

What Is Wrong with a Rights-based Approach to Morality?

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Abstract

There is a prominent streak of scholarship in moral and political philosophy which espouses the idea that morality is rights based. In this article, I argue that such an approach not only undermines but also operates against a range of other morally significant human relationships and attitudes such as community, solidarity, care, compassion and benevolence, which play an important role in our lives. The concept of rights is a product of historical circumstances, and it risks turning morality upside down if it encourages self-righteous claims. The notion of rights can be a constituent element of morality, but the entire moral phenomenon cannot be just rights based, and rights and duties need to remain balanced.

Keywords

Rights, morality, community, individualism, care, compassion

Introduction

The idea of rights has become so pervasive in the present age that some writers have termed it the age of rights.¹ Almost every human act and quest ranging from education to environment and sex to spiritualism is talked about, translated, measured and understood in the terminology of rights. People claim not only a right to life but to die also. Not only a right to development, but to do wrong also.² Not only a right to food but even a right to pornography.³ The

¹ NORBERTO BOBBIO, *THE AGE OF RIGHTS* (1996); LOUIS HENKIN, *THE AGE OF RIGHTS* (1996).

² Jeremy Waldron, *A Right to Do Wrong*, in *THEORIES OF RIGHTS* 21-39 (C. L. Ten ed., 2006).

³ Ronald Dworkin, *Is There a Right to Pornography*, in *THEORIES OF RIGHTS* 177-212 (C. L. Ten ed., 2006).

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discourse in moral and political philosophy has been shifting from basing rights in morality to rights-based moralities.⁴ This approach is problematic because it undermines a range of other morally significant human relationships and attitudes such as community, solidarity, care, compassion and benevolence. To highlight this issue is the main object of the present enquiry.

This article is not concerned with what is a right—its normative content and its properties are not my concern here. Nor I am going to analyse any substantive theory of rights least to formulate it. My main motive in this article is to find out to what extent the whole social phenomenon can be hinged upon one single notion—the notion of rights? I would try to counter the proposition that morality is rights based, thereby allowing other morally significant human relationships and attitudes their due place. I would argue that even if the notion of rights is treated as indispensable, it risks violating the rights of other morally significant values by usurping their space and acquiring a position or place of pre-eminence which it does not deserve.

There are different types of rights—for example, moral rights, human rights and legal rights—so that, the foremost question which comes into mind is what type of rights the present critique is concerned with? Here I am going to deal not with any specific form of rights, but the notion of rights in general. In this amorphous form the idea of rights means claims against others. Second, there are different theories of rights. Which one of them would we deal with here? The present critique is predominantly focused on the idea of rights espoused in the liberal tradition. Although liberalism is not monolithic, I am concerned with that stream of liberal thought which projects the notion of rights as a peremptory norm and thereby puts excessive emphasis on the individual.⁵

Different Approaches Towards Rights

We can segregate the different approaches towards rights into three different groups. One approach discards the very idea of rights as it sees them as claims of an egoistic man or a male-centric aggressive way of ordering society. Marxist and some of the feminist theories fall into this group. In his oft-quoted criticism of the idea of rights Karl Marx observed that, ‘none of the so called rights of man goes beyond egoistic man, ... an individual withdrawn behind his private interests and whims and separated from the community’.⁶ Similarly, discarding the notion of rights, some feminist scholars find it operating against the female nature, which is attuned to care and compassion. According to them, rights are in consonance with a male-centric psychology rested on the idea of individuality and separateness.⁷

⁴ RONALD DWORKIN, *TAKING RIGHTS SERIOUSLY* (1978); J. L. Mackie, *Can There Be a Rights Based Moral Theory?* in *THEORIES OF RIGHTS* (Jeremy Waldron ed., 1984).

⁵ *Comments on Some Characteristics of the Liberal Political Tradition*, in *INTERNATIONAL HUMAN RIGHTS IN CONTEXT* 512-16 (Henry J. Steiner et al. eds., 3rd ed. 1996).

⁶ Darren O’ Byrne, *HUMAN RIGHTS AN INTRODUCTION*, 53 (2003).

⁷ C. GILLIGAN, *IN A DIFFERENT VOICE: PSYCHOLOGICAL THEORY AND WOMEN’S DEVELOPMENT* (1982).

According to this approach, the idea of rights is simply unwarranted and not conducive to achieving appropriate balances, in this context of gender rights.

The second approach looks at rights as a facet of morality. This is a pluralistic approach of morality, and it argues that in the base of morality lies not only the notion of rights but also an array of other values.⁸

The third approach gives the concept of rights the pride of place in moral and political theory. Thus, says Dworkin, political morality is rights based.⁹ The radicalisation of this approach is found in the ideas of scholars like J. L. Mackie who in his 'tentative initial sketch of a right-based moral theory'¹⁰ argues in the favour of rights-based morality.¹¹ It is this third approach which is annihilating an array of morally significant human relationships and attitudes. This rights-centric vision of society which has made rights virtually the religion of modern man is potentially harmful for human relationships. Thus, asks Hardwig, what would happen to a beautiful marriage if a husband tells his wife, 'I have a right to sleep with you'.¹² What type of a relationship would it be if children tell their parents that we have a right to be cared by you, and if you do not take care of us, we will enforce it through courts? Therefore, there are doubts about the very morality of rights and concerns about their limitations.

Causes of Genesis of Rights

The idea of rights in the present era has captured our moral and political thinking in such a manner that it appears that 'they are woven into the very fabric of human existence'.¹³ But the fact remains that the idea of rights is the product of historical circumstances, as observed by Bhikhu Parekh: 'We have become so accustomed to conceptualizing human relations in terms of rights that we do not appreciate that nearly all non-Western and most pre-modern European societies managed to do without them'.¹⁴

A need was felt to create or invent the notion of rights in the medieval age as it could act as a very powerful shield against forms of political absolutism rampant in that age. The atrocities committed by man upon man particularly under the Fascist, Nazi and some other dictatorships, where an individual was meshed as if he were a lobe of zinger, impelled mankind to erect very strong walls around the individual. Thus, more than human nature, it is deemed to be the trauma of the holocaust which made the idea of human rights so pervasive and entrenched that to think without it

⁸ Joseph Raz, *Right-based Moralities*, in THEORIES OF RIGHTS (Jeremy Waldron ed., 1984).

⁹ Dworkin, *supra* note 4.

¹⁰ Mackie, *supra* note 4.

¹¹ *Id.*

¹² John Hardwig, *quoted in* Seung-hwan Lee, *Liberal Rights or/and Confucian Virtues?* in THEORIES OF RIGHTS 367-79 (C. L. Ten ed., 2006).

¹³ PETER JONES, RIGHTS (ISSUES IN POLITICAL THEORY) 1 (1994).

¹⁴ Bhikhu Parekh, *The Modern Conception of Right and Its Marxist Critique*, in FROM HUMAN RIGHTS TO THE RIGHT TO BE HUMAN 2 (Upendra Baxi ed., 2nd ed. 2006).

today seems highly perverse. And yet, all around the world, basic abuses of human rights continue to be perpetuated often with remarkable impunity.

What Is Wrong with Rights

The idea of rights must stay there to protect mankind from the aforementioned horrendous acts. But the problem starts, as Sir John Laws points out, when:

Generations knowing nothing of Hitler or Stalin, for whom these monsters are merely bogeymen in their history lessons, may not see rights as an antidote against tyranny but rather as a legitimate means of promoting their own interests above the interests of others.¹⁵

Thus, a rights-based approach is promoting or nurturing selfishness¹⁶ or self-righteousness. It cannot get rid of it because asserting self-interest is treated as a virtue and a right, not a vice here.¹⁷ In contrast to this, we find concerns for the community, solidarity care, compassion and benevolence regarding others.

The idea of rights and the ethics of care and compassion emanate from philosophical visions of life and the cosmos which are diametrically opposite to each other. Rights belong to that side of the divide which has a fragmented vision of the cosmos. The idea of rights is inextricably intertwined with conceptions of man as an autonomous, and thereby theoretically independent and unaccountable individual—an entity, isolated from the rest of the universe, who takes the centre stage and the universe is to be reserved and preserved for unifying and connectivity-based vision of life. This vision sees man as a constituent element of the universe, not its master. The first approach fosters separateness and lack of accountability, and the second stresses relationships and responsibility for others, and ultimately for the world as a whole. The idea of rights thrives on separation, but care and compassion blossom in an environment of connections and relations.¹⁸

The very object of rights is to protect the individual from the claims of common good. In other words, they act as a boundary between the individual and community and thus make the separation quite explicit. The notion of rights did not initiate the process of individuation of human beings, rather the onslaught of individualism, which snapped many ties between man and his fellow beings, necessitated the language of rights as ethics of care and compassion require attachment.¹⁹ Individualism's object is to make man self-reliant.²⁰ Dependence

¹⁵ John Laws, *Beyond Rights*, 23(2) OXF. J. LEG. STUD., 266 (2003).

¹⁶ Jones, *supra* note 13; Gilligan, *supra* note 7; *id.*

¹⁷ Gilligan, *supra* note 7, at 149.

¹⁸ *Id.* at 164-65.

¹⁹ *Id.*

²⁰ Duncan Kennedy, *The Critique of Rights in Critical Legal Studies* (Aug. 8, 2010), [www. http://duncankennedy.net/documents/The%20Critique%20of%20Rights%20in%20cls.pdf](http://duncankennedy.net/documents/The%20Critique%20of%20Rights%20in%20cls.pdf)

upon others is inversely proportionate to it. One should not expect others to take care of his interests—that goes against the core agenda of individualism.

From our discussion until now, it should be individualism which is the problem not the idea of rights. That is true to some extent, but the problem with the idea of rights is that its basic concept of human beings is that of an autonomous individual. ‘Rights can be spoken of only on the condition that a person is thought as a person, that is, as an individual.’²¹ This idea finds its culmination ‘in the lone courageous individual fighting against all the forces of social conformity for his rights’.²² Such an ethos is obviously diametrically opposite to the idea of community and social solidarity where an individual is needed to be embedded in the social fabric. It is individualism which initiates the process of separation between the society and the man, and the idea of personal rights entrench it. The idea of rights thus risks impeding human relationships and attitudes such as community, solidarity, care, compassion and benevolence because they flourish in a system wherein life is interdependent; on the contrary, the idea of rights, if taken to its extremes, facilitates self-reliance.

Thus, a rights-based approach goes against the ethics of care, compassion, benevolence, solidarity and community. Evidence also shows that those societies which undermined the ideas of separateness and self-assertion, which are primordial in a rights-based approach, developed a very high degree of care, compassion, benevolence and solidarity.

Thus Confucianism, which does not insist on self-assertion but virtues of caring and benevolence, through the principle of *li*, right action, developed a society of great social solidarity.²³ Similarly, Buddhism—which strives for self-abnegation, not self-assertion—developed a very strong sense of compassion described as *karuna*.

Societies which are not individualist in their temperament find the idea of personal rights as a threat to the net of the social relations they weave over the ages. Instead of self-reliance, these societies rely upon values and attitudes such as care, compassion, benevolence and solidarity. Preferring self-interest over other’s interest is not a virtue, but rather a vice here. Jomo Kenyatta tells that in the Gikuyu tribal community of Kenya, ‘an individualist is looked upon with suspicion and is given a nickname of *mwebongia*, one who works only for himself and is likely to end up as a wizard’.²⁴ Being a part of the community gives a great sense of security. But in the self-reliant, rights-centric modern societies which are usually perceived or portrayed as individualistic, the individual does not develop enough bonds with the community and always feels insecure. Thus, observes an American sociologist that ‘an American spends his entire life to pursue a certain

²¹ J. G. FICHTE, *THE SCIENCE OF RIGHTS* 159 (1989).

²² Charles Taylor, *A World Consensus on Human Rights?* in *THEORIES OF RIGHTS* 15-21 (C. L. Ten ed., 2006).

²³ Seung-hwan Lee, *Liberal Rights or/and Confucian Virtues?* in *THEORIES OF RIGHTS* 379-91 (C. L. Ten ed., 2006).

²⁴ Jomo Kenyatta, *Facing Mountain Kenya: The Tribal Life of Gikuyu*, in *INTERNATIONAL HUMAN RIGHTS IN CONTEXT* 500 (Henry J. Steiner et al. eds., 3rd ed. 1996).

sense of security, but his firm clinging to individualism in turns makes the sense of security always steps away from him'.²⁵

'Minimalist Morality'

A rights-based approach to society is a minimalist approach towards morality.²⁶ The conduct expected is 'causing no harm to others'. It requires nothing more than that, and is potentially an onerous sense of responsibility. Thus, rights-based approach 'makes minimal demands upon the moral character of agents'.²⁷ But care, compassion and benevolence require a lot more than just causing no harm to others. Hence, a rights-based morality ignores or cannot accommodate these values. Another limitation of rights is that they can only tell us what is right and what is wrong. A rights-based morality cannot give us the ultimate moral reason why an act or omission is wrong or immoral. For example, rights would tell us that one has a right to life, so you cannot simply kill a person. But it cannot tell us why it is morally wrong to kill? A rights-based morality gives us freedom, but it does not tell us what to do with that freedom. The only thing it tells us is that we should not use it to harm others. On the other hand, a maximalist approach to morality guides us what to do with the freedom; and care, compassion and benevolence are thus part of a maximalist morality.

A rights-based approach to society appears thus as a too narrow conception of morality.²⁸ In this, view certain interests of people are of ultimate value and the protection and promotion of these interests through rights is what morality means.²⁹ There is nothing moral beyond this. Joseph Raz calls such a conception of morality 'impoverished', as it cannot account for many acts which a man does beyond the call of duty and makes him more human.³⁰

For example, time and again we see people whose life is shattered by natural disasters like earthquake, and they need help and support from others. People offer clothes and food to such people which they surely cannot claim as a matter of right. Thus, benevolence plays a valuable role in our life. Excluding it from the sphere of morality would be detrimental to our life. In the middle of a road I see some people beating someone. If I think in terms of rights and duties, I may not even call the police to rescue him as a rights-based morality 'does not provide a moral reason to help the imperilled needy'.³¹ Would it not be a moral shame on my part? Only if morality includes attitudes such as care, compassion and benevolence, not only a bill of rights.

²⁵ Wang Jisi, *The Logic of the American Hegemony*, AMER. STUD. QUART. (Feb. 20, 2008), http://www.uscc.gov/researchpapers/translated_articles/2005/05_03_23_logic_of_the_american_hegemony.html

²⁶ Kenyatta, *supra* note 24.

²⁷ *Id.* at 385.

²⁸ Raz, *supra* note 8.

²⁹ *Id.*

³⁰ *Id.*

³¹ Kenyatta, *supra* note 24, at 383.

Critics argue that a rights-based morality has its limitations in familial and other personal relationships like friendship.³² The morality of rights is civil morality³³ and ‘family is not a civil society’.³⁴ Familial relations should be governed by ‘love, care and concern’,³⁵ not rights. This does not mean that family members should not have any rights, but their scope must be limited, and they should only be resorted to when the relationships fail. A characteristic feature of rights is that they are applied impartially and possessed equally by those who hold them. This leaves no scope for discretion and discrimination, which is a characteristic feature of friendship. To be friends with someone is a matter of choice. Second, one need not treat all his friends equally. A rights-based morality cannot accommodate such attitudes and relationships as it does not give space for discretion and discrimination.

A rights-based morality also cannot account for those acts which are beyond one’s duty. For example, A sees B drowning in a river and jumps into the river to save him. Here B does not have any right to be saved by A. Therefore A’s act is beyond the call of duty. Such acts which are called supererogatory cannot be encompassed within a rights-based morality.

A rights-based morality does not leave any room for gratitude. One feels grateful towards others for an act which one cannot claim as a matter of right, but if one can claim something as a matter of right, why then should one feel grateful towards others, as they are duty bound. Empirical work in the field of psychology shows that ‘gratitude is strongly correlated with various aspects of well-being’.³⁶ Excluding it from human experience would be a serious flaw.

‘Rights Not a Moral Construct’

The aforementioned arguments show the limits of rights-based morality and fear that ‘an attempt to think only in terms of rights would result in a severely attenuated morality’.³⁷ Nevertheless, the idea of rights is given a valuable position if not pride of place in the sphere of morality. In contrast to this, Sir John Laws argues that right is not a moral norm but a legal construct.³⁸ It is not a moral construct because it is concerned only with the act not the motives.³⁹ Moral goodness, he argues, is not a mere statement of fact it must include the motivation also. My assertion that I have a right is merely a statement of fact, there is nothing virtuous or moral in it. Thus, when I assert my right to freedom of speech and expression, it is a mere factual statement. There is a priori nothing good or bad or moral in it.

³² Jones, *supra* note 13, at 208.

³³ Parekh, *supra* note 14, at 13.

³⁴ *Id.* at 14.

³⁵ Kleinig quoted in, *From Human Rights to the Right to be Human: Some Heresies*, in FROM HUMAN RIGHTS TO THE RIGHT TO BE HUMAN 209 (Upendra Baxi ed., 2nd ed. 2006).

³⁶ Alex M Wood et al., *Gratitude Predicts Psychological Well Being Above the Big Five* (Aug. 23, 2010), <http://personalpages.manchester.ac.uk/staff/alex.wood/gratitude%20and%20psychological%20well-being.pdf>

³⁷ Parekh, *supra* note 14, at 207.

³⁸ Laws, *supra* note 15, at 265.

³⁹ *Id.* at 268.

It regulates the behaviour of other persons, how they ought to behave towards me, the rights holder. 'Any morality in it is the other person's morality.'⁴⁰

It is a legal construct, as asserting a right means making a claim against other people. This gives rise to competing claim. To adjudicate the competing claims is the province of law. Thus, a right becomes a legal construct.⁴¹ The relationships between the state and the citizens are expressed through the medium of law, that is, by people electing the government and, on the part of the government, imposing correct sets of compulsory laws.⁴² Therefore, the idea of rights should be restricted to the relations between the state and the citizens.⁴³ It must not be allowed to intrude into inter-personal relations.⁴⁴

Morality on Its Head

The rights-based moralities are not only impoverished but they also have turned the concept of morality on its head. It has made self-assertion the norm. Before the advent of rights-based theories, morality had been other-centric. Giving preference to self-interest over others' interest and concerns of others was not considered morally a very plausible attitude. In a similar vein, Christianity preaches 'No Christian should save his own life at the expense of another'.⁴⁵ St. Augustine and St. Ambrose, we read, 'both combine their justification of war because of a Christian's responsibility for public protection with an utter denial that under any circumstance he ever has any right of private self-defense'.⁴⁶ This is surely altruism of the highest degree, which only saints would be able to follow and cannot be expected from the common man. The point I intend to emphasise is that in the pre-rights based era, the focus was not on self-interest but on others' interests.

This does and should not mean that in such communities, the bulldozers of common good could crush the individual. Referring to the societies existing in the pre-rights era, Bhikhu Parekh observes:

Not all of them were despotic or autocratic. In some of them men enjoyed many of the liberties characteristic of a free society, such as security of life and possessions. They did not murder each other at will, nor did their rulers deprive them of their lives except according to established procedures and for commonly agreed purposes. They also had possessions which they used as they pleased and bequeathed to their children. They followed the occupation of their choice and enjoyed freedom of movement. Yet they did not regard these as their rights or claims, and enjoyed and exercised them without in any way feeling self-conscious about them. Even as they had eyes and ears, they had certain freedoms of which they did not feel the need to remind either themselves or others.⁴⁷

⁴⁰ *Id.* at 269.

⁴¹ *Id.*

⁴² *Id.* at 275.

⁴³ *Id.* at 266.

⁴⁴ *Id.*

⁴⁵ PAUL RAMSEY, BASIC CHRISTIAN ETHICS 172 (1954).

⁴⁶ *Id.*

⁴⁷ Parekh, *supra* note 14, at 2.

Demystifying the Myth

Rights-based approaches towards society have propagated a myth that rights-based system can provide us the best possible protection. This is a myth, as Zimmerman reminds us: ‘The impressive bills of rights passed in China, Cuba, Uganda, Rwanda, Cambodia, Russia and the Sudan proved no barrier to multiple human rights abuses committed in those countries’.⁴⁸ The rights-based theorists would simply discard this accusation about the weakness of rights on the grounds that the countries mentioned in the statement are sham rights-based systems. This may be true, but what about the real rights-based societies like America, as Dershowitz points out:

there is no right that has not been suspended or trampled during times of crisis and war, even by our greatest presidents. Washington was a strong supporter of the Alien and Sedition Acts. Lincoln suspended the writ of habeas corpus. Wilson authorised the Palmer raids; in which his attorney general seized, arrested and imprisoned, thousands of suspected radicals in violation of their rights, Roosevelt ordered the detention of more than 100,000 Americans of Japanese descent, without a semblance of due process.⁴⁹

We must therefore not be too obsessed with the idea of a rights-based system. ‘Even until today intense discussions continue on the justification of the rights-based world.’⁵⁰ We do not know yet very surely, whether right is a will or an interest, and we have made it the central principle of the society. The idea of rights plays a pivotal role in the American society. But it is in this very rights-based America where according to a report of the U.S. Department of Justice nearly ‘4 million American women are the victims of domestic violence each year’.⁵¹

A rights-based approach which rests upon civil morality works effectively in cases of self-reliant people, but it is ineffective in cases of people, who are dependent upon others. Thus, in modern rights-based societies, the plight of elderly people is a matter of great worry. The report of joint committee on human rights, published in 2007, informs us about the disrespect of human rights of elderly people in care homes, as a large number of them are subjected to verbal and physical abuse.⁵² In such situations, it is not the language of rights but care which provides better protection. Gilligan tells us that care and compassion thrives in an environment of responsibility, while the notion of rights stands in contrast ‘with the morality of responsibility’.⁵³

⁴⁸ Augusto Zimmermann, *quoted in* Bill Muehlenberg, *The Problem With Rights-Talk* (2009), CultureWatch www.billmuehlenberg.com/2009/04/02/the-problem-with-rights-talk/ (last visited May 3, 2010).

⁴⁹ ALAN DERSHOWITZ, *RIGHTS FROM WRONGS A SECULAR THEORY OF THE ORIGIN OF RIGHTS* 3 (2004).

⁵⁰ Mahendra P. Singh, *Tracing the Future of Human Rights to Ancient Indian Tradition: Its Relevance to the Understanding of the International Bill of Human Rights*, 1 *INDIA. J. JURID. SCI.* 163 (2003).

⁵¹ Sarah B. Lawsky, *A Nineteenth Amendment Defence of the Violence against Women Act*, 109 *YALE L. J.* 783-816 (2000).

⁵² David Rose, *Elderly People Suffering Abuse and Neglect in Residential Care Homes*, *THE TIMES*, Aug. 12, 2010, <http://www.timesonline.co.uk/tol/news/politics/article2260659.ece>

⁵³ JONATHAN GORMAN, *RIGHTS AND REASON AN INTRODUCTION TO THE PHILOSOPHY OF RIGHTS* 161 (2003).

The problem with the language of rights is that people are tempted to only think about their claims and entitlements; they are not reminded about their duties. On the other hand, if we remind people of their duties, which are other-centric not self-centric, that what we want to achieve through rights can still be achieved easily. Thus said Mahatma Gandhi:

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 Women and correlate every right to some corresponding duty to be first performed. Every other right can be shown to be an usurpation hardly worth fighting for.⁵⁴

What a rights-based system intends to protect can therefore be protected very effectively in a non-rights-based system. Thus, in a system where non-violence is a fundamental norm, the right to life would be protected very efficiently and without taxing the legal system much. Thus, observes Buchanan that in a non-rights-based system there are certain norms, violation of which would lead to punishment.⁵⁵ He further says that in such a system, failure to perform your duty is not a matter between you and your conscience, as Wasserstorm believes, but it could be 'a matter between you and the hangman'.⁵⁶

Conclusion

Man's capacity to think rationally makes him a moral agent which entitles him to be treated as an end in himself. In modern Western secular theory (but not in the philosophies of the East), this means that he is an absolute sovereign with respect to his life and the idea of rights protects this sovereignty. Thus, the language of rights is rational, not emotional. Yet it does not account for the limits of human control over one's existence. The idea of rights thrives on cold logic, not warm love. It stems from the cerebrum, not the heart. Values such as care, compassion and benevolence are not intellectual exercises but emotional matters. Proliferation of rights means our life is increasingly being regulated by logic and rationality, at least that is what we claim, thus usurping the space of care, compassion and benevolence which are not rational but emotional activities and play an indispensable role in our lives.

The main cause why rights-based morality cannot accommodate 'the other' regarding morally significant values is because it thrives on an ultimately divisive and selfish agenda. At the macro level, it thinks about the interests of human species only (human rights) and at the micro level considers the individual only. To

⁵⁴ A letter written by Mahatma Gandhi to the Director General of UNESCO on 25 May 1947, *quoted in* ROBERT TRAER, *FAITH IN HUMAN RIGHTS: SUPPORT IN RELIGIOUS TRADITIONS FOR A GLOBAL STRUGGLE* 132 (1991).

⁵⁵ Allen Buchanan, *What's So Special About Rights?* in *THEORIES OF RIGHTS* 300 (C. L. Ten ed., 2006).

⁵⁶ *Id.*

counter this, some writers argue to promote group rights instead of individual rights. This would be to act too naïve as Buchanan points out that individual rights cause fragmentation and egoism at individual level, group rights would do the same at group level.⁵⁷

The idea of rights is thus important and indispensable, but in a conflict-ridden society, which is really every known human society on the planet. It needs to stay with us as long as conflicts stay in that society. But adopting a radical rights-based approach to society would mean that we have accepted that a harmonious society cannot be established. Other concerns' regarding human relationships and attitudes such as community, solidarity, care, compassion and benevolence are also indispensable tools in order to form a harmonious social order. The idea of rights as a legal construct should therefore be relegated to the sphere of state–citizens relations. Rights are, it is endorsed here, 'bad masters in the morals of persons'.⁵⁸

MacIntyre says that 'only a religion which is a way of living in every sphere either deserves to or can hope to survive'.⁵⁹ The quest to develop a rights-based society is a quest to make the idea of rights survive forever. But we must not forget that 'what is good in and for man is a huge unruly parade of qualities which cannot be caught in the net of a single idea'.⁶⁰

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⁵⁷ Parekh, *supra* note 14, at 210.

⁵⁸ Laws, *supra* note 15, at 279.

⁵⁹ PETER MCMYLOR, ALASDAIRE MACINTYRE CRITIC OF MODERNITY 3 (1994).

⁶⁰ Laws, *supra* note 15, at 267.