

2652

UNIVERSITY OF NEW SOUTH WALES  
SYDNEY, AUSTRALIA, 30 JANUARY 2013

MARTYRS' DAY  
GANDHI ORATION

WHAT WOULD GANDHI SAY TODAY?

The Hon. Michael Kirby AC, CMG

UNIVERSITY OF NEW SOUTH WALES  
SYDNEY, AUSTRALIA, 30 JANUARY 2013  
MARTYRS' DAY  
GANDHI ORATION  
WHAT WOULD GANDHI SAY TODAY? \*

THE HON MICHAEL KIRBY AC CMG  
One time Justice of the High Court of Australia  
Honorary Adjunct Professor University of New South Wales



## M.K.GANDHI – SYMBOL AND MAHATMA

Mohandas Karamchand Gandhi lived and breathed the human life as we do. His journey was extraordinary. It was caught up in the cause of liberty and independence for the people of the Indian subcontinent, and earlier the people of South Africa. He is now revered worldwide, including in Australia.

---

\* The author acknowledges the assistance of Liam Wyatt with materials used in the preparation of this oration; and of the Library at the Indian High Commission in London. Responsibility is the author's alone.

He was born into a respected family. He was sent to England to train as a barrister. He was admitted to the Bar by Inner Temple, later erased from its records but subsequently restored with pride, as a Master, a rank I feel humble to share with him. In South Africa, he discarded, the practice of law. Yet he never lost his advocate's skill with words, reasoning and persuasion that the law's discipline had taught him.

Almost a century ago, he was named Mahatma or "Great Soul". That is how, for almost 100 years he has been known to the world. Unlike earlier and later independence leaders, he set out to achieve his goals by a particular strategy. *Ahimsa* (love, non violence and pacifism). He mixed this with an infuriating cocktail of speeches, negotiations, writings and great marches that, in the end, brought a vision of a better world, to two subcontinents and eventually to all humanity. As the world knows, he was assassinated on this day in 1948, 65 years ago. He is named in India the Father of the Nation. But he belongs to the world, to humanity and to the larger biosphere of animal and plant life.

I thank this University for inaugurating this lecture. The occasion gives Australians the opportunity to turn their thoughts to this Great Soul. He was fallible, paradoxical, annoying, sometimes inconsistent and often puzzling, as all human beings are. A recent biography of him by Joseph Lelyfeld, finishes, fairly I think, in these words:<sup>1</sup>

“In India today, the term “Gandhian” is ultimately synonymous with social conscience; his example – of courage, persistence, identification with the poorest, striving for selflessness – still has a power to inspire, more so even than his doctrines of non-violence and techniques of resistance, certainly more than his assorted dogmas and pronouncements on subjects like spinning, diet and sex. ... [T]he inspiration is still there to be imbibed; and when it is, the results can still be called Gandhian, although the man himself, that great soul, never liked or accepted the word.”

This University has taken several steps of late to strengthen Australia's links with India, the largest democracy. Those links have been neglected in the past. Let us

---

<sup>1</sup> Joseph Lelyveld, *Great Soul*, Knopf, New York, 2011, 349.

therefore, on this anniversary night, reflect first upon Gandhi's life. Let us derive from his acts and words, ideas to guide us in the very different world of the here and now. With such an amazing life, and so many ideas and propositions (several contradictory), it would be easy to get lost in the search for Gandhian relevance. A lecturer, if wise, will choose a few themes only (as I will do) and seek guidance in the Mahatma's life and teachings that may help us today. Preferably, such themes should draw upon the orator's own experience that speaker and audience alike can share and meditate upon. And endeavour to enlarge their own perceptions of the world we live in. I have chosen 4 themes:

- \* Women's rights;
- \* Climate change;
- \* Animal rights; and
- \* Sex and human sexuality

Other speakers, other themes. These will be mine. But first, we must remember the broad outlines of Gandhi's life. Where was he 100 years ago? Where was he in 1913?

## MY LIFE IS MY MESSAGE<sup>2</sup>

The young Mohandas was born on 2 October 1869 in the Bombay Presidency of British India. His father and grandfather had served as officials in one of the small princely states. At the age of 13, he took part in an arranged marriage to 14 year old Kasturba. After his father died he was sent to England to train as a barrister, so that he could pursue a similar professional life. Before he left India, he vowed to his mother to refrain from meat, alcohol and promiscuity.

After his call to the Bar in England in 1891, he returned to India. Two years later he travelled, on a short contract, to South Africa where he was to stay for 21 years. A moving aspect of Lelyveld's biography is the description of the many places where Gandhi lived and worked in that country. They included a whitewashed courtroom where, a century ago exactly, he was convicted and imprisoned for leading Indian miners and sugar workers in a long walk of protest against racist laws.

---

<sup>2</sup> Gandhi quoted in D. Allen, *The Philosophy of Mahatma Gandhi for the 21<sup>st</sup> Century*, Lexington, 34.

Famously, Gandhi protested after he was thrown off a train at Pietermaritzburg, for daring to enter a first class cabin for which he held a ticket. He became caught up in the struggle of the Indian community (Hindu and Islamic) seeking to retain the vote and their equality as British subjects. Voting was to be withdrawn from them in one of the early instances of racist legislation. Increasingly, Gandhi became engaged in political negotiations. To win British support for Indian claims for equal nationality rights with the Whites, he led a detachment of Indian stretcher bearers, volunteering to serve in a British war against the Zulu Kingdom. The display of British military power and organisation caused him to adjust his ideas of how to negotiate with them and to outsmart them by techniques of non-violent protest. It can be said, I think, that he was fortunate in the adversary that he had to confront, both in South Africa and India.

In 1910, in the post Boer War world, South Africa moved to Dominion status under the British Crown.<sup>3</sup> However, its parliament excluded Indians and Blacks. By the time the Union of South Africa came into existence, Gandhi had ceased to cohabit with his wife or to attend much to the needs of his children. He declared somewhat airily:<sup>4</sup>

“I would say that my family now comprises of all living beings”

In South Africa at this time, a century ago, he met a German/Jewish architect from Königsberg in East Prussia, Hermann Kallenbach. By 1908, they were living together and I will return later to this period of his life. A century ago Gandhi was in the midst of organising indentured Indian mine and sugar workers, effectively to join with White miners in a strike for better conditions. But their campaign was specially targeted at a “head tax” imposed on the Indians and also discriminatory marriage laws. Gandhi organised a great walk, with thousands of men, women and children. Eventually, in tribute to his skills of organisation and feeding the multitudes, he was arrested and charged with criminal offences. Eagerly, he pleaded guilty to each charge in that whitewashed courthouse.<sup>5</sup> Mass arrests followed. When Gandhi

---

<sup>3</sup> *South Africa Act, 1909* (UK). See Lelyveld, above n1, 81.

<sup>4</sup> *Ibid.*, 83.

<sup>5</sup> *Ibid.*, 118.

emerged after 5 weeks in prison, he said, sweetly, that he would miss the “solitude and peace of jail, and the opportunity it gave him for reflection”.<sup>6</sup>

Gandhi shaved his head and began dressing, no longer like an English barrister but now like an indentured Indian labourer. He addressed a multitude at the Durban Race Course. He described himself as indentured to the service of his people. He appealed for equality in terms attractive to the White minority. He did not extend his campaign to Blacks. Soon after, the White Parliament of South Africa enacted the *Indian Relief Act*. This was designed to enhance to status of Indian citizens, although it still withheld the vote. He departed South Africa with Kallenbach, never to return. They arrived in Southhampton the day after the Great War began in August 1914. Kallenbach was quickly detained as an enemy alien. Eventually, he was exchanged and returned to Germany. The two men would not meet again until 1937 in India.

Gandhi himself returned to India, fired up by his experiences in South Africa. He quickly achieved leadership of the Indian National Congress. He then embarked upon a series of brilliant moves that were ultimately to secure Indian independence from Britain in 1947. He led a huge peaceful protest, in the form of the *Great Salt March* in early 1930, to dislocate British rule over India. He took part in negotiations with the British Government, in India and later in London. His tactics not only threw the British delegations and officials into confusion but occasionally also members of the Congress Party, from which he resigned in 1934.

By 1935, the British had begun to pave the way for India to move to Dominion status within the British Empire. The advent of war in 1939 put these moves on hold. This resulted in Gandhi’s demand that Britain *Quit India*. Thousands were arrested, including Gandhi himself. Released from prison in 1944, Gandhi called off the *Quit India* struggle to consternation of the Congress leadership. Immediately, a hundred thousand political prisoners were released.

---

<sup>6</sup> Quoted in Lelyveld, above n1, 125.

At the end of the war in 1945 more difficult adversaries emerged whom even Gandhi could not charm, persuade or reconcile. The dream that he and the British basically shared, of transferring sovereignty to a single united India, evaporated. The leader of the Muslim League in India, Muhammad Ali Jinnah, demanded a separate state of Pakistan. The leaders of the Congress, Nehru and Patel, would not agree to a loose Indian federation which, they feared, would undermine the strong central government that they felt was necessary to achieve the rapid economic and social development essential to bring India into the modern age. A huge loss of life accompanied, and followed, the *Partition* of India which Gandhi opposed bitterly. His killing, by a Hindu Nationalist in 1948, was the very antithesis of non-violence. It demonstrated, as nothing else could have done, the danger to the new state of sectarian and religious divisions.

In his lifetime Gandhi renounced "Gandhism". He rejected the view that he had brought any "new principle or doctrine".<sup>7</sup> Even non-violence was not entirely new. But M.K. Gandhi enlarged it, combined it with a flair for great public theatre; enormous talent in organising and sustaining mass movements; brilliant strategies to confuse both enemies and friends; and simple personal habits that ordinary people could empathise with and admire.

Indians know the foregoing story. They do so it, from the autobiography written by Gandhi in 1927-29 and from countless books, films, documentaries and by word of mouth. Many Australians have only the most general knowledge of their own history, in which there has never been (and never been the need for) a national leader quite like Gandhi. It is as well, when we look into Gandhi's life for guidance in our lives, that we realise the very different world in which he grew up, developed, struggled and died. In a prescient moment he once observed:<sup>8</sup>

"I live for India's freedom and would die for it, because it is part of Truth. Only a free India can worship the true God. I work for India's freedom because my *Swadeshi*

---

<sup>7</sup> Quoted M.Kamathi, *Gandhi, a Spiritual Journey* (2007), 195.

<sup>8</sup> M.K. Gandhi, *An Autobiography: The Story of My Experiments with Truth*, Navajivan Publishing, Ahmedabad, 1927 (Vol. 1), 1929 (Vol. 2). A new edition was published in August 1948, from which the quotations come. Extracts and citations appear in K. Kripalini (ed) *All Men Are Brothers: Life And Thoughts Of Mahatma Gandhi As Told In His Own Words*, Navajivan, Ahmedabad, 1960, Published by UNESCO.

teaches me that, being born in it and having inherited its culture, I am fittest to serve *her* and *she* has a prior claim to my service. But my patriotism is not exclusive; it is calculated not only not to hurt another nation but to benefit all in the true sense of the word. India's freedom as conceived by me can never be a menace to the world... My goal is friendship with the whole world and I can combine the greatest love with the greatest opposition to wrong.”

## WOMEN'S RIGHTS

It is appropriate to begin reflections on contemporary issues and Gandhian thought by looking at the question of women's rights. Women constitute half of humanity. Everywhere they suffer discrimination and disadvantage inflicted upon them by laws, customs and cultural rules, overwhelmingly made by men.<sup>9</sup>

Attention has been drawn to violence and discrimination against women in India by an event that happened in Delhi on 16 December 2012. That evening a young woman and her male companion boarded a bus in South Delhi only to be assaulted by five passengers already aboard. The woman was allegedly raped by the male passengers. Her companion was knocked unconscious. Her body was sexually invaded with a metal object that had been used to assault her friend. Eventually, both victims were thrown from the moving bus. A passer-by quickly contacted Delhi police on a cell phone. The woman was given emergency care at a hospital in Delhi. She was flown to emergency care in Singapore where she succumbed to her injuries on 29 December 2012. Meanwhile, on 21 December, six suspects, including the bus driver were arrested. They have been charged with criminal offences. Those offences are now before the courts of India. A number of advocates, when asked to accept briefs for the accused refused. Rightly, the Chief Justice of India appealed for them to be properly represented by the Bar. Senior advocates volunteered their services. No person in India or Australia is guilty by accusation or by media campaigns or even international outrage. Guilt is decided in independent courts and according to law.

---

<sup>9</sup> N. K. Bose, *Selections from Gandhi*, Navajivan Ahmedabad, 1948, 43 and 152.



Sadly, cases of this kind (so called gang rapes) are well-known in Australia and virtually all other countries. They are not confined to India. On 11 September 1886, in Sydney, 16 year old Mary Jane Hicks was set upon in Moore Park and brutally raped after a cab driver took her to scrubland. She was repeatedly penetrated by nine young men.<sup>10</sup> At the time, persons found guilty of rape were liable to be sentenced to death.<sup>11</sup>

In the Sydney case, the accused were jointly tried. They were all between 17 and 22 years of age. The trial was held at the Central Criminal Court at Darlinghurst, before Justice Windeyer and a jury. Nine of the accused were convicted although the jury added a recommendation of mercy. The judge sentenced all nine to death. The cabman was also found guilty for his part in the crime. He was sentenced to 14 years imprisonment with hard labour and floggings.

The Governor of New South Wales spared five of the nine youths; but the remainder were hanged. Mary Hicks left Australia for New Zealand. None of the spared offenders served less than 10 years imprisonment.<sup>12</sup> So before Australians get too self-righteous about the recent events in Delhi, they should remember the history of their own society, past and recent. Violence against women, including sexual violence, is an endemic problem throughout the world. Nowadays, to its perils are added the danger of transmission of HIV/AIDS.<sup>13</sup>

News of the Delhi event and its aftermath led to huge protests in New Delhi and in other Indian cities. Two official inquiries were immediately established. One, headed by former Chief Justice J.S. Verma, was mandated promptly to propose amendments to the criminal law to deal more effectively with sexual assault cases. The other inquiry, by a former Delhi High Court Judge, Usha Mehra, was established to report on any official responsibility in relation to the incident. The Leader of the Opposition, responding to the public outrage, reportedly declared in the Lok Sabha

---

<sup>10</sup> *Sydney Morning Herald*, 31 December 1886, 5.

<sup>11</sup> *Criminal Law Amendment Act 1883 (NSW)*, s.5.

<sup>12</sup> W. Kukulies-Smith, "The Mt Rennie Rape Case of 1886: Politics, Mercy and Justice in Late 19<sup>th</sup> Century Australia" (forthcoming).

<sup>13</sup> United Nations Development Programme, *Global Commission on HIV and the Law, Risks, Rights & Health*, New York, July 2012, 64.

that “the rapists should be hanged”.<sup>14</sup> However, the Australian case and many others, show that liability to hanging does not deter or prevent such offences. It is the risk of detection and speedy and proper determination of guilt that does so. Prime Minister Manmohan Singh appealed for calm and said:<sup>15</sup>

“As a father of three daughters I feel as strongly about the incident as each one of you.”

The report of the Verma inquiry has now been delivered. It has made a number of proposals, including for an increase in the available penalties. Wisely, in my view, it held back from recommending restoration of the death penalty. The police have said that they are relying on DNA evidence to sustain their prosecutions of the accused.

What would Gandhi, Father of the Nation, have said about such an offence, save to condemn the brutality and disrespect for women that it evidenced? And to insist on due process of law, which his legal training would have taught is essential, because innocent persons can be convicted under the pressure of public outcries to deliver quick and condign punishment?

Gandhi wrote much about women and their role in the India he hoped for. Thus he said:<sup>16</sup>

“I am firmly of an opinion that India’s salvation depends on the sacrifice and enlightenment of her women.”

Many of his statements were a mixture of the enlightened and the traditional:<sup>17</sup>

“My own opinion is that... man and women are one. Their problems must be one in essence... The soul in both is the same. The two live the same life, have the same feelings. Each is a complement of the other. The one cannot live without the other’s

---

<sup>14</sup> Reported, BBC News, 18 December 2012.

<sup>15</sup> Statement, 24 December 2012.

<sup>16</sup> N.K. Bose, above n.9, 239-40.

<sup>17</sup> Ibid, 239-40, see also R.K. Prabhu and U.R. Rao, *The Mind of Mahatma Gandhi*, OUP, London, 1945, 111-112.

active help. But somehow or other man has dominated woman from ages past and so woman has developed an inferiority complex. [Still] there is a vital difference between the two. Hence the vocations of the two must also be different... She is passive; he is active. She is essentially mistress of the house. He is the bread-winner. She is the keeper and distributor of the bread... If I were born a woman, I would rise in rebellion against any pretention on the part of man that woman is born to be his plaything. I could not steal into my wife's heart until I decided to treat her differently than I used to do, and so I restored to her all her rights by dispossessing myself of all my so-called rights as her husband.”

In one extended passage, Gandhi addressed violence against women, a phenomenon well known in the societies with which he was acquainted: <sup>18</sup>

“When a woman is assaulted, she may not stop to think in terms of... *ahimsa*. Her primary duty is self-protection. She is at liberty to employ every method or means that comes to her mind, in order to defend her honour. God has given her nails and teeth. She must use them with all her strength and, if need be, die in the effort. Man or woman who has shed all fear of death will be able not only to protect himself or herself, but others also through laying down his or her life. ... [S]ome women will even give their bodies rather than die. I have not written this in a carping spirit, I am only illustrating human nature... [O]nly he who loses his life shall save it. To enjoy life one should give up the lure of life. That should be part of our nature.”

Many of Gandhi's statements, written in his later life (as I shall show), indicated an abhorrence of sex. This was an attitude that grew during his lifetime. However, he lived in the real world. He knew of the violence, often sexual, that was visited upon women. He admired those women who defended themselves against such violence. According to the reports, this was done by the young woman killed in the Delhi attack. Some of Gandhi's writing embraced a mythology that the rural area was a 'pure' or 'virtuous' place which held the authentic spirit of the country – *Bharat* for India is akin to *The Bush* in Australia. Gandhi embraced this mythology with his

---

<sup>18</sup> D.G. Tendulkar, *Mahatma, Life of Mohandas Karamchand Gandhi*, V.K. Jhaveri, Bombay, Vol. VI, 78.

constant declarations that the “soul of the nation” lived in India’s villages.<sup>19</sup> Media might proclaim that Delhi is the “rape capital of the world”.<sup>20</sup> However rural and regional areas, in India as in Australia, can sometimes be intensely patriarchal. The cities can sometimes enlarge women’s liberation, until exceptional events occur.

Gandhi’s high intelligence would, I believe have sent his mind searching for the kinds of solutions to the endemic problem that greets a woman (and some men) so that they are treated as little more than a sexual object: to be used, invaded and then discarded as a thing or object. If Gandhi’s instinctive and primary response to such conduct was a repeated call for chastity and celibacy, his realism would have led him to explore some of the underlying causes and attitudes that promote and encourage such patterns of brutal sexual acts.

A recent book by Mara Hvistendhal, *Unnatural Selection*<sup>21</sup> addresses the serious interference in the global sex ratio that has been caused by modern practices of sex selection. This practice is specially present in India; but not only there:

“... [A]t the turn of the millennium... Indian census figures showed 111 boys born for every 100 girls. At first glance, the experiences of the village nurses and the orphanage worker helped explain the disparity, and indeed many foreign press reports blamed India’s dearth of girls on infanticide and abandonment. Looking into the matter, however, [this was] only a small part of the story. Outside of the pocket of rural Tamil Nadu, Indians rarely killed infants... [T]he North West, a wealthy region considered India’s breadbasket, reported a regional sex ratio at birth at 126 boys to every 100 girls. The real cause for the gap... was that pregnant women were taking advantage of a cheap and pervasive sex determination technique – ultrasound – and aborting female foetuses... [I]f Asia’s overall sex ratios were normal, the continent would have an additional 163 million females.

The danger that lies in these figures is that, if they continue, many young heterosexual men in Asia will not be able to find female marital and sexual partners,

---

<sup>19</sup> Bose, above n.9, 43.

<sup>20</sup> Chief Minister of Delhi (Sheila Dikshit), 22 December 2012.

<sup>21</sup> M. Hvistendahl, *Unnatural Selection – Choosing Boys over Girls and the Consequences of a World Full of Men*, Public Affairs, New York, 2011, 3 at 4-5.

although desiring them. Apart from resort to commercial sex workers, they will be living in a world of many more men than women. If this continues, it will add to the overall dangers faced by women. Gandhi might appeal for chastity and celibacy. But the world's experience everywhere, demonstrates the urgent demand, and need, for sexual outlets beyond self help and imagination.

A recent report from Columbia University and Seoul National University hints that, in China and South Korea, having peaked at 119 and 116 respectively, the ratios are now pulling back in new births.<sup>22</sup> However, there is no evidence, of which I am aware, of a similar downward trend in India. To the communal beliefs in the superior productivity and status of males must be added the problem of dowry obligations that still fall upon many Indian women seeking marriage. None of this is to excuse violence against women or rape. It is merely to look, as Gandhi often did, to the underlying causes behind individual conduct, so as to understand how particular trends are happening in the general community.

## CLIMATE CHANGE

Bangladesh, on India's doorstep and Mumbai in the West, its financial capital, has suffered serious instances of dangerous floodings in recent years. Exceptional weather patterns, including in Australia, seem to be associated with climate change. Only recently, I have become involved in an international group of judges and lawyers, looking at the issues of climate change from a standpoint of international law and its principles. The first meeting of this group took place at the Supreme Court of the Netherlands in the Hague in December 2012. It prepared a first draft of overarching *Global Principles for Environmental Protection*.<sup>23</sup> Naturally, I have asked myself what Gandhi would say and do in such a group and with such a challenge.

The environmental movement was not established, as such, during Gandhi's lifetime. However, his ethical principles, as they evolved, carried lessons concerning desirable limits of growth; the needs for greater simplicity and self discipline by

---

<sup>22</sup> Marian Borges, Peter Martin, "Girls Make Preference Comeback In Families", *Sydney Morning Herald*, 18 January 2013, 6.

<sup>23</sup> Group on Law on Climate Change, Hoge Raad der Nederlanden, December 2012.

human beings; and the necessity to view animals and all living things as entitled to human respect. The so called “deep ecology” movement did not exist until 1974. But its Norwegian founder, Arne Naess,<sup>24</sup> was certainly influenced by Gandhian writings.

In a real way, Gandhi evolved into a symbol of extreme individual self sufficiency. Famously, even before he had left South Africa, he had resumed the wearing of simple Indian clothing. Thereafter, he dressed in a *dohiti*, inviting Churchill’s rebuke that he was a “half naked *fakir*”. For his later condemnation of modernity, extending to railways and industry, Gandhi earned the scorn of critics. For one so skilled in moving throughout India by railways, they said, it ill behoved him to condemn the modern instruments and means, of his success.

Gandhi’s outlook on what we call today the environment of the biosphere, was profoundly influenced by his upbringing in Hinduism and Jainism. His mother extracted the promise of adherence to a simple life in London before a *Jain* monk. When a great earthquake struck Bihar in India in 1934, Gandhi declared that it was “seismic karma”. He claimed that it was a “divine chastisement for the great sin we have committed and are still committing against those whom we describe as untouchables.” This led his admirer, the Nobel Laureate, Rabindranath Tagore, to disagree. Tagore said:

“I am compelled to utter a truism in asserting that physical catastrophes have their inevitable and exclusive origin in certain combinations of physical facts.”<sup>25</sup>

Gandhi repeatedly referred to God and invoked Him in many of his utterances. It would be easy, therefore, to conclude that he was simply anti-scientific or indulging in a rhetorical exaggeration so as to further a political goal and draw attention to the unjust situation of untouchability and of Hindu beliefs about it.

---

<sup>24</sup> A. Naess, “The Shallow and the Deep, Long Range Ecology Movement. A Summary” in (1973) 16 *Enquiry: An Interdisciplinary Journal of Philosophy* , 95-100.

<sup>25</sup> R. Tagore, quoted Makarance Paranjape, “Natural Supernaturalism : the Tagore – Gandhi Debate on the Bihar Earthquake” (2011) 4 *Journal of Hindu Studies* 176.

Nonetheless, Gandhi was appalled by the extreme poverty and hunger that surrounded him both in South Africa and India. He saw the urgent needs correctly: termination of gender inequality; enforcement of universal primary education; reduction of child mortality; and rejection of the extreme wastefulness of much modern living. All of these instructions strike a modern chord, even if his extreme solutions for them (in travelling half naked; spinning his own cloth; and grinding his own grain) were not really feasible, or even desirable, in the modern world.

We must look on Gandhi on a supreme propagandist. In the unfolding age of modern media (especially mass newspapers and broadcasting) he realised the power of symbols and simple stories, images and symbols that could imaginatively burrow their way into human consciousness. In this, he was a man of his time, along with F.D. Roosevelt, Churchill, Hitler and Mao: with their very different messages. One can dismiss the theism and reject the *Khādī* (home spun cloth) and *Swadeshi* (self-sufficiency) in Gandhi's writings. But one can still perceive the wisdom of the central cautionary message to humanity about ecological restraint.

## ANIMAL RIGHTS

Gandhi, through his mother, derived many of his values from the *Jain* traditions of Hinduism. This led to an embrace of vegetarianism and a demand for respect for animals that, with human beings, make up our world. As a young boy, Gandhi looked with mixed feelings of distaste and admiration, upon the British rulers of India. He witnessed their strong armies and incorruptible institutions. Part of him wanted to embrace their sources of power and to use them, eventually, to rid his country of them. In his autobiography, he wrote:<sup>26</sup>

“It began to grow on me that meat-eating was good, that it would make me strong and daring, and that, if the whole country took to meat-eating, the English could be overcome... Whenever I had occasion to indulge in these superstitious feasts, dinner at home was out of the question. [I would tell my mother] ‘I have no appetite today; there is something wrong with my digestion’... I knew I was lying, and lying to my mother... Therefore I said to myself: Though it is essential to eat meat, and also

---

<sup>26</sup> M.K. Gandhi, *Autobiography*, above n.8, 33.

essential to take up food 'reform' in the country, yet deceiving and lying and one's father and mother is worse than not eating meat. In their lifetime, therefore, meat-eating must be out of the question. When they are no more and I have found my freedom, I will eat meat openly, but until that moment arrives I will abstain from it... I have never since gone back to meat."

When he went to England to study law, Gandhi was elected to the Executive Committee of the Vegetarian Society. This also led him into contact with the Theosophical Society. Its beliefs in the common roots of all great religions was to affect his spiritual ideas profoundly. Though he was distinctly and loyally Hindu, with strong resonances of Jainism, he borrowed deeply from the Judeo Christian Bible. In his writings (although not always in his actions) he repeatedly insisted on the spiritual commonalities of Hinduism with Islam.

The attempts of friends to put him under pressure to convert to Christianity, the religion of India's rulers, had no more success than the attempt to convert him to eating meat.<sup>27</sup> He constantly talked of the abhorrence he felt for the cruel slaughter of animals. He believed that vegetarianism was a rational progression to a higher plain which human beings were bound eventually to embrace.<sup>28</sup>

"Our remote ancestors were cannibals. Then came a time when they were fed up with cannibalism and they began to live on chase. Next came a stage when man was ashamed of leading the life of a wandering hunter. He therefore took up agriculture and depended principally on mother earth for his food. Thus from being a nomad he settled down to civilised stable life, founded villages and towns, and from member of a family he became member of a community. All these are signs of progressive *Ahimsa*... Had it been otherwise, the human species would have been extinct by now, even as many of the lower species have disappeared."

I do not believe that there is any chance that human beings in Australia, or other countries, will embrace vegetarianism *en masse*. Gandhi himself found it hard to live on the boiled vegetables served by his English landlady in London. Almost

---

<sup>27</sup> Ibid, 81-84.

<sup>28</sup> Tendulkar, above n. 18, Vol IV, 193-195.



impossible to find vegetarian restaurants in the city of those times.<sup>29</sup> Although things have improved, equally meat-eating has greatly expanded in recent decades. In Asian countries, where it was once a rarity of tiny proportions, it is now often part of the staple diet. Even Japan has switched following its infatuation with the meat-eating habits of its American occupiers. In my childhood in Australia, chicken was a rare treat, reserved to Christmas. Now it is a huge industry. Those most sociable of animals, poultry, are subject to mass corporatized slaughter on an assembly line or they are kept in tiny confines for egg production. If you ever want to see a sight like Belsen, in the midst of our society, go to a chicken slaughter farm, as I once did. The large door was wheeled open. Thousands of heads silently turned to peer at me from the gloom.

For nearly four years I have eaten no meat and no poultry. With John Coetzee I have become a patron of Voiceless, the animal welfare organisation. I still lapse with a little fish. I cannot persuade by partner Johan to join in my 'conversion', although practicalities have reduced his intake of meat. To the end of his life in 2011, my father thought it foolish and that I still needed meat protein. Of course, there is a theory that the human jaws developed to accommodate carnivore habits. And that the human brain expanded because of the ingestion of protein from other animal species. But with that brain expansion has come a larger moral sensibility. We will not all become *Jains*. But I hope that increasing numbers in the West, and large numbers returning in Asia, will reduce meat intake.

Doing this would be good for our health. Cutting up the bodies of sentient creatures to eat their body parts is not necessary for nutrition, still less essential. The lesson from our mothers in our youth was right to this extent: 'Eat your vegetables!'. And Gandhi was the world's most visible symbol of the healthy vegetarianism of the traditional Buddhist and Hindu beliefs. Once again, he had the idea. And he laid it before others as a moral instruction. Of course, Hitler too was a vegetarian so it is no guarantee of rectitude. But it is a subject for increasing reflection to reduce the corporatized slaughter of animals. In meat exporting countries like Australia, the very least that we must insist on, and legislate for, is strict conditions to enlarge (as

---

<sup>29</sup> Bose, above n.9, 23.

far as possible) the acceptability of the farming and slaughtering process. Animals see, smell, hear and feel fear. Fear there will be in slaughter. But we can learn from Gandhi to respect and protect the other sentient creatures that share the planet with us.

## GANDHI AND SEXUALITY

As befits a leader who was part spiritualist and part politician, Gandhi thought and wrote a great deal about sex. But in this regard he was quite different from all other leaders of his time. In the first half of the 20<sup>th</sup> Century and beyond, especially in the English-speaking world, there was much hypocrisy about and, even amongst educated people, ostensible revulsion towards “unnatural” sex and perceptions of effeminacy in men. These were regarded as alien to the manly and conquering ethos of the British Empire.

In the 19<sup>th</sup> Century, in Britain, intellectual leaders, such as Jeremy Bentham<sup>30</sup> and John Stuart Mill<sup>31</sup> began to question the old statutory offences and common law expositions by Blackstone, involving penal sanctions for adult, private, consensual acts. Most Anglophone leaders of the time supported those laws. So when Thomas Babington Macaulay drafted the *Indian Penal Code* in 1837, he incorporated, in section 377, the conventional punishment for sodomy that was to spread throughout the British Empire.<sup>32</sup> That law came into force in British jurisdictions in India in 1861. The Code remains in force throughout the subcontinent to this day. It has been copied, in various templates in most countries that were once ruled by Britain. Getting rid of it, outside the United Kingdom and the old Dominions, has proved extremely difficult.<sup>33</sup>

In these circumstances, silence on the part of Gandhi might well have been prudent. But he was impish, opinionated and vocal. In his autobiography, he described an

---

<sup>30</sup> H.L.A. Hart, “Jeremy Bentham” in A.W. Simpson (ed) *Biographical Dictionary of the Common Law*, Butterworths, London, 1984, 44.

<sup>31</sup> J.S. Anderson, “J.S. Mill”, *Ibid* at 364-265.

<sup>32</sup> B. Hooker, “Macaulay, in *Ibid* 330.

<sup>33</sup> M.D. Kirby, “The Sodomy Offence: England’s Least Lovely Criminal Law Export” (2011) 1 *Journal of Criminal Law*, 22.

event when, in his youth, a friend (seemingly the same one who tried to convert him to meat) took him to a brothel:<sup>34</sup>

“He sent me in with the necessary instructions. It was all pre-arranged. The bill had already been paid. I went into the jaws of sin, but God in His infinite mercy protected me against myself. I was almost struck blind and dumb in this den of vice. I sat near the woman on her bed, but I was tongue-tied. She naturally lost patience with me, and showed me the door with abuses and insults. I then felt as though my manhood had been injured, and wished to sink into the ground for shame. But I have ever since given thanks to God for having saved me. I can recall four more similar incidents in my life, and in most of them my good fortune, rather than any effort on my part, saved me.”

This is an interesting, and not, I suggest, a universal, story of adolescent reticence. Of course, Gandhi was married whilst still a child. His first child came along within a year but was stillborn. He had other children. But by the time he was writing about his life and sexuality, it was mainly in the context of promoting celibacy. Still, he did include remarks that extended to homosexuality. The topic came up once in a discourse upon contraceptives. Whereas many today in India, and elsewhere, regard control over reproductive rights as an essential aspect of women’s empowerment and advancement, Gandhi repeatedly said that “contraception was a most dangerous doctrine to preach anywhere; much more so in a country like India, where the middle class male population has become imbecile through abuse of the creative function.”<sup>35</sup>

Warming to this theme, and writing in the 1930s, Gandhi went on:<sup>36</sup>

“The reader should know that even persons of note have been known to approve of what is commonly known as sexual perversion. He may be shocked at the statement. But if it somehow or other gains the stamp of respectability, it will be the rage amongst boys and girls to satisfy their urge amongst members of their own sex. For

---

<sup>34</sup> M.K. Gandhi, *Autobiography*, above n.8, 37.

<sup>35</sup> Tendulkar, above n.18, Vol IV, 73.

<sup>36</sup> *Loc cit.*

me, the use of contraceptives is not far removed from the means to which persons have hitherto resorted to the gratification of their sexual desire with the results that very few know. I know what havoc secret vice has played amongst school boys and school girls. The introduction of contraceptives under the name of science and the imprimatur of known leaders of society has intensified the complication and made the task of reformers who work for purity of social life wellnigh impossible for the moment... Marriage loses its sanctity when its purpose and highest use is conceived to be satisfaction of the animal passion without contemplating the natural result of such satisfaction.”

Gandhi explained his renunciation of sexual (or what he called ‘carnal’) relations with his wife, in and after South Africa. He explained it as essential to his work as a ‘legal practitioner, social reformer or politician’. He said that these activities had required the “strictest regulation of sexual life and a rigid practice of non-violence and truth in human relations, whether with my own countrymen or with the Europeans.”<sup>37</sup>

Over and over again, in writings and speeches, he propounded a view (not dissimilar to some traditional Christian beliefs) that sex was not ordained for human pleasure. It was a source of distaste to be avoided - provided only for procreation.

“The couple... will never have sexual union for the fulfilment of their lust but only when they desire issue. I think it is the height of ignorance to think the sexual act is an independent function necessary like sleeping or eating.”<sup>38</sup>

“Sex urge is fine and is a fine and noble thing. There is nothing to be ashamed of in it. But it is only meant for the act of procreation. Any other use of it is a sin against God and humanity.”<sup>39</sup>

“I know from my own experience that, as long as I looked upon my wife carnally, we had no real understanding. Our love did not reach a high plain. There was affection between us always, but we came closer and closer, the more we, or rather I, became

---

<sup>37</sup> Pyarelal, *Mahatma Gandhi, The Last Phase*, Navajivan, Ahmedabad, 1958, Vol. I, 586.

<sup>38</sup> M.K. Gandhi, *Autobiography*, above n.8, 251.

<sup>39</sup> Bose, above n. 9, 18.

restrained. There never was any want of restraint on the part of my wife. Very often she would show restraint, but she rarely resisted me although she showed disinclination very often... The moment I bade goodbye to the life of carnal pleasure, our whole relationship became spiritual. Lust died and love reigned instead.”<sup>40</sup>

“We cannot properly control or conquer the sexual passion by turning a blind eye to it. I am, therefore, strongly in favour of teaching young boys and young girls the significance of the right use of their generative organs... But the sex education that I stand for must have for its object the conquest and sublimation of the sex passion... To break through its coil is no easy task. But it is a task worthy of our highest endeavour.”<sup>41</sup>

These writings were offered by Gandhi when he was himself avowedly celibate. Famously, he even adopted a practice by the 1940s, of sleeping (albeit in openly accessible living quarters) with a young female relative, so as to demonstrate his mastery over the sexual passion that he decried. This caused some eyebrow raising amongst his Congress followers. But he was seemingly trying, by a vivid image, to demonstrate the self-discipline that he was preaching by his words.

To an outsider today (and even perhaps in the 1930s and 40s), his instruction on sex seems other-worldly and disconnected with the reality of most peoples' lives. To our ears, it sounds like the instruction of pre-Vatican Council, Roman Catholicism, before the joys of sex, (but limited only to married couples) were recognised. To us it sounds like the failed injunction to young people in the face of HIV/AIDS: 'Just say no'. The pattern of HIV infection shows that millions of people do not abide by this dictum.<sup>42</sup> Moreover, the self-same forces that in Western society are demanding that sexuality be confined to marriage are loudest in denying the right to marriage to sexual minorities (homosexuals, bisexuals, transsexuals): condemning them to a life of no sexual engagement with others.

---

<sup>40</sup> Tendulkar, above n.18, Vol. IV, 57-28.

<sup>41</sup> Ibid, 76.

<sup>42</sup> UNDP Global Commission on HIV and the Law, above n. 13.

Sigmund Freud declared that celibacy was the one unnatural sexual arrangement for the lives of human beings and, indeed, all animal species. The recently publicised experiences in the Christian churches of the West, appear to bear out Freud's assessment. Celibacy is intensely uncongenial for most humans and for all other animal species. We now know that a significant cohort of Catholic priests opted for a vow of chastity in their youth, influenced by their sexual orientation. They felt it would release them from feelings of unworthiness and denigration; whereas, in some cases, it would merely expose them to situations of temptation and abuse of power, to their own shame and that of the Church and their victims.

## GANDHI AND HOMOSEXUALITY

This is the context in which Lelyveld's new biography of Gandhi has drawn attention to a known, but previously little explored, feature of his life in South Africa. I refer to his relationship with Hermann Kallenbach. Kallenbach was a lifetime bachelor, gymnast and body builder, trained by Eugen Sandow. Sandow was promoted by Flo Ziegfeld. He brought his variety of male 'strip tease' to Johannesburg in 1904. Kallenbach, almost certainly homosexual, boasted a taut body, a feature that Gandhi, when he met him, would have noticed because of his own preoccupation with physiology and his eating discipline.<sup>43</sup>

Some things are certain. After Gandhi, by his own account, terminated his sexual relations with his wife, he went to live with Kallenbach in the latter's home in a then upscale White suburb of Johannesburg. According to an assessment by Tridip Suhurd, a Gandhi scholar, "they were a couple". Kallenbach later remarked that they had lived together "almost in the same bed".<sup>44</sup>

The exact nature of the relationship is contested. We only have half of the story because Gandhi (unlike Kallenbach) destroyed all the letters. Kallenbach, who was profoundly influenced by Gandhi and his ideas, kept all the letters from the Mahatma. They were recently acquired by the National Archives of India and have been published. The assessment by Lelyveld of the nature of the relationship has proved very controversial in India. Suggestions that it was "clearly homoerotic", although

---

<sup>43</sup> Lelyveld, above n.1, 88.

<sup>44</sup> Ibid, 86.

not homosexual, caused an outcry in India. It was condemned as an insult to the Father of the Nation. Why that should be so is unclear given that many famous people have been homosexual. Still, from the terms of Gandhi's letters, it can be said that, whether or not there were any overt sexual acts, there was certainly a most intense and loving relationship.

In 1909, Gandhi wrote from London:

“Your portrait (the only one) stands on my mantelpiece in the bedroom. The mantelpiece is opposite to the bed.”<sup>45</sup>

Gandhi also referred to cottonwool and Vaseline. He said that these “are a constant reminder” of [Kallenbach]. And he went on to explain his mention of this:

“Is to show to you and me how completely you have taken possession of my body. This is slavery with a vengeance.”<sup>46</sup>

Vaseline may be nothing more than a reference to Kallenbach's gymnastics. Or to the administration of enemas in which Gandhi would later engage as a routine. But in earlier times, Vaseline [and long after] was commonly used for sexual purposes. A century on who can tell what Gandhi meant?

At about this time, Gandhi had drafted a mock-serious agreement with Kallenbach whom he is described as “Lower House” and Gandhi “Upper House”. The allusion in these names may have been solely to Kallenbach's role as provider of funds for Gandhi's agitations. Or Gandhi's role of disallowance of appropriations thought by him to be extravagant. By this time, Gandhi was insisting on self denial and poverty. In London, in 1911, the role of the House of Lords (“Upper House”) was much debated because of the *Parliament Act* of that year, giving the House of Commons (“Lower House”) the right ultimately to prevail over the Lords.<sup>47</sup>

---

<sup>45</sup> *Loc cit.*

<sup>46</sup> *Ibid*, 89.

<sup>47</sup> *Parliament Act* 1911 (UK).

For decades later, when they corresponded, Gandhi still used these appellations. They may have been entirely innocent. Some will read them today as euphemisms for “bottom” and “top”: a classificatory system of sexual roles recognised by many homosexuals. There are indications both ways in the letters. In 1908 Kallenbach wrote to his brother telling him that he had “given up my sex life... I have changed by daily life in order to simplify it”. Was this the truth? Or similarly a cover against interfamilial shame? An association of such a close personal kind was particularly unusual at the time in South Africa because of the different races involved. For Kallenbach, it involved having a “coloured” man in his home. For Gandhi it was a breach, and a serious one, of his caste obligations, according to which Kallenbach was an “untouchable”.

Whatever may have been the exact relations between the two men, it could scarcely have been expected that either of them would have been open or explicit about them. Equally in South Africa and in India, under the *Penal Code*, any sexual activity at the time was not only seriously criminal. It was profoundly disapproved by social and religious mores and held in contempt by the hetero-normative, homophobic culture of the British Empire.<sup>48</sup>

Whilst contemporary conservative political figures in India were horrified at the merest suggestion of a homosexual element in Gandhi’s life, one of his granddaughters, Leela Gandhi, writing in 2002, suggests a different reaction to any such idea.<sup>49</sup> She drew attention to the “catalogue of sexual irregularities” that was such an established feature of ancient India. She contrasted this with the “nation fraught with repression and anxiety” that she found in India today:<sup>50</sup>

“Victorian culture increasingly came to privilege masculinity as the repository of colonial authority [and it] simultaneously insisted upon the contrasting ‘effeminacy’ of Indian men as an alibi for conquest... [Indian culture internalised this and so set out to recover] a lost native masculinity... Both Empire and its antagonist, the anti-

---

<sup>48</sup> M.K. Gandhi, “Pathway to God” (compiled by M.S. Deshpande), Navajival, Ahmedabad, 1971, Chapter 5 Love (Ahimsa), 23.

<sup>49</sup> L. Gandhi, “Loving Well: Homosexuality and Utopian Thought in Post/Colonial India” in Ruth Vanita (ed), *Queering India* (2002).

<sup>50</sup> *Ibid*, 89.



colonial nation, need to be recognised as profoundly heteronormative projects that founded their compelling authorities on the categories of sex – that is, on a closed, masculine signifying economy”.

Against the profoundly patriarchal world of the years of his political activism in India, Gandhi stood both for the rights to equality of women, rights for the “untouchables” and a willingness to dialogue about sex in a way that was distinctly unusual for the time. Unusual both for its mention and its message. He enjoyed confrontation and he thrived on dissent.<sup>51</sup>

“I have come across men and women in the West who lead a pure life although they do not accept or observe the current usages and current social conventions. My research runs somewhat in that direction. If you admit the necessity and desirability of reform, of discarding the old, wherever necessary, and building a new system of ethics and morals suited to the present age, then the question of seeking permission of others or convincing them does not arise. A reformer cannot afford to wait until others converted; he must take the lead and venture forth alone even in the teeth of universal opposition... Therefore, whenever an opportunity presents itself I do not evade it or run away from it. On the contrary, I deem it to be my duty, *dharma*, to meet it squarely in the face and find out where it leads to and where I stand. To avoid the contact of a woman, or to run away from it out of fear, I regard as unbecoming of an aspirant after true *bramacharya*. I have never tried to cultivate or seek sex contact for carnal satisfaction. I do not claim to have completely eradicated the sex feeling in me. But it is my claim that I can keep it under control.”

These words, taken from utterances in his later life in India, may be no more than general reflections on his personal embrace of celibacy. After all, in Western countries, we sometimes say, not always in jest, that we all end up in old age (whatever our relations with partners and however they began carnally) as ‘a couple of sisters’. Perhaps that was all that Gandhi was saying. Still, perhaps he was renouncing strong passions which had been stirred in him in South Africa at the age of 40. Lelyveld does not purport to resolve this riddle. It is presented, after all, not

---

<sup>51</sup> Pyarelal, above n.37, Vol. I, 588-589.

by the biographer but by the course of correspondence over many years, written in the spidery but clear handwriting of the Mahatma, who walked amongst us.

In India, for decades the politicians in the national legislature, returned by the greatest exercise of democracy on earth, could never bring themselves to repeal section 377 of the *Indian Penal Code*. It required a great, independent court (the Delhi High Court) and fine judges (Chief Justice A.P. Shah and Justice Muralidhar) to invalidate that part of Macaulay's handiwork as applied section 377 to consenting adults. This was decided 2009.<sup>52</sup> In doing so, the judges referred to the affront that the provision made against modern scientific knowledge about sexuality and in the effectiveness of the Indian struggle against HIV/AIDS. They also referred to the removal of that law in several countries, including Australia, after science had revealed the indelible features of the sexuality of a small cohort of people amongst the sexual minorities. But they also emphasised the fundamental principles that Gandhi's struggle for nationhood had achieved in the Constitution, drafted by Bhimrao Ramji Ambedkar, champion of the untouchables. Those principles included that no group in the diverse Indian Union should be put into a state of lifelong inequality and disrespect. That equality and the limited intrusion of state power into people's private lives, together with secularism, are fundamental principles of Indian constitutionalism. We must hope that the Supreme Court of India, which has reserved in its decision in the appeal against that wise and principled judgment, will maintain it and endorse it. It speaks of the India of today and of the future; not the India of the colonial and patriarchal past.

But what would Gandhi say today of this subject? What would he say with the scientific knowledge we now have? I suggest that he would remind us of his words:

“Love and truth are faces of the same coin, both very difficult to practise, and the only things worth living for.”<sup>53</sup>

---

<sup>52</sup> *Naz Foundation v Delhi and Ors* [2009] 4 Law Reports Commonwealth, 838 (Delhi High Court).

<sup>53</sup> Tendulkar, above n.18, 66-67.

## OUR MEDITATION IS DONE

Our meditation is done. Mahatma Gandhi was a man of controversy and paradoxes. Yet by any account he was a great leader, an inspired nationalist, a most unusual teacher and a brilliant tactician and strategist. We cannot endorse today all of his ideas, taken literally. But he did not expect, nor did he want us, to do so. He said:<sup>54</sup>

“There is no such thing as ‘Gandhism’ and I do not want to leave any sect after me. I do not claim to have originated any new principle or doctrine. I have simply tried in my own way to apply the eternal truths to our daily life and problems. There is, therefore, no question of my leaving any code like the code of Manu. There can be no comparison between that great law-giver and me. The opinions I have formed and the conclusions I have arrived at are not final. I may change them tomorrow. I have nothing new to teach the world. Truth and non-violence are as old as the hills. All I have done is to try experiments in both on as vast a scale as I could do. In doing so, I have sometimes erred and learnt by my lessons. Life and its problems have thus become to me so many experiments in the practice of truth and non-violence. By instinct, I have been truthful, but not non-violent... I was capable of sacrificing non-violence for the sake of truth. In fact, it was in the course of my pursuit of truth that I discovered non-violence... Well, all my philosophy, if it may be called by that pretentious name, is contained in what I have said. But you will not call it ‘Gandhism’; there is no ‘ism’ about it and no elaborate literature or propaganda is needed about it... Those who believe in the simple truths I have laid down can propagate them only by living them. People have laughed at my spinning wheel, and an acute critic observed that, when I die, the wheels would serve to make the funeral pyre... How am I to convince the world by means of books that the whole of my constructive programme is rooted in non-violence? My life alone can demonstrate it.”

Fallible. Humorous. Witty. Playful. Determined. Ruthless. Unpredictable. Rabble rouser. Guru. Sometimes misguided. Deeply spiritual. A human, like the rest of us. But incontestably a Great Soul. India was blessed in the Father of its Nation. Australians and people everywhere can learn for their societies, their own country,

---

<sup>54</sup> *Loc cit.*

Our species and the entire biosphere. His central messages remain to challenge us. To disturb us. To shake us out of our complacency. And constantly to require us to seek for truth and love for all living things.