urban exploitation of the villages could be avoided and the latter made the basis of new economic order and a new civilisation.

Fourth, the means of production of the basic necessities of life should be collectively owned. They affected man's very survival and could easily become instruments of the most dangerous forms of exploitation. Gandhi therefore proposed that industries of vital national importance should be owned by the state. It should either set them up itself or nationalise them without compensation for it your want the government to pay compensation if will have to rob Peter to pay Paul and that would be impossible. Fifth, since all socially useful activities were equally important, their wage differentials should be reduced to minimum. Finally, since a healthy moral community was impossible in a grossly unequal society, the state should embark on a programme of levelling up the poor and the oppressed and levelling down the rich.
The resources needed to help the poor should be obtained by levying taxes on the rich.

Concerning the form of ownership, Gandhi proposed his well-known theory of trusteeship. An economic extension of his philosophical concept of man as a trustee of all he had, including his powers, capacities, energy and time. The theory was intended to avoid the evils and combine the advantages of both capitalism and communism, and to socialise property without nationalising it. As he imagined it, every industrialist employing more than a certain number of workers was to look upon his industry not as his property but as a social trust. He was to work along with his employees. Take no more than what he needed for moderately comfortable life, look on them as members of his family and jointly responsible with him for the management of industry, and to provide healthy working conditions and welfare schemes for them and their families. Both he and the workers were to regard themselves as trustees of the consumers, and to take care not to produce shoddy goods or change exorbitant prices. Part of the moderate profit they made was to be devoted to the welfare of the community, and the rest to the improvement of industry. The owner

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27 Young India, 26 March 1931 and 26 November 1931; Harijan, 3 December 1938 and 3 June 1939.
was free to bequeath his industry to his children or whomever he liked only if they agreed to run it in the spirit of trusteeship.

Asked what should be done to get them to become such, he replied that the sustained pressure of educated and organised public opinion, including a satyagraha, was the best way. If that did not work, he was reluctantly prepared for the state to impose trusteeship by law. It would prescribe the remuneration to be paid to the trustee commensurate with the service rendered and its value to society.  

He was free to choose his heir, but the choice had to be finalised by the state. Gandhi thought that such a co-operative decision checked both. The trustee retained formal ownership of his property; his use of the profit, his income and choice of heir were subject to state control. As Gandhi put it: I desire to end capitalism almost if not quite as much as the most advanced socialist and even communist. But our methods differ, our languages differ.  

The final version of Trusteeship read as follows:

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28 Harijan, 31 March 1946.
29 Ibid, 16 December 1939.
1. Trusteeship provides a means of transforming the present capitalist order of society into an egalitarian one. It gives no quarter to capitalism, but gives the present owning class a chance of reforming itself. It is on the faith that human nature is never beyond redemption.

2. It does not recognise any right of ownership of property except in so far as it may be permitted by society for its own welfare.

3. It does not exclude legislative regulation of the ownership and use of wealth.

4. Thus under state-regulated trusteeship an individual will not be free to hold or use wealth for selfish satisfaction or in disregard of the interests of society.

5. Just as it is proposed to fix a decent minimum living wage, even so a limit should be fixed for the maximum income that would be allowed to any person in society. The difference between such minimum incomes should be reasonable and equitable and variable from time to time, so much so that the tendency would be towards obliteration of the difference.
6. Under the Gandhian economic order the character of production will be determined by social necessity and not by personal whim or greed.\textsuperscript{30}