This chapter examines the foundations of human rights in the Western world, as a prelude to identifying their bases, if any, in Hinduism. Four foundations of human rights can be identified in the current literature on the subject in the West. These are legal, moral, ethical, and religious in nature or conception. According to the positivistic or legal view of human rights, human rights are legal entities—no more, no less. The moral view of human rights is grounded in the perception that human rights, as legal entities, stem from a moral vision of the world, of which they constitute a legal expression. The ethical view of human rights may be traced to Bentham, and especially his successor, John Stuart Mill. The religious view suggests that human rights can be derived from the different religious traditions of the world.

**Keywords:** human rights, Western world, legal, moral, ethical, religious, Bentham, John Stuart Mill
It might be useful to begin by examining the foundations of human rights in the Western world, as a prelude to identifying their bases, if any, in Hinduism. Four foundations of human rights can be identified in the current literature on the subject in the West. These may briefly be described as legal, moral, ethical, and religious in nature or conception.

Legal View of Human Rights

According to the positivistic or legal view of human rights, human rights are legal entities — no more, no less. Thus according to this view human rights are ‘what the laws say they are’.¹ This raises two questions: what do the laws say they are; and what are the laws which say so? Minimally, these laws include the Universal Declaration of Human Rights, adopted and proclaimed by the General Assembly of the United Nations on 10 December 1948 (see Appendix I). Maximally, ‘in practical terms if a subject is in a treaty, it is an issue of human rights’.² More concretely, the term human rights is used in this chapter to cover the provisions pertaining to rights provided for in the following documents: the Universal Declaration of Human Rights (1948); the International Covenant on Economic, Social and Cultural Rights (1966); the International Covenant on Civil and Political Rights (1966), and the two optional protocols to the latter Covenant.³

Such a view of human rights naturally follows, for instance, from the following comment of James Nickel: ‘The formulation by the United Nations in 1948 of the Universal Declaration of Human Rights made possible the subsequent flourishing of the idea of Human Rights’.⁴ Robert Traer thinks that the reasons responsible for the flourishing of human rights may be more complex.⁵ Nevertheless the parturition, if not the (p.5) conception, of human rights could perhaps reasonably be identified with the Universal Declaration of Human Rights.

Moral View of Human Rights

The moral view of human rights is grounded in the perception that human rights, as legal entities, stem from a moral vision of the world, of which they constitute a legal expression. From such a point of view, human rights, in the words of Louis Henkin, are ‘simply those moral political claims which, by contemporary consensus, every human being has or is deemed to have upon his society and government’.⁶ It is possible to propose that the concept of human rights can be derived from a moral perspective rooted in the various religious traditions of humanity. This may be demonstrated by a series of logical steps. As a first step one could argue that

The world religions do have a largely shared morality: murder, lying, stealing, sexual impropriety, and so on are universally prohibited. Moreover, even more general principles are often shared among the world religions. For instance, in the Chinese, Hindu, Buddhist, Zoroastrian, Christian, and Islamic traditions among others, we find a remarkably similar conception of how to treat others:

Do not impose on others what you yourself do not desire.

*The Analects*, XV:24, Confucius (551–479 BC)
One should never do that to another which one regards as injurious to one’s own self. This, in brief, is the rule of dharma. Yielding to desire and acting differently, one becomes guilty of adharma.

*Mahabharata* XII: 113, 8

He who for the sake of happiness hurts others, who also want happiness, shall not hereafter find happiness.

He who for the sake of happiness does not hurt others, who also want happiness, shall hereafter find happiness.

*The Dhammapada* 131–2

The nature only is good when it shall not do unto another whatever is not good for its own self.

*Dabistan-i-dinik* 94:5

Love your neighbour as yourself.

*Gospel of Mark* 12:33 (RSV)

(p.6) No man is a true believer unless he desires for his brother that which he desires for himself.

Muhammad, from the *Hadith* 7

Joseph Runzo has identified the following four constituents of the moral point of view in general:

1. taking others into account in one’s actions because one respects them as persons;
2. the willingness to take into account how one’s actions affect others by taking into account the good of everyone equally;
3. abiding by the principle of universalizability—that is, the willingness to treat the actions as morally laudable or permissible only if similar acts of others in comparable circumstances would be equally laudable or permissible, and to treat the actions of others as morally impermissible only if similar acts of one’s own would be equally morally culpable;
4. the willingness to be committed to some set of normative moral principles. 8

As a third step, the presence or prevalence of these elements in the various religious traditions could be demonstrated as follows:

Taking these in reverse order, of course, different religious traditions and different cultures will specify the normative principle in (4) differently. But all traditions share universalizability (3), for as we saw when we distinguished Kant’s ethics, this is a logical feature of any morality. The willingness to take others into account (2) is a psychological feature of the moral life, and it, too, is shared by all the World
Religions. This brings us to the key shared element of the religious ethics of all the World Religions: (1) taking others into account in one’s actions because one respects them as persons. This is the crux of taking the moral point of view and so the crux of the shared ethics of the World Religions.\(^9\)

As a fourth step, the key element underlying all of these may then be identified as consisting of relationality. Thus relating to other persons becomes a key factor in moral agency. This is most obvious in the Kantian dictum that one should ‘always treat others as ends in themselves and not merely as means to an end’. It is also obvious in the Buberian ‘I-thou’ formulation: ‘When I confront a human being as my You and speak on the basic word I-You to him, then he is no thing among things nor does he consist of things.’ In other words, there is a radical difference between treating people as things and treating them as persons. To treat persons as things amounts to treating them as an ‘it’ rather than as ‘you’ according to Buber. It also means to treat human beings as less than human.\(^10\)

This brings the argument into the moral sphere. However,

The obligation to take the moral point of view is not a moral obligation, for that would be circular. However, relationality is a religious obligation, for on the view of World Religions, one cannot relate to the Transcendent unless one relates to other persons. Hence taking the moral point of view is a religious obligation. Consequently, religion supervenes on morality. That is, religion encompasses but is more than a ‘religious point of view’. Just as the moral point of view functions as the wellspring and the point of commonality and universality for moral value and truths, so too the religious point of view is the wellspring, the point of commonality, and the manifestation of universality in religion, even though the adherents of the World Religions have quite a different specific religious world-view.\(^11\)

The final step consists in recognizing that a belief in the intrinsic worth of persons is a crucial component of this point of view:

In *Relationship Morality* James Kellenberger explains the moral point of view by arguing that ‘the ultimate grounding of obligation, and finally of all morality, is a single but universal relationship between each and all,’ suggesting that it is a realization of this ‘person/person relationship’ to others which creates ‘a sense of duty grounded in a recognition of the intrinsic worth of persons’. Since religion supervenes on morality, to be genuinely religious is to realize the person/person relationship Kellenbeger identifies, but with the added or supervening dimension of the realization of a single universal relationship both among all persons as spirits and with the Transcendent. I call this universal religious relationship a ‘spirit-spirit’ relationship.

Such a belief constitutes the core moral concept of human rights.

**Ethical View of Human Rights**
If we may trace the moral view of human rights to Locke although elaborated above in
the context of world religions, we may trace the ethical view of human rights to Bentham,
despite his description of human rights as ‘nonsense on stilts’, especially as his
successor, John Stuart Mill, argued that ‘a perceptive and far-sighted utilitarian supports
strong rights both of democratic participation and of individual freedom of action’.

However, utilitarianism may not always represent a dimension of virtue or ethics; it might
even subvert it. Consider, for instance, the following social Darwinian perspective:

Judgements passed in a primitive society on the conduct of its members are
related, as far as we can see, not to the betterment of their inner nature, but only
to collective well-being; and it is argued, on this basis, that those forms of conduct
which make for the survival of society are alone praised, and those that do not are
condemned. What is good or bad for the hive is precisely what is good or bad for
the bee. This originally utilitarian motive is, in course of time, forgotten; but the modes of conduct remain, it is explained, constituting what is now styled
‘virtue’.

In other words, we feel right talking about rights because by insisting on them for others
we are only securing our overall protection. This line of reasoning is attractive but,
according to the Indian philosopher, M. Hiriyanna, specious. He goes on to explain that
even when we grant that:

What we term the ‘higher values’ have originated from modes of behaviour which
once served only utilitarian purposes, there is one peculiarity about them which
requires proper explanation. It is that, at one stage in this process of
transformation, they have come to manifest a qualitative distinction, with the
implication that they ought to be sought in preference to those that are purely
utilitarian in their character. The genetic theory has nothing to say about the
emergence of this distinction or, ‘the growth’, as it has been well put, ‘of what was
into what was not’. That is to say, it leaves wholly unexplained what, as pointed
above, is essential to the very nature of value. It should therefore be concluded
that there is something unique in the constitution of human nature, which serves as
the necessary condition of the ideal life, which, as already stated, is intrinsic to the
nature of man, and accounts for his feelings that he is not merely a finer kind of
animal...

Axiological space is thus created for the emergence of human rights. But we also notice
that this move away from the utilitarian calculus points in the direction of morality.

The Religious View of Human Rights
The moral vision as a backdrop of human rights was referred to earlier. Such a moral
vision could emerge on its own off and on, or from a secular view of the world; or it might
be grounded in a religious vision. Robert Traer seems to incline towards this last view
when he writes:
In fact, human rights are at the center of a global moral language that is being justified, elaborated, and advocated by members of different religious traditions and cultures. This is true not merely in the West but also in Africa and Asia. It is true not only in the First and Second Worlds, where liberal and socialist human rights theories have evolved, but in the Third World as well. Jews, Christians, Muslims, Hindus, Buddhists, and advocates of religious traditions indigenous to Africa and Asia fundamentally agree about human rights.\(^{16}\)

Hence human rights can also be derived, at least potentially, from the different religious traditions of the world, and not just from their shared moral universe.

\(\textbf{(p.9) II}\)

The relative merits and demerits of grounding human rights on these four foundations may now be considered. The great merit of the legal view of human rights is that they are thereby made justiciable, and can be enforced in a court of law. The great danger of adopting the legal view of human rights is that what is conferred by law can be taken away by law. The Indian experience in this respect is salutary. The fundamental rights of the Indian Constitution were in effect suspended during the proclamation of the Emergency by Mrs Gandhi in 1975.

The merit of the moral view of human rights is that they are, on that account, natural and therefore inalienable. In 1977, a questionnaire was circulated among the leaders of the Philippines by the University of the Philippines Law Centre and the Philippines Council of Policy Science. It included the following question: \textit{What do you understand by ‘human rights’? Do you believe that human rights are inherent in man or that they are granted by the state? What is your view on the subject?}

The reply given by Reynaldo S. Capule, a political leader, reflects the strength of the moral basis of human rights:

\begin{quote}
Human rights are inherent or natural and are not granted by the state. Even at the beginning of history, people existed in a society where every member had equal rights, for example, equal rights in making use of the land, equal rights to the products of labour, equal rights in the protection of the security of the individual or of the society as a whole and other rights needed in order to live.\(^{17}\)
\end{quote}

The weakness of the moral basis of human rights lies in the disputed nature of a universal morality, a concept which must be carefully distinguished from that of universal moral consciousness. It can perhaps be reasonably claimed that moral consciousness is a universal phenomenon; that is to say, everyone possesses a sense of right and wrong. However, everyone may not agree on what is right and what is wrong, and the question of a universal morality can thus become an issue. The belief is widespread among American businessmen, for instance, that the Confucian ethic sets China apart from other civilizations, a view sometimes shared by Chinese Communists.\(^{18}\)

The merit of the ethical view of human rights consists in the corrective it provides against
taking too individualistic a view of human rights, by appealing to the common good. Some of these are reflected in Articles 22–27 of the Universal Declaration of Human Rights. Such provisions enable a Third World perspective to be recognized in the Declaration, a (p.10) perspective rooted in its more communal forms of social organization, a history of collective struggle against imperialism in the colonial era and, subsequently, the widespread adoption of a socialistic orientation (now in the process of reassessment) in the post-colonial era. The shortcoming of the ethical approach is the objectification it involves of the individual in the interest of an abstract common good. An extreme example might be of help. As the per capita income is calculated on the basis of income divided by the population, it might be conceivable that reducing population could raise per capita income. Thus one must distinguish between genocide and family planning as ways of raising per capita income.

The strength of the religious view of human rights lies in its ability to tap into the deeply and widely held beliefs of the various religious traditions and even help provide a common platform around which religious zeal could be mobilized. However, its very strength can turn into a weakness, if that religious enthusiasm has already been channelled into a legal or quasi-legal structure, parts of which are antithetical to human rights. The obvious examples of such a development are the sharī'ah in Islam and the caste system in Hinduism. These obstacles may not be insuperable,19 but they are obstacles nevertheless, although Robert Traer has recently argued vigorously for anchoring the human rights tradition in the rights-positive dimensions of the various religious traditions.20 It is in this light that the following intriguing question deserves to be pursued:

An intriguing question arises as to whether differing cultures can arrive at a similar conclusion about rights by rather different routes—some via explicit philosophizing, as with Locke, Kant and others in the West; others by contemplating religious texts and duties (as here, the Mīmāṁsā and the Gītā); others again by exploiting ideas of ritual and performative behaviour towards others (e.g. li in China as a source of rights). It would be a happy outcome if so: since it would allow a confluence model of world society to establish itself—differing civilizations like so many rivers coming together, like the reverse of a delta.21

III
From the Hindu point of view, each of these bases of human rights could be aligned to one of its four fundamental axiological orientations called puruṣārthas. These are kāma, artha, dharma, and mokṣa and for our purposes may be translated as referring to the sensate, politico-economic, moral, and metaphysical dimensions of human existence. The ethical view of human rights connects with the dimension of kāma in the sense (p.11) that it involves the assessment of the relative merits of the elements desired (kāma = desire) by the individual vis-à-vis the community. The legal view can be linked with artha, which takes a positivistic view of law.22 The moral view of human rights can similarly be connected to dharma and the religious view with mokṣa.

All these links will be developed in detail in what follows but the conclusion may be
anticipated. Hindu thinking is strongly in favour of grounding human rights in morality or dharma. For grounding it in kāma would be too hedonistic, in artha too positivistic and arbitrary, and in mokṣa too remote and even transgressive. Grounding human rights in a moral vision would mean grounding them on their home ground. The task of the rest of the section is to make this point apparent.

It was claimed above that the ethical grounding of human rights can be seen as corresponding to the Hindu value of kāma. At first blush this might seem somewhat odd for several reasons. For one, Kāma is the god of love in Hinduism so that when Śiva is ‘dWelling on his sacred mountain in the Himalayas in deep yogic trance’ and ‘the Hindu god of lust, Kāma, tries to distract him from his meditation, Shiva burns him to ashes’.23 Similarly, when the affection the female devotee Āṇṭāḷ has for Krṣṇa ‘eventually turned into a desire to marry him,’ then, ‘in her devotional hymns, Āṇṭāḷ entreats Kāma, the Hindu god of love and desire, to attract Krṣṇa to her, to make him her husband’.24 What has all this to do with human rights? So far nothing except perhaps her right to marry under Article 16 though we are not sure whether she had the ‘free and full consent of the intending spouse’, namely God. However, kāma or ‘the quest for pleasure’,25 as a value, usually considered an inferior value, was raised to the highest when directed towards God. This creates room for translating kāma in our own context as the satisfaction of desired ends. This enables the utilitarian calculus to be brought into play, as well as the lapidary utterance, which evokes the right not only to life and liberty but also ‘the pursuit of happiness’. What is right and wrong with this grounding of human rights in kāma becomes clear if we follow the example of Gilbert Harman as applied by James Fishkin:

Let us first imagine a doctor who must choose between concentrating on one patient to the exclusion of five others in an emergency situation or saving the five others. In this simplified situation, if we must choose between saving one life and saving five, many of us would support the utilitarian calculation that the five be saved. I say ‘utilitarian’ because in introducing no further facts about the six patients, I am making it easy for a utilitarian to count them equally and to treat the saving of life as a placeholder for the production of a future stream of utility. Furthermore, this calculation would appear quite favourable to utilitarianism because by counting lives rather than utilities or dollars, I am permitting the utilitarian to avoid the well-known Paretian difficulties with interpersonal comparisons.

The second step in the example is to imagine the same doctor with five patients, each of whom require a different organ (one a kidney, another a lung, another a heart, etc.). Without the required transplants, they will each die in the immediate future. The difficulty is that there is no available donor.

There is, however, a patient in room 306 who has all the required characteristics and organs in good condition. He has checked in for a routine set of physical exams. If he were killed and the required organs redistributed, five lives could be saved at the cost of one lost.
Now, this is the point in anti-utilitarian horror stories when the rejoinders focus on the dangers of exceptions, the value of maintaining ongoing practices, and the disutility of a climate of fear that might be created if exceptions to an on-going practice—such as those defining the routine physical exam—were permitted. Much that Gibbard says along these lines is persuasive. Furthermore, his proposed right to protection from arbitrary loss of life or liberty might be held to protect the patient in room 306—even when the utilitarian calculations might support taking his life in the interests of saving five others (and even when secrecy and deception might be employed to prevent fear and other forms of disutility from entering the calculation).  

This scenario is not inconsistent with the picture of the Indian materialists who acknowledge only kāma as the primary value, for whom ‘the morality of an action depends on the quantity of pleasure it yields’, this pleasure principle being elevated to a communal level in our context, which requires a move from a hedonistic to a utilitarian interpretation of kāma.

The legal view of human rights pertains to the Hindu value of artha, especially as elaborated in the Arthaśāstra, a famous text on polity, and sections dealing with similar topics in allied literature. The value of artha is held to be supreme by the ‘legalists’, taking precedence over dharma or morality per se. This trend culminates in the Nāradasmrī, which establishes the royal command as the ultimate source of dharma. It has even been maintained that in the light of this value:

The state is welcomed by those who wish prosperity and property. Private property is a creation of the state. Through fear of the king the property of the weak is secured: ‘If the king did not exercise the duty of protection, the strong would forcibly appropriate the possessions of the weak, and if the latter refused to surrender them with ease, their very lives would be taken. Nobody then, with reference to any article in his possession, would be able to say “this is mine”.

(p.13) The religious view of human rights pertains to the value of mokṣa. The difficulty in sustaining this view as a basis of human rights is both sublime on the one hand and mundane on the other, specially when viewed from the perspective of a major school of Hindu thought known as Advaita Vedānta. The person who, in this life, has attained the summum bonum of life, although active in life, no longer acts ‘from any selfish impulse or even from a sense of obligation to others’. In fact, ‘the common laws of social morality and ritual which are significant only in reference to one striving for perfection are meaningless to him’. So much so that ‘impulse and desire become one to him. He is not then realizing virtue but revealing it’. It is clear that in this form of liberation (mokṣa) the liberated person may see no ‘other’ vis-à-vis whom rights may be asserted.

The whole issue of human rights is predicated on distinctions among human beings and objects, but this whole worldview tends to be undermined by this version of the liberative vision of Hinduism, which possesses a pronouncedly unitive character. M. Hiriyanna highlights this point with exceptional clarity:
What is the bearing of such a view of ultimate reality on our everyday life? The most striking feature of the latter is the conviction, which it involves, viz., that diversity is real and ultimate. The presupposition of most, if not all, of the activities of life is that one man is different from another. The very efforts made through social and political organizations to unify men imply that they regard themselves as distinct. If man is distinct from man, his distinction from his physical environment is even clearer. It is not merely man that is distinct from matter; matter itself, whether it serves as an adjunct of the self like the physical body and the organs of sense or as its environment, seems to be diverse in its character, each object having its own individuality or, as the Upanishads express it, its own name (nāma) and its own form (rūpa). It is obvious that, if monism is the truth, no part of this diversity can be ultimate. That is the significance of the teaching of the Upanishads, so far as our common beliefs are concerned.\(^{36}\)

On the mundane side, the liberated person, under the influence of his or her previous \textit{karma} being worked out, may not respect the rights of others as in the case of a figure called Alarka\(^{37}\) but this is rare though qualitatively significant.

It is the axiological orientation of Hinduism provided by the value of \textit{dharma}, which seems to hold the best promise in offering a solid grounding of human rights, but only after some caution has been exercised in this respect. Although the term \textit{dharma} has a multitude of meanings and associations, one needs to identify and distinguish between three senses (p.14) in the present context. The first is the use of the word \textit{dharma} in a ritualistic context, as in the school of Mīmāṁsā. The point to be specially kept in mind is that the Veda teaches \textit{dharma} (religious duty). What is \textit{dharma}? It is what is enjoined in the Veda ... [However] the commands of the Veda should not be mistaken for those of ordinary morality [although] it is true that ordinary morality is required for a man before he gains competence to perform the rituals enjoined in the Vedas.\(^{38}\)

The word \textit{dharma} has another meaning as well. From another perspective the duties \textit{[dharma]} are ‘those of the castes (varṇa-dharma),’ and ‘those of the stages in life (āśrama-dharma)’.\(^{39}\) These two are jointly referred to as varṇāśrama-dharma and are not likely to carry us very far in the present context as they are specific to class and station in life.

We are now left with the third sense of the word \textit{dharma}—sādhāraṇa-dharma, or duties common to all irrespective of class or station in life. Their presence in Hinduism has not received the recognition it deserves. They have been living, as it were, under the shadow of the varṇāśrama dharma and often considered secondary to it,\(^{40}\) although this is a moot point. Let us therefore first give them the recognition they deserve. P.V. Kane, the noted authority on Hindu texts dealing with \textit{dharma}, writes:

Apart from the specific qualities required to be possessed by the members of each
of the four varṇas, all Dharmaśāstra works attach the highest importance to certain moral qualities and enjoin them on all men. Manu X. 63, Yāj. I.2, Gaut. Dh. S. VIII. 23–25, Matsya 52.8–10 (quoted above on p. 1652) prescribe for all varṇas a brief code of morals, such as ahimsā, truthfulness, non-stealing (i.e. no wrongful taking of another’s property), purity and restraint of the senses. The Mītākṣarā on Yāj. I. 22 explains that the word ‘sarveśām’ therein states that these moral qualities if practised are the means of Dharma for all men from brāhmaṇas to caṇḍālas.41

It is these qualities which establish a person as a virtuous, self-regarding human being who regards others as well. The ability to practise such virtues is a special feature of being human—a sign of human worth and dignity. This consideration is further enhanced by the fact that, among all creatures, human beings are said to be the ones best poised for salvation. The quest for such salvation requires five negative and five positive observances, which are unaffected by considerations of time and space and therefore truly universal (Yogasūtra II.30 - 1). These are virtually identical with the sādhāraṇa dharmaś.42 It is therefore our view that a Hindu perspective on the bases of human rights would recommend their grounding in morality, the brand of universal morality just mentioned.

(p.15) One might also add that Hinduism displays a special consciousness of the weaknesses associated with other groundings of human rights—the utilitarian, the legal, and the religious (i.e., metaphysical). A popular didactic verse considers the utilitarian approach as crass. It declares that ‘it is the small-minded who calculate on the basis of his and mine, for the large of heart look upon the whole world as a single family’. Moreover, the utilitarian willingness to sacrifice the person for ‘the larger calculation’ (read institution) does not sit well with Hinduism.

A theme running throughout Hinduism is that institutions exist for the sake of man. The state is to serve the best interests of individual human beings. Somehow nations tend to lose this simple truth. Brotherhood becomes a United Nations rather than a united people. Nations become competitive rather than cooperative, and the game of nations becomes too expensive and too dangerous to play. How much longer can nations spend over half their wealth and production for the weapons of war? What is the point of wars in which everyone loses? Why wage a war in which no one survives? Can the authority of nations be based on dharma rather than on danda (coercive power)? India has raised such questions, and she has refused to enter into the cold war. She has chosen an international policy of nonalignment. This is an expression of a universal humanism or a human Catholicism, which has been at work in India for many hundreds of years. India out of her Hindu tradition may yet lead the nations of the world into a new form of nationalism, which is more humanistic than nationalistic. Hinduism speaks for humanity against the nation. Mankind awaits the implementation of the ancient Vedic admonition:

One and the same be your resolve, and be your minds of one accord.
Hinduism in general also recoils from the purely legal approach. The concept of the golden age in Hinduism is one in which everyone performs his or her duty, so that everyone’s rights are simultaneously honoured. Human rights thus are our rights as human beings. This ties into another dimension of dharma which equates right with rights, and sees no need for a positivistic affirmation, an attitude which according to Troy Wilson Organ is quite consistent with democracy with its emphasis on rights:

Two aspects of Hinduism may be mentioned as relevant to the democratic experience. One is the doctrine of dharma. The possibility of organizing a state composed of people for whom duty is the way things are done rather than an obligation one assumes under coercion is very appealing. The Hindu does his dharma not because he is forced to, not because he is afraid not to, not because he enjoys it, but because one’s dharma is just what one does. The notion of not doing one’s dharma is almost incomprehensible to the Hindu. Dharma-motivated people ought to make good citizens in a democracy. The other aspect of Hinduism, which is important for democracy in India and in the world, is what may be called humanism.

As for the moksha or religious orientation, Troy Wilson Organ once again highlights the fact that humanism suffices for Hinduism. Hence the title of his book: The Hindu Quest For The Perfection Of Man, from which we cite:

The Perfected Man is the Universal Man. Individuality is not lost but is elevated and dignified as each man mirrors the Ideal Man according to his own talents. Both the Man and all men participate in the goal of the perfecting process; thus catholicity is manifested idealistically and pluralistically. Hinduism so conceived is Visvajanina, a catholic religion. The Bhagavad Gita, the one scripture common to all Hindus, is sometimes referred to as ‘the gospel of humanity’. Rabindranath Tagore was characterized by Nehru as ‘the great humanist of India’. A fine Baul song celebrates the glories of man, and sets the theme for this final chapter:

Man, man, everyone speaks of man!
What is man?
Man is health, man is life, man is the jewel of the Heart;
Very few on earth know the truth of Man.
Man knows a love, which other creatures know not,
Man’s love helps him to know the Real Man,
Thus man knows Man;
The strength of man-in-Man is understood by man alone.

Troy Wilson Organ then proceeds to point out how Vedic thought becomes progressively anthropocentric. While the Vedic hymns treat of the gods and the Brāhmaṇa texts deal with ritual, the focus of the Upaniṣads is increasingly the human being. This then becomes a constant feature of Hindu thought. In the Mahābhārata it is disclosed as the truth of
truths by Bhīṣma, as the supreme secret doctrine: ‘This is the secret and supreme doctrine I announce to you. There is nothing in the universe higher than man.’ In the same spirit Tulsidās declares in the Rāmcaritamānas: ‘know that devotee of Rāma to be greater than Rāma’, while Caṇḍīdāsa, another famous medieval poet declares: ‘Listen, brother man; the truth of man is the highest truth, there is no truth above it.’

After all, it is morality which sets human beings apart anyway, according to the popular Hindu view.

IV
The point is not without contemporary significance. The central consideration one must take into account here is the fact that although the Indian constitution lists an impressive series of “fundamental rights” ... it does not ground them in anything, whether in individual human nature, the requirements of human community, or the creative intention of God. What can be created by legislative fiat can be altered or abrogated in the same way. The practical significance of this observation is illustrated by P.V. Kane’s observation that so far as the Indian Constitution is concerned, from 1950 there have been ten amendments [this was written in 1962] while in the USA there have been only 22 amendments during a period of about 170 years. The very first amendment was made within less than a year and a half from the day the Constitution came into force. It affected about a dozen Articles, among which there were three Articles dealing with fundamental rights, viz., 15, 19, 31. One fails to understand the meaning of the words ‘fundamental rights’ in a Constitution which took over two years of deliberations, if they could be changed within [sic] a year and a half.

Professor J.B. Carman observes very pertinently, while assessing Professor P.V. Kane’s negative verdict:

It has been pointed out in another critical analysis of these fundamental rights that the Indian equivalent of ‘due process’ in American law is legislative enactment. There is therefore no explicit appeal to that which is right (ius) beyond the letter of the enacted law (lex). This is a point that Professor Kane does not make, but it is not very far away from his major concern, that the constitution does not recognize the fundamental dharma affirmed by the Hindu tradition and sets no spiritual obligation for the state itself or for the people.

He is also quite correct in his observation that ‘this is a point on which scholars of the Hindu tradition, both inside and outside it, are likely to agree, even if they have difficulty in agreeing on the content of dharma’.

Those who have pursued this line of thought, however, have tended to show a striking tendency in the present context towards understanding dharma in the sense of duty. One may give the pride of place here to Mahatma Gandhi (1869–1948) who declared, when asked what he thought of the Universal Declaration of Human Rights, before it was
adopted in 1948:

I learnt from my illiterate but wise mother that all rights to be deserved and preserved came from duty well done. Thus, the very right to live accrues to us only when we do the duty of citizenship of the world. From this one fundamental statement, perhaps it is easy enough to define the duties of Man and Woman and correlate every right to some corresponding duty to be first performed.\(^{50}\)

We found that although human rights can be connected with each of the four components of the Hindu doctrine of purusārtha-catuṣṭaya or (p.18) catur-varga (the doctrine of the four ends of life), it is arguably the dimension of dharma or morality which seems to provide the most secure anchor for it. The word is usually understood in its sense of duty when so employed. Elsewhere also Gandhi remarks on the ‘validity only of those rights which were directly derived from duty well performed’.\(^{51}\) His political heir, Pandit Nehru, lamented, while delivering the Azad Memorial Lectures on ‘India Today and Tomorrow’ in 1959:

All of us now talk of and demand rights and privileges, but the teaching of the old dharma was about duties and obligations. Rights follow duties discharged.\(^{52}\)

The pre-eminent modern scholar of classic Hindu law, Professor P.V. Kane, shared this sense of grievance and articulated it at some length. He remarked that ‘the Constitution makes a complete break with our traditional ideas. Dharmasūtras and smṛtis begin with the dharmas (duties) of the people (varṇas and āśramas)’.\(^{53}\) He goes on to cite Pandit Nehru as noted above, and after pointing out that according to him ‘rights follow duties discharged’ he adds: ‘unfortunately this thought finds no place in the Constitution’.\(^{54}\) It is significant, though, that when he actually addresses what kinds of dharma should be invoked in the context of the Constitution, he turns not to varṇāśrama, but sādhāraṇa dharmas, or duties common to all:

It is remarkable that the directive principles of state policy mostly contain provisions on the economic system for raising people’s standard of living (Art. 43, 47, &c.), i.e. it lays emphasis only on the material things for the people. It seems to be assumed that if material prosperity or benefits are assured for, then there is nothing more to be done by the State. The present author feels that the Directive Principles should also have put equal or greater emphasis on moral or spiritual values and should have called upon the State to promote among the people high moral standards, self-discipline, co-operation, sense of responsibility, kindliness, high endeavor. Man is a many-sided being. The satisfaction of mere physical needs is not enough. Man has intellectual, spiritual, cultural and social aspirations also. The socio-economic pattern for the future must be based on the foundation of the best part of our traditions, the rule of dharma, the duties common to all as declared by Manu X. 63 and Yāj. I. 122. A secular state should not and does not mean a godless state or a state that has nothing to do with moral and spiritual values.\(^{55}\)

One way to take this comment is to look upon it ‘as the overly idealistic and impractical...
reflection of a retired professor—Kane was then eighty-two’,\textsuperscript{56} as J.B. Carman suggests. But he also hints that P.V. Kane may be expressing a concern here with the fact that the Constitution does not appeal to anything beyond the letter of the law, that this is a shortcoming (p.19) and that it could perhaps be rectified by an appeal to \textit{dharma}, not to the \textit{dharma} specific to the stations and stages of life, but to the \textit{dharma} which consisted of ‘duties common to all’.

What is implicit in Kane is made explicit by R.C. Pandeya, who ‘stresses that for the Indians all rights are derived from duties’, and thus suggests that ‘the first principle of human rights is buried in Article 29 of the Universal Declaration of Human Rights: ‘Everyone has duties to the community in which alone the free and full development of his personality is possible’.\textsuperscript{57} This shift in emphasis from the individual to communal dimension of \textit{dharma} is to be welcomed and constitutes a major transformation in Hinduism wrought by Mahatma Gandhi through precept and practice. Nevertheless, it also poses a difficulty in the present context. To the extent rights are made dependent on duties, they remain vulnerable to abridgement. It could be argued that rights represent aspirations, which may never be fully achieved. Our point is that if they are not considered inalienable, they become vulnerable to abridgement both in principle and in practice. One must distinguish here between the principle and practical promise of rights. Our fear is that they become liable to being compromised even in principle, if linked to duties as a matter of principle. Howsoever wholesome this connection might seem on the face of it, nevertheless, it seems desirable that rights must have more than merely a reciprocal existence and that they must possess a moral location where they could continue to reside despite any breach in theory or practice. Our objection is that morally locating them in duties leaves them vulnerable in the very manner from which we wish to protect them most. This point may be strengthened with the help of a contemporary example. An amendment was introduced in the Indian Constitution during Mrs Indira Gandhi’s Emergency as Article 51-A detailing the duties of Indian citizens. While it is tempting to think that this could be an attempt to ground the Constitution in something beyond it, like \textit{dharma}, the facts indicate otherwise. During this Emergency, many of the fundamental rights were suspended and it could be argued persuasively that the intention here was to make people more duty oriented so that they become \textit{less} assertive of rights, many of which were suspended during the Emergency. If this was indeed the reason, the insertion of the section on duties was more than just a political act, it might well have constituted a profound attempt at cultural and even religious manipulation, which had gone unnoticed and remains undetected.

Once it is conceded that human rights, in the Hindu context, should be grounded in morality and not left free-floating as it were, the next question which arises is: should they be tied to a specific moral value or be \textbf{(p.20)} left to free-associate, as it were, with the whole range of moral values in Hinduism? Our reluctance to tie them with duty as such suggests the need to be more specific in this respect. At this point the suggestion could be made, on the basis of the following passage in the \textit{Brhadārānyaka Upaniṣad} (I.4.14) that human rights could be tied to the ultimate reality or truth, that is, \textit{satyam}, with justice as the vital link between the two:
Verily that which is justice (dharma) is truth (satyam). Therefore they say of a man who speaks the truth, he speaks justice or of a man who speaks justice, that he speaks the truth. Verily, both these are the same.\textsuperscript{58}

This thread, while it is being relinquished here, will be picked up in a later chapter.

Conclusion

Hindu axiology has been closely associated with the fourfold grid of the puruṣārthas. In this chapter we discovered that the various connections which can and indeed have been made, both in terms of Indian and Western thought, between human rights and values in each of the quadrants below.

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Dharma + Artha
\(\downarrow\) Kāma \(\uparrow\) Mokṣa
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After an analysis of the connections which can be forged between human rights and each of the values, it was felt that dharma or morality provides them with the safest anchor in Hinduism, when the term is understood to represent the category of sādhāraṇa dharma or sāmānya dharma.

This conclusion, however, is open to some criticisms which must be met before it can be accepted. It could be argued that such a conclusion relies excessively on the fourfold division of the goals of human endeavour known as the puruṣārthas. According to this view such a classification lends a certain neatness to the argument but at the cost of oversimplification. There is considerable merit in this criticism and it could be plausibly maintained that the fourfold classification is an attempt to reduce the teeming plurality of human aspirations to manageable proportions. It could even be urged that the number four here is merely a numerical code for many and further that this logic may apply not only to the doctrine of four puruṣārthas but also to the doctrine of four varṇas (or classes); four āśramas (or stages of life); and four yugas (or ages). Thus (p.21) these expressions could be read as alluding to many classes, many periods of life, and multiple divisions of time. The fact that the expression nānāvarṇa also appears in Hindu literature along with caturvarṇa lends further credence to this view. The conclusion is also capable of being questioned from another perspective as well. One could ask ‘whether such distinctions are really productive in view of the more integrated approach taken by Hindu philosophy and the conceptual categories themselves’. According to this view the categorization of human endeavour into dharma, artha, kāma, and mokṣa is no doubt a feature of Hindu axiology but

This categorisation does overlook the fact that there are not such clear divisions in Hindu thought or, rather, that these divisions exist in the Hindu mind and the interpretations of scholars, but there is more to be said about the interrelationship of those four categories. The problem that is not discussed, whereas it should at least be raised, is that in Hindu thought of all orientations and descriptions, dharma is more or less explicitly seen as a super-category comprising all four elements. Indeed this term has many meanings. All the aims of human life are linked to
dharma as the central cultural expectation that everyone and everything should be conducive to maintenance of a higher order, maybe the Hindu ‘rule of law’, but certainly not a modern human rights agenda.\textsuperscript{59}

These criticisms are helpful as warnings against an over-reliance on the fourfold classification but it is possible to maintain that the significance of these criticisms in terms of the main argument is rather limited for the following reason. The basic point that the concept of human rights can be related to the concept of human aspirations in Hinduism remains unscathed. What is at issue is the level of categorization. When looked at in this way the criticisms actually end up by strengthening the conclusion. When it is argued that human ends may be more than just four, or rather many, the justification for human rights can similarly be broadened in line with the recognition of their plurality. For instance, the category of \textit{artha} alone can include the case for both kinds of human rights—the political-civil and the socio-economic. Similarly, the category of \textit{kāma} can cover reproductive as well as cultural rights. Thus the link between human rights and the doctrine of human aspirations in Hinduism is not snapped, rather it is so close that it can stretch or contract as the terms of reference are modified. Telling evidence in favour of this comes from the suggestion that the primary focus on \textit{dharma} should not be allowed to be obscured by other \textit{purusārthas}. It has already been pointed out that the justification for human rights in Hindu terms is most solidly forthcoming from \textit{dharma} itself.

\textit{(p.22)} A more substantial critique has to do with the understanding of \textit{dharma} as ‘an idealistically self-controlled order ... grounded in the individual and the local, not in some national or even international sphere [as the] primary locus for the production of human rights principles in the Hindu context’.\textsuperscript{60} The concept of \textit{dharma} includes this view but is not confined to it or confined by it, as will be demonstrated amply in subsequent chapters, just as human rights discourse cannot be confined to or confined by one dimension of it.\textsuperscript{61}

**Derogability of Human Rights**

Current political and legal discourse is so replete with appeals to human rights as to leave the impression that human rights discourse does not provide for their derogation in any context. This may indeed be true in the sense that human rights represent norms which we would ideally never like to see compromised. A reading of the 1948 Universal Declaration of Human Rights reinforces such an impression. However, the Declaration receives its concrete form in the Covenants which were adopted by the various nation states comprising the UNO. These documents yield to realism in recognizing that under certain conditions it may be permissible not to hold the states accountable to the ideal level of performance. In other words, human rights could be considered derogable under certain circumstances.

This is an issue which must now be faced squarely for both practical and theoretical reasons, specially as two relatively recent events, one more recent than the other, serve to highlight such vulnerability of human rights discourse. The first of these is the Emergency imposed by Mrs Indira Gandhi, as India’s Prime Minister, in 1975 and the
second is the war against terrorism on which the USA has embarked after 11 September 2001. The fact that India and the USA constitute the largest democracies in the world may help exalt them to the status of paradigm cases, which actually cuts to the heart of the matter. Human rights first emerged as citizens’ rights against the power of the state, but what if the state itself feels threatened either through actual or perceived danger to its existence, by internal rebellion as was the case with the Emergency imposed by Mrs Gandhi, or by external terror as is the case with the war against terrorism currently being conducted by the USA? The immediate effect in both the cases was the curtailment of citizens’ rights and, therefore, human rights. This happened quite explicitly during the Emergency in India from June 1975 to March 1977, and also seems to be a likely fallout of the current war on terrorism in the USA, given the regnant mood that ‘national security trumps human rights’. What is one to make of such developments as they seem to strike at the very basis of human rights?

What makes the issue particularly important is that it is not an unanticipated one. Both the Covenants referred to in the earlier part of this chapter provide for derogations to be made in times of emergency, just as all constitutions provide for the suspension of rights in the case of internal rebellion and external aggression. In such a context it seems only fair to ask: if Hinduism could provide bases for human rights, does it also provide for their derogation?

Hindu ethics and jurisprudence do indeed possess a category which broadly conforms to that of derogability, namely, that of āpad-dharma or simply āpat. J. Duncan M. Derrett explains:

An entire chapter of the ṣāstra (supposedly obsolete today—or perhaps, on the contrary, the only justification in the eyes of the orthodox for their own anomalous proceedings) is devoted to āpat, ‘time of distress’. It throws light on the character of the injunctions themselves. This is a law of exceptional circumstances. The theory was that restrictions on powers and the seriousness of social misconduct and crimes were automatically modified in a time of distress. This usually meant public distress, such as invasions by the enemy, drought, famine, plague and the like. In such circumstances marriages otherwise improper could be entered into, improper adoptions could be performed and, most striking of all, the normal precaution against crime and sin might be relaxed.

He goes on to say:

Moreover, as we see from Manu XI, 16–18, which enables a Brahman to steal from a person of lower caste enough to stay his hunger if he has not eaten in three days, even a personal distress, not really qualifying for the relaxations appropriate to āpad, which should be a general misfortune, may serve to vary the normal rigour of the law. It must therefore be borne in mind that the interpretation of the law was never complete unless the surrounding circumstances of the alleged offender had been taken into account. The full rigour of the ṣāstra unmodified by āpad-dharma would seem to most Hindus of today unreasonable, though the courts have never
applied that system of modification consciously.\textsuperscript{65}

A typical example of its application would be the following: a member of a ‘caste’ is normally expected to follow one’s own allotted vocation, but in a time of crisis (\textit{āpad-dharma}) one may adopt the mode of living of another, usually lower caste. Certain rules are meant to be observed sometimes even in the process of such ‘derogation’ but the main point should be obvious. By analogy then one could argue that \textit{āpad-dharma} (p.24) conforms in its essentials to the concept of derogability. Nevertheless there is need to proceed with caution.

The discussion of \textit{āpad-dharma} in Hindu jurisprudence typically proceeds in the context of caste, or what is called \textit{varṇa-dharma}. The category of \textit{varṇa-dharma}, however, thus typically applies to all the four \textit{varṇas}: those of priest (brāhmaṇa); warrior (kṣatriya); agriculturalist and trader (vaśya); and labourer or servant (śūdra); while that of derogability applies to the state. The general treatment of \textit{āpad-dharma} in Hindu literature thus suffers from overdetermination in the present context. The proper parallel here, it seems, is not provided by the \textit{varṇa} system in general but the category of what is called \textit{rāja-dharma} or duties of the king in terms of Hindu taxonomy, a category which properly constitutes a subject of \textit{kśātra-dharma}. So the question one now needs to ask is: what do Hindu texts say about the role of \textit{āpad-dharma} in the context of \textit{rāja-dharma} rather than in the context of \textit{varṇa-dharma}?

It is interesting then that the category of \textit{āpad-dharma} is not applied to \textit{rāja-dharma} as such. It is rather the duty of the king to assist people in times of crisis. Thus if the \textit{varṇas} cannot follow their vocations, it is the duty of the king to maintain those brāhmaṇas, kṣatriyas, vaisyas, and śūdras who could not maintain themselves.\textsuperscript{66} This is not to say that the texts take a Pollyannaish view of politics, for it is interesting in this context that the Twelfth Book of the \textit{Mahābhārata} deals simultaneously with \textit{rāja-dharma} and \textit{āpad-dharma}.\textsuperscript{67} The possibility that a dynasty may be threatened is visualized. Thus ‘when the survival of a dynasty is threatened, actions which would otherwise be unrighteous (\textit{adharma}) could be righteous (\textit{dharma}) and vice versa’.\textsuperscript{68} It is perhaps also instructive that this reversal is compared to the dispensation from dietary laws during famine, such as approval of Viśvāmitra’s stealing dogmeat [sic] from an untouchable’.\textsuperscript{69} The typical example is provided by the possibility that ‘a king may ruin his enemy’s state by the killing of people and destruction of roads and mines …’

This provision however refers to the king’s behaviour towards the subjects of another kingdom. The proper example to consider then would be the steps the king could take in the event of a crisis in his own kingdom, for example, a financial crisis. P.V. Kane notes that

\textit{Kauṭ (V.2), Manu (X.118), Śānti 81, Śukra IV.2.9–10} permit the king to take even one-third or one-fourth part of the crops in time of distress (\textit{āpad}). It has however to be noted that Kauṭilya requires the king to beg (\textit{yāceta}) of the people for this heavy taxation, he employs the word (\textit{pranayā}) request for such demands, such taxation was not to be levied from inferior lands, and he expressly says that such \textit{(p.25)} a demand for excessive taxation is to be made only once and not twice in
the same distress. Śānti (81.26–33) contains a specimen of a long address to be given to the people when a king demands higher taxation in danger (such as ‘if the enemy invades you, you will lose all including your wives, the enemy will not restore to you what he robs you of’ &c). The word ‘praṇaya’ occurs in this sense in the Junagadh Inscription of Rudradāman (E. I. vol. VIII. p. 36 II 15–16).70

These measures, though burdensome, are hardly violative of the rights of the citizens. A sūtra of Pāṇini (VI.3.10) also refers to certain specific taxes.

These appear to have been customary levies imposed by the king on special occasions to meet urgent expenditures. Some of these taxes in modern terms are pāg (per head), tāg (per adult of poll tax), hār (per plough), etc. It may be noted that Pāṇini does not name them by the usual word kara for ‘tax’, but they are known by the more emphatic word, kāra. Pāṇini mentions a special class of officers named Kāra-kara (III.2.21), who it appears, were entrusted with the raising of these taxes. The Samañña-phala Sutta mentions an officer called Kāra-karaka (II.38).71

A provision in the Arthaśāstra of Kauṭilya (V.2) does allow seizure of wealth from seditious or irreligious elements in a crisis, which is violative of human rights. It should however be set alongside the fact that the Yājñavalkya-smytri (II.192) requires the king to respect the usages of heretical sects presumably in normal times,72 although sometimes this instruction is restricted to sects not opposed to the Vedas.73 These examples serve to illustrate the operation of the principle of āpād-dharma in the context of rāja-dharma.

The concept of āpad-dharma in the context of rāja-dharma is also conceptually matched by the āpad-dharma as it applies to praṇāja-dharma, or the rights and duties of the citizens. The Mahābhārata (Anuśāsanaparva 61.32–33) exhorts the people to ‘gird themselves up and kill a cruel king, who does not protect his subjects, who extracts taxes and simply robs them of their wealth ...’74 Provisions in Śānti-parva (92.6), Manu (VII.27.34), and Yājñavalkya (I.356) are less drastic and ‘appear to justify at least deposing a king if not tyrannicide’.75 A notch less drastic is just driving the king away. Taṭṭtiṛīya Samhitā (II.3.1) provides early evidence of kings being driven away and in fact the ‘Sautrāmaṇī iṣṭi is prescribed as a rite for a king to regain a kingdom from which he has been driven away’.76

If for some reason the king proved irremovable, the subjects could simply leave his kingdom, following the line of least resistance. In fact the ‘most potent independent action of the people ... was emigration to another kingdom’.77 Thus in ‘the fifth century AD a whole silk-weavers’ guild moved from a town in Lāṭa (southern Gujarat) to Daśapur (modern Mandasor) in Mālvā (Madhya Pradesh)’.78 In one instance from south India under the Hoysalas (c. twelfth and thirteenth centuries), ‘the government yielded in its tax demands, and the people returned’.79

Hindu jurisprudence thus provides for the exceptional case in the context of the caste duties; the duties of the king towards the subjects and of the subjects towards the king
in a way, comparable to that of derogation in the context of human rights—and may therefore be judged hospitable to such a concept.

Notes

Notes:


(5) Robert Traer, op. cit., p. 15, note 58: ‘For instance, Amnesty International, which today provides invaluable advocacy in defence of the human rights of prisoners of conscience, was founded by Peter Berenson. Why did he do it? “We know from things he’s said that Eleanor Roosevelt and Martin Luther King were influences, yet in his own chemistry there was his Jewish background, the bell of the Holocaust still tolling, and his Catholic belief, shaped in part by the peasant Pope, John XXIII, who stripped layers off an ossified, even corrupt church and revealed the freshness of the liberating teaching of Jesus of Nazareth beneath”, Jonathan Power, *Against Oblivion: Amnesty International’s Fight For Human Rights*, 218.’


(8) Ibid., p. 188.

(9) Ibid.

(10) Ibid.

(11) Ibid., pp. 188–9.


11.

(15) Ibid.

(16) Robert Traer, op. cit., pp. 10–11

(17) Cited in Robert Traer, op. cit., p. 163.


(20) Robert Traer, op. cit., passim.

(21) Ninian Smart and Shivesh Thakur (eds), Ethical and Political Dilemmas of Modern India, New York: St. Martin’s Press, 1993, p. xi.


(24) Ibid.


(28) Ibid.


(30) Ibid., p. 22.

(31) P.V. Kane, op. cit., Vol. III, p.9.

(32) Hartmut Scharfe, op. cit., p. 215. Also see A.L. Basham, The Wonder That Was India,


(39). Ibid., p. 69.


(44). Ibid., p. 372.


(47). Cited, ibid.

(48). Ibid.

(49). Ibid., p. 119.


(53) P.V. Kane, op. cit., Vol. V, Part II, p. 1664.

(54) Ibid.

(55) Ibid., pp. 1669–70.

(56) John B. Carman, op. cit., p. 120.


(59) Anonymous referee’s remarks.

(60) Ibid.


(65) Ibid., p. 96.

(66) P.V. Kane, op. cit., Vol. III, p. 59.

(67) Hartmut Scharfe, op. cit., p. 18.

(68) Ibid., pp. 211–12.

(69) Ibid., p. 211, note 60; see Mahābhārata XII. 139.36ff.

(70) Ibid., p. 211.


(72) P.V. Kane, op. cit., Vol. III, p. 158.
(73) Ibid., p. 104.


(75) Ibid.

(76) Ibid.

(77) Hartmut Scharfe, op. cit., p. 68.

(78) Ibid., p. 171.

(79) Ibid., p. 171, note 406.

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