CHAPTER V

AN ETHICAL ISSUE: THE AUTONOMY OF MORALS

(a) Introduction

In the foregoing chapter we discussed a metaphysical issue, viz., the mind-body problem, in order to illustrate the essential difference between the Indian and the modern Western philosophies. In the present chapter we shall briefly examine an ethical issue, viz., the question of autonomy of morality with special reference to the views of Kant and the understanding of morality as implied by the theory of Purusārthas.

First, in section (b) below, we present Kant's understanding of morality in terms of the concept of duty which is elaborated through the various formulations of the categorical imperative. This indicates a definite tendency in Kant to view morality as autonomous, that is, as independent of everything else that is normally supposed to go into the making of moral obligation.

Section (c) attempts to show how a denial of this autonomy is implied by the theory of Purusārthas which is the very central doctrine regarding the various human goals and
values in Indian thought. And section (d) supports this contention by showing how the Manusmrithi account of the sources of dharma involves the same principle as that involved in the theory of Purusârthas viz., the principle of viewing the parts in relation to the whole, rather than arriving at the whole from an analysis of the parts.

Section (e) contrasts the two approaches to morality; and in section (f) we consider in brief, how these different approaches of India and the modern West develop into two clearly distinguishable positions regarding the legal enforcement of morality. This is done with reference to the views of J.S. Mill and M.K. Gandhi on the very vexed problem of prohibition. This enables us to further sharpen the contrast between the two different approaches of India and the modern West to questions of morality.

(b) Kant's Formulations of the Categorical Imperative

With Bacon and Descartes, Ethics as well as Metaphysics became more distinct from religion and more independent of theology. The Cartesian rationalists sought to find the principles of virtue and happiness in the knowledge of universal and necessary laws, while the empiricists would derive the whole of morality from the observation of human nature, from such a fact, for instance, as egoism or sympathy. It
is to Kant that the credit is given for having 'restored' ethics by fixing its principles elsewhere, and founding it wholly upon the idea of duty. In short, the originality of Kant's ethical doctrine is in his deduction of the notion of good from the notion of duty.¹

How does Kant achieve this deduction? According to him, the distinctive characteristic of the Good Will, which alone can be called good without reservation, does not lie either in its end, or even in the merit of the will itself, but in the principle according to which it acts. Now, this principle must not be drawn from feeling but from reason; it must not be material but formal; otherwise the principle would be identified with the end, or with the motives of the action, and consequently would lack the character of being moral. This principle should apply equally to all rational beings. In a word, this principle is a priori, though it still belongs to practical, not to speculative reason. This principle is duty.

Kant's concept of duty is elaborated in the various formulations of the categorical imperative as follows:

A will that is not necessarily governed by reason, but is divided, i.e., alternately determined by formal and material principles (reason and sensibility respectively), and
such a will is not absolutely good. This will is constrained in a way, as it is not always, or by nature, obedient to reason. This compulsion of the will by reason is what Kant calls an 'imperative'. He gives the name 'hypothetical imperatives' to those which demand a certain action, not for the sake of the action itself, but for the result to be obtained through it. For example, the prescriptions given by the doctors to cure the sick. But there is an imperative which commands an action, not for the sake of the result, but for its own sake; this is the 'categorical imperative', the imperative of morality. The hypothetical imperatives are, in reality, only counsels; the categorical imperatives alone deserve the name of laws or commands, for they alone impose themselves upon us and determine the will to action without regard to the result.

Kant thus insists that the moral act must be performed from a sense of duty alone. For example, one must look after the education of one's children because it is one's duty to do so, and not out of love; or one must help a sick man, not out of sympathy, but, again, because it is one's duty. If one were to do these things out of love or sympathy, then it would not be doing one's duty; it would not be a moral act. The morality of an action does not lie in the desires and purposes of the doer or in its consequences; it is nothing but its conformity to law in general.
The formal property of moral judgments is their universality; these laws hold for all without distinction; they impose themselves on every will, of whatever kind. The moral laws can therefore be resolved into the formula: Act on a maxim which you can will to be law universal.

Universality is a sign by which we can infallibly recognize the law of duty; for no one would consent to have such a law violated by others in their dealings with him, in the same way as he would violate it. For instance, he who robs his neighbour would not admit that it is in a universal sense permissible to take what belongs to another. We do most certainly condemn as immoral a person who at one and the same time wills that a certain rule be universally adopted and omits to follow it himself — the person who defends general conscription, for example, and himself tries to escape it, the person who preaches water and himself takes wine, the black-marketeer who makes profit from the violation of the law whose observance is the condition of his gains.3

Every action has an end, even those which do not seem to be done for an end. But we must distinguish between material ends, which are the particular objects of desire, and the formal or objective ends which reason sets before
every creature as the absolute object of duty. Every time that a man follows his inclinations rather than his reason, he treats himself as a means. But to be means is the peculiarity of things; persons, on the contrary, should never be treated this way. Being things-in-themselves, persons are inviolable, and should be respected by every other will, as well as by themselves.

Hence, the formula: so act as to use humanity, both in your own person and in the person of every other, always at the same time, as an end, never simply as a means. Thus for example, one must treat a child, not as a source of pleasure, or as one who can take care of him in his old age, but in terms of the growth and development of the child as an end in itself.

"In treating man as a means only, we ignore his nature—his being a rational being, a person, as end in itself. We think of ourselves as persons, that is, as at least beings who claim to be able to function otherwise than as tools or means in the policy of another person. The recognition of our own personality thus implies the recognition of other persons that is to say, beings who are policy makers and who claim not to be used as mere tools. We all make this claim; and we could not make it if we regarded ourselves as being wholly immersed in causal chains. For to be a tool is to function in certain ways in a causally necessary state of
of affairs which "someone, as a matter of fact, happens to desire."^5

We have seen what for Kant the morality of an action is independent of the desires and purposes of the doer, and that the moral principle has its source outside all causal chains. The source is man himself in so far as he is a rational being. Rational beings are thus not only subject to the categorical imperative, but are also the creators of it. In other words, every rational being is not only a subject with respect to the moral law, he is also its legislator. We thus arrive at the idea of the will of any rational being as a universally legislative will.

And hence the formula: so act that your will can regard itself as making universal laws through its maxims. Any action done on principle has no moral worth unless the doer willingly accepts the principle for which it is done. Broad interprets Kant's position in this regard to say: "The kind of case which Kant's third formula is meant to cut out is where the principle is acted on merely on tradition or from the fear that God will punish me if I do not act in accordance with it."^8

Thus Kant conceives a 'kingdom of ends', that is to say, a certain ideal which includes all rational wills, these being ends in themselves and treating one another as such.
And they are ends in themselves only because they have themselves instituted a law and at the same time established it for all rational wills. This is what Kant calls the autonomy of the will: the privilege of participating in the institution of universal laws.

These formulations of the categorical imperative speak for themselves: they justify the conclusion that Kant's understanding of morality tends to make it autonomous. Relevant here is the point that Kant may not have been able to relate meaningfully and in theoretical terms the realms of morality and religion. But we shall not go into this here.

Kant's understanding of morality which thus strongly inclines to make it autonomous, has a certain feature in common with the empirical views which base morality on facts of human experience such as egoism and sympathy; that is, a lack of appreciation of the highly complex character of morality which, in various ways, at once determines and is determined by considerations other than moral. Thus, it is significant that Kant, as well as his predecessors and successors in the modern period, do not take seriously into account the very intricate relationship of the moral goal with other human goals. This becomes clear when we consider the Indian understanding of morality wherein the moral goal
is part and parcel of a framework of interrelated goals.

(c) The Theory of Purusārthas

Chapter II, section (d), presented the theory of Purusārthas in a new way that much of what is said there may be presupposed here. However, before we go into a further discussion of this theory, it is in place to make some general comments which are perhaps necessary to make the discussion on dharma pointed and fruitful.

The goal of dharma is not exactly the same as the "moral" goal. For instance, physical cleanliness is also part of one's dharma and it is not always conceived as a moral issue. Similarly there is the notion of optional duty (kāmyakarma) which also may not be understood as moral in character in a different context. (Could not 'optional duty' be a contradiction in terms?). Again, śādhyāya and even Īśwarapranidhāna are included in the notion of dharma. Though it is tempting to say that, therefore, the notion of dharma is not clear-cut, and that the moral concept has not acquired enough sharpness in India, let us check ourselves and suppose for the time being that there might be more to it then appears on the surface. After all, such clearcut distinctions have been found to conceal a framework which is different from the one presupposed by the Indian concepts and theories being examined here.
Secondly, the notion of dharma is at once understood as being in the nature of a goal to be attained, and also something which is already in the nature of man. Thus, for example, the performance of certain rituals, which, we found, is included in the notion of dharma, is in the nature of human beings. At the same time it is enjoined as a duty. This would mean that to be moral is to act according to man's nature. And this questions the very distinction, drawn so often in Western philosophy, between 'is' and 'ought'. Dharma is at once what man truly is, and what he ought to be more and more fully.

Another significant difference between dharma on the one hand and the Western understanding of morality on the other, is evident from the following remarks by a modern writer on what constitutes the moral life:

"The moral life is a life inter homines. Even if we are disposed to look for a remote ground (such, for example, as the will of God) for our moral obligations, moral conduct concerns the relations of human beings to one another and the power they are capable of exerting over one another. This, no doubt, spills over into other relationships - those with animals, for example, or even with things - but the moral significance of these lies solely in their reflection of the depositions of men towards one another."
Having thus clarified that the notions of dharma and morality are not exactly identical, and that in dharma the 'is' and the 'ought' coincide, one may now go on to a consideration of the interrelationship between the various purusarthas, so as to understand how it implies a denial of the autonomy of morality.

As pointed out earlier in chapter II, our understanding of the purusārthas and their interrelationship involves, in a sense, a reinterpretation of the traditional hierarchical notion of the four goals. Only in a sense, because we do not so much deviate from the traditional understanding of these goals as we deviate from the current interpretations of this tradition.

The 'new' interpretation may be presented in this manner: "Artha will not be artha, i.e. it will not be a purusārtha, unless it is in accordance with kāma, dharma and mokṣa. Kāma in turn will not be Kāma, unless it is in accordance with dharma and mokṣa. Equally, mokṣa will not be mokṣa without the content of dharma; dharma will not be dharma without the content of artha and kāma. The four goals may therefore be said to constitute one single goal, though in the lives of particular individuals the elements get varying emphasis for various reasons."
What becomes, then, of the hierarchy of goals? When it is said that, if one has to choose between artha and dharma one must opt for the latter, the choice does not imply that artha be completely sacrificed for dharma. It generally means the choice of less artha than available if one were not to adhere to the principle of dharma. In the extreme case, where complete sacrifice is entailed, it means that instead of artha if dharma were to be sacrificed, the former would cease to be a human goal; that therefore one's humanity demands such a sacrifice.

The foregoing could perhaps be summed up in the following way: "Artha alone as a goal is greed; kama alone is lust; dharma alone is mechanical ritual; and moksa alone is escapism."11

This understanding of the four goals and their interrelationship is supported by the Arthasastra wherein Kautilya says, with reference to the king, that he should not be without pleasures, but he should enjoy pleasures which are not against dharma and artha; that is, he should pursue pleasure consistent with dharma and artha. Or, he should pursue the three equally as they are bound up with one another. If any one is pursued in excess, it harms itself and the other two.12 What is said here about the king, holds good for everyone in the society.
That this is not an isolated statement, but forms part of the structure of thought in the Arthasastra would be clear only from a detailed examination of the text, which cannot, of course, be undertaken here. The concluding sentence of the text is another indication of the nature of this structure: This science (arthaśāstra) brings into being and preserves spiritual good, material well-being, and enjoyment of pleasure, and destroys spiritual evil, material loss and hatred or ill will.¹³

This understanding of the interrelationship between the Purusāsthas is further supported by Manu. For example: "Some declare that the chief goal consists in dharma and artha others place it in kāma and artha, others in dharma alone or artha alone; But the decision (of the wise) is that it consists in the aggregate of all the three."¹⁴

Again, Vyasa, while concluding the Mahabharata, says: "Here I am crying out with uplifted arms that dharma brings with it artha and kāma but no one listens to me."¹⁵

Similarly, when Sri Krishna says, in the Gita, "I am kāma, not at strife with dharma", he strikes the same note regarding the relationship between the different puruṣārthas. These above sources do not support a simple hierarchical
understanding of the pursärthas; rather they support an understanding of them as representing a matrix of interacting goals. 16

The non-inclusion of moksa in some of these reference need not be considered here as it was discussed in Ch. II Section (d). It is thus possible to see that neither of the human goals will be a worthwhile goal without the other goals also being taken care of. That is, each goal, in its proper understanding, accommodates the other goals. Dharma, artha, kāma and moksa will each be a human goal/value in their interrelatedness, and it will be an entirely different thing, something less than a human goal, when it is viewed in isolation from the others.

This understanding of the pursärthas implies the impossibility of understanding morality in and by itself. It goes against the grain of modern Western approach wherein (i) the moral good is either based on a single factor such as pleasure or sympathy, (ii) or it is supposed to be understandable in itself, or (iii) it is argued to be indefinable in the last analysis. The indefinability thesis, for instance can easily be seen as the outcome of an analysis which delinks the moral aspect from all other aspects material and spiritual.
We have argued that as against the tendency of the modern West to view morality in isolation from all other values, considerations, motives, consequences, etc., there is the traditional Indian inclination to view it in its complexity and integral relationship with values other than moral. But the Indian understanding of morality further needs to be examined in some detail. This becomes important in the face of the general tendency to discuss this understanding as an example of the failure, on the part of the Indian mind, to make simple and necessary distinctions. The analysis here is, however, limited to an examination of the sources of dharma and the means of defining it, so as to show how they can be understood better if interpreted on the same lines as our interpretation of the theory of purusārthas.

According to the Indian understanding, not only the moral goal cannot be isolated from the other human goals, the elements which go into the making of dharma should not be seen in isolation from one another. Thus our understanding of the interrelationship of the purusārthas, and the understanding of the interrelationship of the various sources of dharma, support and reinforce each other.

Interestingly, the factors mentioned as sources of dharma and the means of defining it almost coincide. This is
important because the means of defining dharma, which is roughly the same as the characteristics of dharma, are in terms of people, circumstances, their differences, etc. Not only this is opposed to the tendency to reduce the moral precept to the formal aspect whereby it ceases to be a practical guide, it is also opposed to the tendency to grant autonomy to morality by regarding it as independent of motives, circumstances, and consequences of the actions.

The statement in the Manusmriti which refers to the sources of dharma is: "The whole Veda is the first source of the sacred law, next the tradition and the virtuous conduct of those who know the Veda further, also the customs of holy men, and finally self-satisfaction".  

The statement which refers to the fourfold means of defining dharma is: The Veda (śruti), the sacred tradition (smriti), the customs of virtuous men (sadhācāra), and one's own pleasure (ātmātusti), they declare to be of visibly the fourfold means of defining the sacred law.  

'Sources of dharma', though it literally means the origins of dharma, is not merely that; they are also reasons for the rule of conduct to be what they are. For example, self-satisfaction is both an originating factor as well as a logical ground for the action; and so is the conduct of virtuous men. The Vedas are a reason because they provide a kind
of divine justification. And tradition, because long experience is in favour of it.

The important question now is: how are these reasons related to one another? Or, how do these factors determine dharma?

"To those who seek the knowledge of the sacred law, the supreme authority is the revelation." Thus the usual and traditional answer to the questions posed above is with reference to the supremacy of the Vedic authority. Next is smriti, then the conduct of virtuous men, and then self-satisfaction. This suggests a hierarchy of these factors, in terms of their authority, with the Vedas at the top and self-satisfaction at the bottom. This suggestion, which is what often finds favour with the interpreters of the text, needs to be examined more closely.

What does higher authority for a certain factor actually mean? This need not necessarily mean an exclusive authority, one which negates the lower factors. In fact there are considerations which indicate that a different interpretation is called for. Thus it need not be that smriti as a determinant of moral action is independent of the conduct of virtuous men, or that the conduct of virtuous men is independent of the reason in terms of self-satisfaction. In the order in which these are mentioned, each former source can
incorporate the succeeding source or sources. This, of course, presupposes that, first of all, there is no inherent contradiction between these factors, though occasionally they might, for all practical purposes, come into conflict; and secondly, there is an internal relationship between them such that they form a single unity in the midst of these varying and sometimes opposing considerations. This kind of a presupposition can be justified in terms of its harmony with the general trend of the thought of Manusmriti.

This understanding of the interrelationship between the sources of dharma, as the higher one incorporating the lower, is to be taken along with the fact that the society we live in is changing or dynamic, not static. Only in a static society would this understanding imply that the higher source should always get predominance over the lower. It is very likely that due to changing circumstances some of the old rules will require at least modification if not complete rejection. If there is such change, then the new rule, for instance what gives self-satisfaction and is also the conduct of virtuous men, can be at variance with the rule prescribed by tradition or in the Veda. If so, the course of action to be followed will not necessarily be that which is prescribed by the higher authority as against the lower.

This does not, however, imply that self-satisfaction is the foundation of all the sources. After all it is not
self-satisfaction of everybody, but of the virtuous; and therefore, the other principles are taken care of even when the principle invoked is apparently that of self-satisfaction alone. It would, then, appear that hedonism is invoking the principle of self-satisfaction in such a way that it does not take care of these other principles. This way of looking at the principle of self-satisfaction may also have implications for psychoanalysis. The psychoanalytic presupposition regarding repression of natural impulses would make eminent sense if, and only if, it is seen how self-satisfaction becomes, in a certain relationship with the other factors, the principle of good and satisfactory life.

In short, the relationship between the different reasons of a moral action, is not one of an unconditional supremacy of any one over the others; rather it is a mechanism of mutual control such that one kind of reason exercises control over the extreme tendencies of the factor representing another kind of reason.

The principle of self-satisfaction exercises control over the authority of the Vedas and the smritis, so that rigid authoritarianism does not become the principle of dharma. The authority of the Vedas and the smritis exercises control over the principle of self-satisfaction, so that unbridled opportunism does not become the principle of dharma. Dharma according to the Vedas of smritis is to be given up when and
only when it has become unhelpful to men and does not lead to happiness. And self-satisfaction is to be invoked if it is clear that it is not the satisfaction of men who are cut to transform personal interest into a moral principle.

This explains the traditional theory of the hierarchy of these factors in a new way: the point of the traditional hierarchy would appear to be that a preceding source of dharma would have a higher claim to consideration than the following one. Claim to consideration and not to acceptance. Thus, the Vedas can be said to have supreme authority in the sense that they have the first claim to authority. Under this interpretation of hierarchy, a 'higher' source should not be set aside unless one has good reasons to do so. In this sense, both the authority of the Vedas and supremacy of reason are together brought to bear upon the particular situation one is dealing with.

(e) The Different Approaches of India and the Modern West

There are, of course, some difficulties inherent in this understanding of morality. For instance, it may be asked: how far does this structure of dharma provide a practical guide to moral behaviour? One of the problems about Kant's understanding is that it is formal, that it does not give any positive idea of the content of morality. The same appears
to be the case with the Indian understanding as well. Let us analyse this in brief:

In an actual situation one might find that the rules laid down by the Vedas are not practicable due to change in circumstances, etc. The same can happen with the injunctions of the Smriti too. And, again, there is in these texts, more than one opinion on any issue. The conduct of men regarded as virtuous, can also differ, and therefore may not provide practical guidance. Possibly, then, one has to pass on to the remaining source of dharma, viz., self-satisfaction. "The self-satisfaction of the virtuous is the rule for cases not settled by any of the other authorities, or for cases where an option is permitted."  

But the very fact that the problem has arisen shows that there is a tension or conflict within the individual himself, and in such cases it is not always clear what course of action will be best in one's own self-interest, especially, if self-interest is to be interpreted in terms of what one aspires to become, and not in terms of the kind of person one already is. In fact, it might be argued that the problem has been made more acute: the attempt to find guidance from these sources now shows it up to be more difficult to apply the principle of self-satisfaction itself, than might have appeared in the beginning.
There is, however, a positive side to the situation. There is considerable flexibility permitted by the moral structure explained here. In such situations as presupposed above, the individual concerned is not obliged to do any one thing positively; he can choose freely between at least two courses of action.

Thus, it may be difficult in the Indian understanding to actually decide what is to be done in a particular situation where these conflicts arise. Yet, the parameters are provided, and it is within these that the decision has to be taken. If there is no absolute clarity about the course of action, there is also not the unlimited freedom and the corresponding vagueness and difficulty to decide, as it would be the case if the principle of morality is reduced to its formal aspect. When the context of morality is taken into account, the situation changes in quality, in character and in essence, though difficulties might still persist.

Another consideration that one might raise with this kind of a structure of morality is whether it is either too wide or too narrow. From what has already been said about the flexibility of the moral structure, it does not seem likely that any moral judgement would be excluded. The more likely shortcoming of the account would be that it may include within the moral code items which are not moral in character.
Physical cleanliness, for example, is often included here in the list of virtues. However, questions of this sort cannot be examined without going into a fuller account of dharma - sādhārṇa-dharma, visēsa-dharma, varna-dharma, āśrama dharma, etc.

The criterion for decision in many varieties of western thought, is impersonal, like pleasure, happiness, perfection, etc. Aristotle seems to strike a different note, for he repeats that the virtuous man is the rule and measure of the Good. According to him, in the case of the virtuous, it is not just opinion that decides, but right reason realized and living in him.21 The Manusmriti also states that the self-satisfaction has to be that of the virtuous man. The authority of the Smritis is founded on the decision of the virtuous and the test of time. The authority of the Vedas is founded on the decision of the virtuous and divine sanction. To state this rather sharply: in the Manusmriti it is not the possession of virtue which determines who is virtuous; rather, one who is virtuous determines what virtue is. This way of distinguishing between the modern western and the Manusmriti approaches to morality may perhaps be too sharp.

The two accounts of morality, that of Manusmriti and of the modern Western thinkers, can also be described as the authoritarian and the impersonal approaches respectively.
If this is, also, to make the distinction too sharp, to say that both impersonal and authoritarian elements are present in both the structures, is to err on the other side; it loses something which is important for our understanding of the two moral structures.

Is it appropriate to describe this distinction in terms of a difference in emphasis? No. For, this makes the difference a quantitative one, whereas in actuality it is qualitative.

One might therefore try to bring out this difference by the imagery of the centre and the periphery. In the two cases, the relationship between the two is different. In one, the peripheral issues are discussed and clarified with reference to the centre, that is, the essence of morality, in the other, the centre is approached in and through the peripheral issues.

Thus, for instance, the modern Western emphasis on the universality of the ethical principle can be seen as an emphasis on the periphery. The basic uniformity of human nature, of course, points to this universality of the ethical code. At the same time this universality is to be understood as a consequence, not as the essence (as, e.g., in Kant), of the moral principles. The Manusmriti account does not bind us
to the universality principle. A behaviour, in order to be virtuous, need not be universalizable.

Again, the emphasis on the abstract or formal character of the moral principle, could be an emphasis in the wrong place. For the Manusmriti, what is important is not an abstract principle but its embodiment in a particular person. This has the additional advantage that the value of the principle will be tested in actual practice, and aberrations are then less likely to be accepted as moral principles.

In a changing situation, the traditional mode and the changing mode of behaviour may both be accepted by the virtuous. This seems to make a decision difficult for the ordinary people. But, as has already been argued this also implies considerable flexibility of the moral code which means better scope for the individual's choice. This blurs the distinction between orthodoxy and reform, emphasis on which has, probably, affected a clear understanding of the nature of the moral principle.

The difficulty of conflicting criteria for the moral principle is often the result of emphasising one of the elements at the expense of the others. Thus, the principle of general approval seems to come into conflict with self-satisfaction as a criterion. But this problem sheds its gravity when the essence of morality is understood in
terms of a variety of elements some of which may be more peripheral than the others in a particular concrete situation. The Manusmriti account does not encourage an overemphasis on any one of the elements which would be at the expense of the others. Thus it is that self-satisfaction has to be that of the virtuous. For, in the virtuous man all these elements get integrated.

This leads us to still another formulation of the difference between the structures of morality presented by Manusmriti on the one hand and the modern Western thinkers on the other: the distinction in terms of the relationship between the whole and the parts. The Manusmriti account views the essence of morality in all its aspects even when it considers only one element of it; hence the avoidance of over-emphasis on any one aspect in particular. The modern Western approach is to try to arrive at the whole from a consideration and analysis of the parts or elements that constitute morality. To favour the autonomy of morality is, indeed, to betray this 'analytical' tendency which seems to be incapable of a synthesis which it ultimately aims at.

(f) Development of the Two Approaches

One may here consider in brief how these two approaches to morality develop into two different positions, almost as a matter of implication, with reference to the treatment
The problem in question is the legal enforcement of morality with particular reference to prohibition.\textsuperscript{22}

Mill makes a distinction between self-regarding actions, which may be immoral but not harmful to others, and other-regarding actions which concern the interest and well-being of society. According to him, the law has no business to interfere in cases where an act, though explicitly considered immoral, is not harmful to others. Examples of this kind are extramarital relations, gambling and drinking. "Drunkenness, for example, in ordinary cases, is not a fit subject for legislative intereference."\textsuperscript{23}

Hart, who takes note of the criticisms against Mill, agrees with him essentially. He, in fact, seeks to strengthen Mill's position by bringing into further prominence the notion of individual liberty.\textsuperscript{24} Mill's influence in this respect can be seen in Indian jurists such as Chagla and Gajendragadkar. According to the former, the law can curtail an individual's liberty only when the act is clearly antisocial,\textsuperscript{25} and the latter declares that in a democratic state the law has no business to interfere in matters moral and religious.\textsuperscript{26} According to him, therefore, prohibition needs to be defended on socio-economic conditions; moral and religious considerations are immaterial and irrelevant in a secular state.
Gandhi, who does not advocate legal enforcement of morality in the case of either gambling or prostitution, did advocate it in the case of drinking. But the fact is not so important as the principle on which this advocacy was based. Nor is it certain that he would have advocated it in the changed circumstances of today when it is not generally considered as immoral; for, according to him, law cannot function without moral and social support. However, if he did not consider prostitution a fit subject for legislation, it was for entirely different reasons.

For Gandhi, the moral and religious considerations outweigh the political and economic considerations in support of prohibition. "The moral loss is greater than the financial. Drinks and drugs degrade those who are addicted to them and who traffic in them." At the same time, he supports his case with social, economic and political considerations. This is done, not so much because it happens to strengthen his case, as because the considerations are all integrally related. The economic, social, psychological and religious factors support and are supported by the moral one. One might say that in Gandhi, as well as in the classical Indian thought, this relationship is not a contingent relationship but a necessary one.

Gandhi, one might say, is approaching the problem in the manner implied by our understanding of the dharma-
purusārtha tradition. In this tradition, not only morality and spirituality are understood in their mutual relationship, these are also essentially and integrally related to the economic, political, social and psychological aspects of men.

As is clear from the above illustration, the Indian and the modern Western understandings of morality imply significantly different approaches to specific problems such as prohibition.

This illustration shows, at the same time, how the relationship between law and morality is conceived differently in the two traditions. Thus, for Gandhi, the function of law is to encourage and assist the individual to conform to the moral code, and the law can function only in the context of social and moral support. But, for his western counterpart, the function of law would primarily, if not solely, be to help the social, economic and political functioning of the society; for him moral upliftment is at best a desirable bye-product.

This latter view inclines to regard moral upliftment, as non-essential for the proper functioning of society; and the former view, which regards social and moral support as necessary for law to function properly, may sometimes err on the other side, i.e., by tending to the extreme that the moral
foundation ensures everything. Undesirable as this tendency is, it remains to be examined whether this leads to as grave a situation as when one regards morality as non-essential for the functioning of law.

(g) Conclusion

There is an apparent similarity between Kant's notion that the goodness of an action springs from the very person who wills it, and the Gita teaching that morality proceeds from the inner spirit of man. It has been repeatedly asserted in the Gita by Krishna that "if one has achieved equanimity of mind by conquering the evil in him he will be doing the right thing by doing his duty."\(^{28}\)

But this resemblance is only apparent. Though Kant himself makes morality the basis for belief in God, he is not in a position to relate morality and spirituality. But in the Indian tradition the relationship between morality and spirituality (dharma and moksa) is best understood as mutual; they control and complement each other. The difference between the two would then be that while morality implies conflict, spirituality implies spontaneity, as, in the spiritual man, evil has been overcome completely. Kant's notion of the 'holy will' as distinguished from the moral will approaches this notion of spirituality. But, as already pointed out, Kant
does not seem to visualize the mechanism of mutual control between the moral and spiritual goals/values.

In short, Kant as well as his predecessors and successors in the modern period tend to view morality in isolation from other related goals/values. On the other hand, Indian thought, as evidenced by the theory of purusārthas and by the Manusmriti account of the sources of dharma, views morality in all its complexity and interrelationship with the relevant factors. And, as the difference between the approaches of India and the modern West implies significantly different treatment of a single problem such as prohibition in the two contexts, our understanding of the two approaches receives an indirect confirmation from our consideration of this issue.
NOTES AND REFERENCES: CHAPTER 5
(References are to the Editions mentioned in the Bibliography)

1. This account of Kant's formulation is based on Janet and Seailles, and Hegde V.S., Gandhi's Philosophy of Law, Concept Publishers, Delhi, References 2 - 8 below are as quoted by Hegde.
3. Ibid. pp. 134, 135
4. Paton, 1958, p. 129
5. Korner, 1955, p. 147
6. Ibid. p. 148
7. Paton, 1958, p. 129
8. Broad, 1958, p. 133
11. Ibid.
12. Arthasastra, I vii, 3 - 5
13. Ibid. XV, 72
14. Manusmriti II, 224
16. K.J. Shah (Ref. No. 10 above) elaborates this in some detail in his "Artha and Arthasāstra".

17. Manusmrīti II, 6

18. M.S. II, 12

19. M.S. II, 13

20. Comm. on M.S. II, 12

21. Janet and Seailles, p. 17

22. This is analysed in some detail in Hegde V.S. Gandhi's Philosophy of Law. References 23 - 27 below are as quoted by him.

23. Mill, 1951, p. 208

24. Hart p. 173

25. Chagla 1950, pp. 16 - 18


27. Young India Vol. VIII, No. 5, Feb. 4, 1926, p. 49