Gandhi’s Prophecy: Corporate Violence and A Mindful Law for Bhopal

Nehal A. Patel
Gandhi’s Prophecy: Corporate Violence and A Mindful Law for Bhopal

NEHAL A. PATEL†

Over thirty years have passed since the Bhopal chemical disaster began, and in that time scholars of corporate social responsibility (CSR) have discussed and debated several frameworks for improving corporate response to social and environmental problems. However, CSR discourse rarely delves into the fundamental architecture of legal thought that often buttresses corporate dominance in the global economy. Moreover, CSR discourse does little to challenge the ontological and epistemological assumptions that form the foundation for modern economics and the role of corporations in the world.

I explore methods of transforming CSR by employing the thought of Mohandas Gandhi. I pay particular attention to Gandhi’s critique of industrialization and principle of swadeshi (self-sufficiency) to address the tension between multinational corporations and local communities worldwide. Gandhi’s principle of swadeshi especially is salient in light of Bhopal, where local survivors have struggled to raise awareness of the persistent degradation of their environment. I discuss the current state of CSR, Bhopal’s ongoing relevance to modern industrialization, and a potential future for CSR that incorporates swadeshi for local populations.

† Nehal A. Patel, Assistant Professor of Sociology and Criminal Justice, University of Michigan-Dearborn; Ph.D. (Sociology), Northwestern University, 2009; J.D., University of Wisconsin Law School, 2003; M.A. (Sociology), Northwestern University, 2002; B.S., University of Wisconsin, 1996. Dedication: To my father, Ambalal C. Patel, my sage, guide, and friend. To my mother, Sumitra A. Patel, my guru and champion. Acknowledgements: The author is grateful to Ksenia Petlakh for editing and extensive literature review assistance. The author is grateful to Anca Novak, Ella Markina, Dmitriy Zaderetsky, Loren Nikolovski-Amady, Nina Abboud, and Elena Begunova for prior research assistance leading to this Article. The author is grateful to Neeraja for everything.
I had always heard the merchants say that truth was not possible in business. I did not think so then, nor do I now. Even today there are merchant friends who contend that truth is inconsistent with business. Business, they say, is a very practical affair, and truth a matter of religion; and they argue that practical affairs are one thing, while religion is quite another. Pure truth, they hold, is out of the question in business, one can speak it only so far as is suitable. I strongly contested the position in my speech and awakened the merchants to a sense of their duty

-M.K. Gandhi

It was he who had prophesied in his letter to me that I was leading a movement which was destined to bring a message of hope to the downtrodden people of the earth.

–M.K. Gandhi, speaking of Leo Tolstoy

I. INTRODUCTION

The night of December 3, 1984 burns inside of Ganga Bai’s memory. That night, she awoke from her sleep to find her eyes burning and people in the street shouting “Run!” “Gas!” “Death!” She placed her two-year old daughter into her hands and ran out of their house. After several miles, she stopped running, thinking that she was far enough from home for her daughter to be safe. However, when Ganga looked down, she saw her daughter’s dead face staring back at her and she fainted. 

Zaheer Ahmed and Shezad Khan also were in Bhopal that night. Although there was no visible perpetrator, a deadly intruder had grabbed the throats of their family members as they gasped for air. Zaheer worked as a night watchman and returned home from work in the morning. He found his door unlocked and the dead bodies of his wife and two sons inside. Like Ganga, Shezad was asleep that night and awoke with searing eyes. He ran out of the house and climbed into a passing vehicle that transported him

4 Id.
5 Id.
6 Id.
7 Id.
8 Id.
miles away. 10 Meanwhile, his family remained in the house and later joined the hundreds of corpses building up over the course of the night. 11

The next morning, there were thousands of corpses piled in the street. Press reports confirmed that a storage tank at a nearby Union Carbide pesticide plant had exploded, sending tons of poisonous gas sprawling through Bhopal. An estimated 3,000 people died in the first days of the aftermath, and some observers claim that the plant site has never been adequately remediated while the death toll has risen to approximately 20,000. 12

Perhaps as much as any other single event, the Bhopal chemical disaster has attracted the attention of the press, activists, scholars, and the public. Critics of modernization use Bhopal as an example of how developed nations benefit at the expense of developing countries, and how modern corporations create risky cost-cutting strategies and methods of evading responsibility for accidents. 13 Similarly, a century ago, Mohandas Gandhi developed his own critique of the emerging global political economy; however, Gandhi’s ideas have been largely neglected by scholars of industrialization. As a man who dedicated his adult life to implementing non-violence and love into the modern world, Gandhi was sensitive to the exploitative qualities of modern economic systems. His critique of the British notion of civilization reached its apogee in *Hind Swaraj*, a 1909 treatise in which he eloquently explained his view of modern “civilization” and its discontents. In *Hind Swaraj*, Gandhi described the oppression he observed in his time and revealed his prophecies of future devastation if the world continues down the path of industrial “progress” without dissecting its basic assumptions. 14

In *Hind Swaraj*, Gandhi described the dominant notion of “progress” as one in which the seeds of ongoing violence and resource extraction would lead to perpetual disaster and injustice. 15 Similarly to Gandhi, several contemporary scholars have criticized the way that corporations and governments preserve inequalities that become magnified during disasters. 16

---

10 Id.
11 Id.
12 BHOPAL: THE SEARCH FOR JUSTICE (National Film Board of Canada 2004). Some of the estimated 20,000 death toll may be due to possible lingering effects experienced at later points in time. Id.; AMNESTY INTERNATIONAL, CLOUDS OF INJUSTICE: BHOPAL DISASTER 20 YEARS ON 12, 61 (2004). At the time of the initial disaster, the plant was owned by Union Carbide India Limited, a subsidiary of Union Carbide Corporation. Id. at 4–5; Shrivastava, supra note 3, at 3.
13 See generally JAMIE CASSELS, THE UNCERTAIN PROMISE OF LAW: LESSONS FROM BHOPAL (University of Toronto Press 1993); JAMES MANOR, POWER, POVERTY AND POISON: DISASTER AND RESPONSE IN AN INDIAN CITY (Sage Publications 1993).
14 See generally MAHATAMA GANDHI & ANTHONY PAREL, HIND SWARAJ AND OTHER WRITINGS 170 (Cambridge University Press 1997).
15 See generally id.
Most notably, socio-legal scholar, Upendra Baxi argued that economic reforms tend to privilege the rights of privileged groups over the needs of the poor, and therefore, social disasters are “the consequences of wrong policy decisions.”17 In Baxi’s words, “It is characteristic of classical and contemporary western liberal thought to ignore the entire problematic of basic human needs.”18 In other words, the basis of modern economic thought preserves inequality and fails to prevent corporate violence.19

Baxi also advocated for eradicating the culture of poverty that deprives the poor of legitimate opportunities.20 According to Baxi, the culture of poverty is “transmitted across generations” and is defined by “powerlessness, apathy, disorganization, alienation, and anomie.”21 Baxi attributed the culture of poverty partly to paternalism from elite organizations that preserve power imbalances, prevent genuine self-sufficiency for the masses, and create a sense of helplessness among the public.22

Baxi’s arguments suggest that economic growth that could be used to end poverty is offset by increases in economic inequality.23 As a result, the current emphasis on economic growth as an end in itself is ineffective at ending poverty; in our growth-obsessed system, resources overwhelmingly are used for purposes antithetical to ending poverty.24 Therefore, Baxi referenced Gandhi’s commitment to addressing poverty and advocated for a more sociological understanding of social disaster as a method for fighting poverty.25

Similar to Baxi, Jasanoff presented organizational characteristics of modern corporations that cause industrial disaster and subsequently preserve social inequality. Jasanoff argued that modern industrial giants often claim that disaster can be prevented purely through scientific advancements; however, industrial disasters are the result of complex sociological problems

---

BAXI, LAW AND POVERTY: CRITICAL ESSAYS vii (N.M. Tripathi 1988) [hereinafter BAXI, LAW AND POVERTY]; see also BAXI, MAMBRINO’S HELMET: HUMAN RIGHTS FOR A CHANGING WORLD 5 (Har-Anand Publications 1994) [hereinafter BAXI, MAMBRINO’S HELMET].


18 Id. at vii.

19 See generally BAXI, INCONVENIENT FORUM, supra note 16; BAXI, MASS DISASTERS, supra note 16; BAXI, LAW AND POVERTY, supra note 17; BAXI, VALIANT VICTIMS, supra note 16.

20 Id. at viii. See also BAXI, INCONVENIENT FORUM, supra note 16; BAXI, MASS DISASTERS, supra note 16; BAXI, VALIANT VICTIMS, supra note 16.

21 BAXI, MAMBRINO’S HELMET, supra note 17, at 5; see generally BAXI, LAW AND POVERTY, supra note 17.

22 BAXI, MAMBRINO’S HELMET, supra note 17, at 5; see generally BAXI, LAW AND POVERTY, supra note 17.

23 BAXI, LAW AND POVERTY, supra note 17, at ix; BAXI, MAMBRINO’S HELMET, supra note 17, at 5; see also BAXI, INCONVENIENT FORUM, supra note 16; BAXI, MASS DISASTERS, supra note 16; BAXI, VALIANT VICTIMS, supra note 16.
that point to a need for organizational change. Evidence from the Bhopal disaster indicates that Jasanoff’s assertion has merit. For instance, Kamal K. Pareek, a maintenance superintendent and chemical engineer at Union Carbide’s Bhopal plant, tried to communicate the plant’s safety hazards to upper management and experienced firm resistance. Pareek reported that several managers refused to listen to his concerns because of the costs and problems associated with addressing them. In his decision to resign in 1983, Pareek reported that the major reason for his resignation was a deterioration of safety standards at the plant. In his exit interview, Pareek forewarned his managers of the high probability of catastrophic accidents if the safety standards did not improve. The following year, Mr. Pareek’s predictions became a reality when the Bhopal plant exploded.

To prevent future disasters, Jasanoff advocated for new organizational structures that incentivize precautionary behavior by corporate executives. Jasanoff also emphasized a need to alter value systems and highlighted the need to replace the contemporary high regard for individualism and consumerism with concern for people and the environment. Jasanoff’s call for an alternative value system challenges the view of social disasters as merely “accidents” and natural resources as purely raw material for the production process.

Jasanoff’s call to a new value system could suggest a need for revolutionary changes, and Gandhi’s thought contains doctrines and principles that already have been used to peacefully revolutionize societies. In the world of business ethics, however, there are formidable challenges and perhaps incompatible differences between Gandhi’s core business-related principles and the basic values that have animated the modern corporation up to the writing of this Article. When corporate directors’ legal duty of loyalty is to the corporation itself, how can the current laws of

---

28 Id.
29 Id.
30 Id.
31 Id.
32 Jasanoff, supra note 26, at 6–13. Seven years after the Bhopal accident, Jasanoff visited India and interviewed various members of government and citizens from the private sector. She asked if “anything had fundamentally changed in India’s approach to controlling hazardous technologies.” She received various answers: some claimed that things had become worse as the level of pollution and poverty rose, while others argued that positive changes were made. The positive changes included spreading awareness, more networking, and more effective activists. Notably, most people did not mention legislation passed by the government as a positive change.
34 Id. at 265–66.
corporate governance incorporate a broader system of ethics designed for
the world’s welfare? In the following section, I illustrate how Gandhi’s
thought provides a direction to an ‘alternative value system’ for which
Jasanoff advocates.

II. CREATING AN ERA OF SWADESHI: CAN CORPORATE SOCIAL
RESPONSIBILITY PROMOTE SELF-SUFFICIENCY?

A. The Current State of CSR

A major problem during and since the Bhopal disaster has been the
marginalization of business discourse on ending corporate violence. Part of
the reason for this ‘hole’ in business discourse is the lack of any serious
challenge to the self-interested profit motive that serves as a moral trump in
business practice. The discourse largely has been embedded in the two
dominant theories of modern corporate governance: shareholder and
stakeholder theory. Under the modern view of shareholder theory, often
called the Berle-Means shareholder theory, corporate behavior is governed
by the will of shareholders, or those who own the corporation. In theory,
owners of shares of a corporation have their interests exercised through
corporate conduct. The current expectation for corporations to express
the will of shareholders originates in part from *Dodge v. Ford Motor Company*
(1919), which states:

> A business corporation is organized and carried on
> primarily for the profit of its stockholders [shareholders]. The
> powers of the directors are to be employed for that end. The
> discretion of directors is to be exercised in the choice of means
to attain that end, and does not extend to a change in the end
itself, to the reduction of profits, or to the non-distribution of

---


37 Fort & Schipani, supra note 36, at 426; see generally *Human Rights Obligations of Business: Beyond the Corporate Responsibility to Respect?* (Surya Deva & David Bilchitz eds., Cambridge University Press 2013).


profits among shareholders in order to devote them to other purposes.  

In practice, this privileging of the shareholder has been bypassed by the business judgment rule, which has limited the power of the court to judge the decisions of corporate executives. As a result, for disgruntled shareholders, there are limited legal means to challenge business decisions. Recently, some scholars have argued that the current legal thinking on this matter has allowed for reckless executive decision-making and has created strain between executives, shareholders, and other interested parties. Among them is Edward Freeman, who has argued for a “stakeholder theory” to replace the traditionally dominant shareholder theory.

In stakeholder theory, a corporation’s behavior is dictated by the will of stakeholders, who are any party with a concern or interest in the corporation’s decisions, including those affected by the corporation’s operations. This theory assumes that the incorporation of stakeholder value systems into corporate decision-making inherently leads to more socially beneficial results. The late scholar of business ethics, Thomas Dunfee, saw merit in this viewpoint. Dunfee argued that moral preferences are ‘embedded within markets’ and would give corporations incentives to consider the impact of its actions on stakeholders.

The problem with this assumption is that businesses are justified in ignoring stakeholders who do not exert their moral preferences on corporations. In practice, stakeholders can be ignored in corporate decision-making because they may be invisible to the corporate boardrooms. As a result, crucial stakeholders such as local communities or indigenous tribes have minimal impact on corporate governance when corporations are not aware of or do not engage with them. Therefore, relying on the moral compass of stakeholders is not enough to ensure ethical practices because many stakeholders are unaware of corporate activity and invisible to the executives at the heart of decision-making processes. The invisibility of many stakeholders’ moral preferences may explain why corporations are quick to pay fines or settle cases. In the short-term, if it is less expensive to pay a fine or settle a case than to proactively work to create awareness of

---

42 See Fort & Schipani, supra note 36, at 426 (citing Thomas W. Dunfee, Corporate Governance in a Market with Morality, 62 LAW & CONTEM P PROBS. 129, 139–43 (1999)).
43 R. EDWARD FREEMAN, STRATEGIC MANAGEMENT: A STAKEHOLDER APPROACH (Pittman Publishing Co. 1984); see also Fort & Schipani, supra note 36, at 426 (citing Dunfee, supra note 42, at 139–43).
44 FREEMAN, supra note 43.
45 Id.
46 Dunfee, supra note 42, at 139–43, cited in Fort & Schipani, supra note 36, at 426.
corporate activity and open dialogue with local peoples—and pay for preventive measures that arise from these dialogues—then corporations may be tempted to continually rely on after-the-fact payments regardless of who they may have harmed or how much destruction ensued.

Nonetheless, there have been attempts to eradicate the invisibility of disempowered stakeholders.\footnote{47} One attempt has been the creation of hybrid-B corporations, which represent a new corporate model in which for-profit corporations assume some characteristics of non-profit organizations.\footnote{48} Terms such as ‘benefit corporation,’ ‘low profit limited liability company,’ and ‘community interest company’ have been used in the U.S. and U.K. to describe the hybrid-B corporation.\footnote{49} These corporations operate with voluntary profit limitations, such as requirements for corporate profit to benefit affected communities and limits on dividends, for the sake of producing greater value to society.\footnote{50} However, the number of hybrid-B corporations remains low, and the ability of hybrid-B corporations to compete with pure for-profit corporations in the current for-profit-only business climate is yet to be determined.\footnote{51}

Other commentators argue for a return to a reformed shareholder theory.\footnote{52} Because the relationship between executives and shareholders has been strained by shareholder dissatisfaction with executive decision-making, one option is to cultivate relationships between executives and shareholders.\footnote{53} In this approach, executives actively recruit potential shareholders with whom they would like to work and seek their investment in the corporation.\footnote{54} Although this approach may decrease tension between executives and shareholders in the long-run, it allows executives to ‘pick and choose’ their shareholders.\footnote{55} As a result, this approach presents the danger of corporations simply finding like-minded shareholders to serve as ‘yes-men’ for executive decisions, rather than shareholders being a source of diverse viewpoints that create incentive for executives to think beyond immediate profit and toward business practices of social value.\footnote{56}

Currently, the dominance of corporate executive decision-making hardly has been challenged worldwide, and the economic dominance of

\footnote{47} Carol Liao, Professor, Univ. of Victoria Sch. of L., Emerging Hybrid Corporate Governance Models and the Social Economy, Address at the Business and Society Section Panel, Emerging Approaches to Corporate Governance and Corporate Social Responsibility, at the Law & Society Association Annual Meeting (June 1, 2013).

\footnote{48} Id.

\footnote{49} Id.

\footnote{50} Id.

\footnote{51} Id.

\footnote{52} Belinfanti, supra note 38.

\footnote{53} Id.

\footnote{54} Id.

\footnote{55} Id.

\footnote{56} Id.
corporations has become akin to an empire. Similar to the modern corporation, the East India Company advanced its economic agenda while claiming that pursuing its interests advanced ‘progress.’ Gandhi was aware of the Company’s imperative to pursue self-gain in the name of broader social justifications, and he developed his critique of modern industrialization to advance an alternative ‘other-regarding’ economics. However, Gandhi’s economic vision is not merely critique of the factory-based industrialization of the early twentieth century; rather, his vision applies broadly to all production and resource extraction processes. The next section explains Gandhi’s view of industrialization, which forms the basis of his economic vision, and its broad relevance to today’s world of corporate violence and governance.

B. Gandhi’s Critique of Industrialization

Gandhi fearlessly challenged the ubiquitous belief in industrial ‘progress’ that dominated his time, and as a result, he often was misunderstood as being “anti-industrialization.” However, his writings show a clear willingness to accept industrialization under certain circumstances. According to Gandhi, as long as industrialization was sensitive to its effect on social relations, there was nothing necessarily evil about industrialization. It was the manner in which modern capitalists industrialized India that made industrialization function as a mechanism for exploitation. Gandhi explained,

Machine-power can make a valuable contribution towards economic progress. But a few capitalists have employed machine-power regardless of the interests of the common man and that is why our condition has deteriorated today.

In Gandhi’s view, capitalist industrialization solidified the dominant-subordinate relationship between Britain and its colonies. Therefore, to Gandhi, the industrialization of India reinforced both the British Empire’s

57 See generally Laura Nader, Plunder: When the Rule of Law is Illegal (John Wiley & Sons 2008).
59 See generally Gandhi, supra note 14.
60 Id. at 25–30.
61 Id. at 170.
62 See id.
self-image as the world’s standard-bearer of “civilization” and the Empire’s image of India as backwards and worthy of subordination.64

According to Dasgupta, Gandhi challenged the Empire’s claim that industrialization would create more employment in India. To Gandhi, industrialization would sap India of employment because of industry reliance on machinery.65 In a society in which large numbers of people used handicrafts and manual labor as their source of work, Gandhi argued that machinery would devastate employment prospects.66 He questioned “whether these machines will be such as would blow off a million men in a minute or they will be such as would turn waste lands into arable and fertile land.”67 He added,

And if legislation were in my hands, I would penalize the manufacture of [labour-saving]68 machines and protect the industry which manufactures nice ploughs which can be handled by every man.69

As Gandhi explained, machines added value to society only when they led to greater employment opportunities, not when they replaced human labor. The Empire instituted a British-style education that provided Indians with new skills that were compatible with an industrialized economy; however, Gandhi viewed the re-training of Indians for British industrial work as doing little to alter the fundamental social relations between dominant and subordinate groups.70 Gandhi argued that the pursuit of a British education meant that Indians would simply learn skills that the oppressor needed its laborers to master.71 Under such conditions, the Empire would remain the supreme power, and Indian labor would continue to be exploited.

Alternatively, Gandhi believed that the function of education was to empower oneself and live independently.72 Therefore, a meaningful education would emphasize the people’s local economy rather than privileging the imperatives of large-scale economic elites.73 Gandhi stated:

The ancient aphorism ‘Education is that which liberates’ is as true today as it was before . . . . Knowledge includes all

---

64 See generally Patel, supra note 58.
65 AJIT K. DASGUPTA, GANDHI’S ECONOMIC THOUGHT 72 (Routledge 1996).
66 Id.
67 18 CWMG, supra note 63, at 390.
68 Id.
69 Id. (quoting Young India, 17-9-1919); see also Gandhi, supra note 14, at 165.
70 Dasgupta, supra note 65, at 140–43.
71 Id.
72 Id. at 137; see also 90 CWMG, supra note 63, at 29–30.
73 Dasgupta, supra note 65, at 137; see also 90 CWMG, supra note 63, at 29–30.
training useful for the service of mankind and liberation means freedom from all manner of servitude even in the present life.\textsuperscript{74}

Here, Gandhi argued that education had to be an exercise in developing independence, but the Empire’s reliance on machines subjugated the common people. Since people could be replaced by machines to save on labor costs, common people lacked the leverage to withhold their manual and vocational skills if the Empire treated them unjustly. Moreover, by learning British-style education instead of manual labor, people were dependent on the Empire and its machines for basic needs such as clothing.\textsuperscript{75} Therefore, manual labor and vocational education was a pathway to gaining independence from coercive rulers. By acquiring useful skills that lead to self-employment, people could liberate themselves from dependence on foreign goods and from the Empire’s use of machines as a tool for exploitation.\textsuperscript{76} Gandhi said of the common person:

He will lose nothing if he knows a proper use of tools, can saw a piece of board straight and build a wall that will not come down . . . [a child] who is thus equipped will never feel helpless in battling with the world and never be in want of employment.\textsuperscript{77}

By meeting practical needs through self-reliance, Gandhi envisioned a world full of empowered individuals serving the whole of humanity through their choice of labor.\textsuperscript{78} However, in addition, Gandhi saw his practical economics as a spiritual economics, in which economic empowerment and political independence aided the individual’s attainment of life’s highest goal: enlightenment.\textsuperscript{79} Gandhi chose karma-yoga (service to others) as his

\textsuperscript{74} Id; see also 90 CWMG, supra note 63, at 29–30.

\textsuperscript{75} See Nehal A. Patel, Mindful Use: Gandhi’s Non-Possessive Property Theory, 13 SEATTLE J. SOC. JUST. 289, 299 (2014) (discussing handlooms and machinery).

\textsuperscript{76} Dasgupta, supra note 65, at 143.

\textsuperscript{77} Id.; see also 15 CWMG, supra note 63, at 207.


\textsuperscript{79} Moksha and nirvana commonly are translated as ‘liberation’ and ‘enlightenment’, respectively. Our concern is not to delve into the intricacies of this subtle distinction. Rather, we call on the reader to note that the enlightened state is one which liberates human consciousness from suffering. Therefore, in Gandhi’s world view, liberation and enlightenment are crucial not only in the search for self-realization, but also to achieve genuine independence and social freedoms. See generally Gupta, supra note 78; Das,
preferred method of seeking enlightenment. In the *karma-yoga* tradition, the practice of living for everyone encourages a person to move beyond himself and into a direct awareness of the underlying unity of the universe. Therefore, *karma-yoga* is a method for attaining enlightenment, but it also serves a profound social function by promoting harmony and kindness toward others.

In Gandhi’s ‘practical-spiritual’ view, all of life’s activities—including economics—must be guided by the motivation to serve everyone. Through vocational education and manual labor, a person could acquire skills to serve humanity and achieve economic empowerment, independence, and ultimately enlightenment. In contrast, exploitative empires contained a fragile model of employment that was subservient to the empire’s pure self-interest. Therefore, in Gandhi’s thought, ‘independent employment’ is more effective in fulfilling life’s highest goal than the employment model of the British Empire.

Along with his hopes for a ‘practical-spiritual’ economy, Gandhi also expressed concern that industrialization would rapidly embed itself into India’s economy. Because the Empire used its economy as a tool to preserve social inequality, industrialization’s increasing embeddedness into Indian society would make it extremely difficult for oppressed groups to opt out of an exploitative economy. Gandhi explained how industrialization maintained exploitation by saying:

> The present use of machinery tends more and more to concentrate wealth in the hands of a few in total disregard of millions of men and women whose bread is snatched by it out of their mouths.


See also *Mahatma Gandhi, Speech at Gurukul Anniversary*, in 15 CWMG, *supra* note 63, at 207.

See also *Gandhi & Parel, supra* note 14, at 168.

Gandhi, *supra* note 1, at 104; see also *Gandhi & Parel, supra* note 14, at 168.
Gandhi’s emphasis on making one’s own things makes Bhopal an ideal site for applying his objections to industrialization. First, rather than increasing economic independence through employment, Union Carbide’s plant destroyed the lives of hundreds of thousands of Bhopal residents. Second, Union Carbide’s presence in Bhopal is a continuation of the rapid industrialization that has been embedding itself into the Indian economy since the days of the British Empire.\footnote{Patel, \textit{supra} note 58, at 377.} This embeddedness creates a large-scale economy that allows big organizations to dominate production.\footnote{Id.} In the case of Bhopal, industrialization removed power from local people who cannot mass-produce pesticide; in an economy that privileged mass production, there was no opportunity for a person “making things herself” to compete with large-scale corporate production.\footnote{See generally id.}

Bhopal showed us that the problem of corporate violence goes beyond lack of governance and into the underlying ideologies of “progress” in the modern economy. Without a sustained attempt to understand the roots of corporate violence, a future Bhopal is not only likely but perhaps immanent.\footnote{See generally \textit{CHARLES PERROW, THE NEXT CATASTROPHE: REDUCING OUR VULNERABILITIES TO NATURAL, INDUSTRIAL, AND TERRORIST DISASTERS} (Princeton University Press 2007).} Therefore, it is imperative to not only revisit Gandhi’s critiques of modern industrial processes, but to also revisit his principles that could abate corporate violence.

Gandhi perhaps is best known in the west for his development of nonviolent resistance, and one could view non-cooperation and CSR as inversely related: more effective CSR efforts could mean less non-cooperation campaigns among the victimized. Inversely, the less CSR, the more incentive for people to begin their own resistance movements. One instance that is ripe for non-cooperation is the current litigation between Monsanto and local farmers. Monsanto has created genetically modified seeds that it sells to local farmers.\footnote{Why Does Monsanto Sue Farmers Who Save Seeds?, \textsc{Monsanto} (August 13, 2015), http://www.monsanto.com/newsviews/pages/why-does-monsanto-sue-farmers-who-save-seeds.aspx.} Their agreement stipulates that the farmers “will not save and replant seeds produced from the seed they buy from” Monsanto.\footnote{Id.} Monsanto has sued local farmers claiming that the corporation owns a patent on the seeds and has won all nine such cases that have gone to trial.\footnote{Id.} Therefore, because the court has protected the corporation’s patent rights over local farmers’ protection of traditional practices, it is possible that farmers will resort to nonviolent non-cooperation to preserve local farming practices. This might involve a call for local consumers to purchase from farmers using locally grown seeds whenever such seeds are available. Such an approach would be analogous to Gandhi’s
call to boycott British goods and buy from local producers (or make one’s own goods).

One of Gandhi’s principles that applies to the tension between corporations and local producers is swadeshi, or “self-sufficiency.” Swadeshi applies both to achieving sustainable mass employment and the potential for power to rest in the hands of local people. The struggle of local farmers in the Monsanto example serves as an example of where swadeshi must be part of any serious conversation about CSR. If corporations have incentives to align their practices with local self-sufficiency, then such conflicts can be averted. However, if there are no financial consequences to degrading self-sufficiency in indigenous food systems, then conflicts can persist. In the following section, I focus on the question of whether self-sufficiency can be attained through corporate social responsibility (CSR). I focus on Gandhi’s concept of swadeshi to address if and how CSR can be used to achieve empowerment and independence for local peoples.

C. Gandhi’s Principle of Swadeshi and Why It Matters to CSR

Contemporary CSR discourse lacks critical and revolutionary alternatives that question deep ontological and existential assumptions in modern business practice. As a result, all major theories of CSR – whether grounded in shareholder theory or stakeholder theory – do little to tackle the question of what place a corporation has in an enlightened world. Instead of discussing the same standard issues in business ethics such as identifying relevant stakeholders, I ask the following questions: What would be the function of a corporation in an economy based on peace and happiness, and should corporate conduct result in more dependency on corporations or should corporate conduct produce self-reliance for local people? I argue that Gandhi’s principle of swadeshi (self-sufficiency) is necessary to end corporate violence and dependency, and CSR discourse must account for the consequence of corporate conduct on swadeshi. In this section, I explain swadeshi as understood by Gandhi and attempt to advance a discourse that connects CSR and Gandhi’s thought.

To understand the importance of swadeshi, we must situate the concept into Gandhi’s economic thought. Gandhi’s view of economics uncompromisingly imbibes all economic decisions with ethical consideration. To Gandhi, economics was not a field that could be

---

96 See NARENDAR PANI, INCLUSIVE ECONOMICS: GANDHIAN METHOD AND CONTEMPORARY POLICY, 72–77 (Sage India 2002).
97 Id. at 65–87.
98 “True economics never militates against the highest ethical standard just as all true ethics, to be worth its name, must at the same time also be good economics.” Mahatma Gandhi, 72 CWMG, supra note 63, at 258; see also Thomas Weber, Gandhi’s Moral Economics: The Sins of Wealth Without Work
divorced from other aspects of life; such a severing was artificial and led to unproductive results. In Gandhi’s thought, a correct vision of economics accepts the economy’s embeddedness within social, political, psychological, cultural, moral, and spiritual dimensions of human life. Because of its connectedness to life as a whole, economics—when properly understood—must lead to a condition of wholeness for humans; in other words, to be useful and meaningful in human life, economic motive must enhance the total well-being of people. To Gandhi, current dominant economic thinking “takes no note of the human factor” and is “frankly selfish,” while ‘true economics’ is “necessarily unselfish.”

To achieve such a true economics, all thought and conduct must lead a businessperson to be ‘true’ to all others, and to Gandhi, the highest Truth (satya) could be found through a spirit of love and service.

In American society, arguments about economic policy often contain a tension between compassion toward others and individual responsibility, but Gandhi’s thought reconciles this tension. One American discourse in which this tension is palpable is the debate on the welfare system. Welfare arguments often fall into two groups: on the economic left, welfare is viewed as ethically justified redistribution, while on the economic right, welfare is seen as unjustified ‘handouts’ that encourage indolence and irresponsibility. Although these two views of welfare seem mutually exclusive, Gandhi saw no necessary incompatibility between these views. Instead, by emphasizing love as the path to Truth, Gandhi recognized both: (1) the need for the poor to work, and (2) the need for redistribution.

First, regarding work for the poor, Gandhi endorsed bread labor as an individual’s method of simultaneously securing independence and lovingly contributing to society. To Gandhi, being independent meant being in charge of dignifying oneself by offering one’s own contribution to society; in contrast, to be dependent on government or wealthy private citizens was disempowering, degrading, and insulting to the poor. In the context of Bhopal, both farmers’ reliance on pesticide and survivors’ reliance on commerce without morality, in The Cambridge Companion to Gandhi 135, 139 (Judith M. Brown & Anthony Parel eds., Cambridge University Press 2011).

See generally id.; Gupta, supra note 78; Das, supra note 78; Diwan & Lutz, supra note 78; Swarup, supra note 78; Kanthi, supra note 78; Kanthi & Singh, supra note 78.

Mahatma Gandhi, 53 CWMG, supra note 63, at 60; ‘Some posers,’ Young India, 16 July 1931, quoted in Weber, supra note 98, at 140.


Dasgupta, supra note 65, at 36; see also Gandhi’s description of “Seven Social Sins,” which were: “wealth without work, pleasure without conscience, knowledge without character, science without humanity, commerce without morality, worship without sacrifice, politics without principles.” Mahatma Gandhi, 78. Notes, in 33 CWMG, supra note 63, at 135.

Dasgupta, supra note 65, at 36.

Id. at 36–43.
corporate action to remediate the contaminated plant site presents grave risks to people’s self-sufficiency and self-reliance. Even in the early twentieth century, Gandhi noted the dangers of introducing poisonous chemicals to the biosphere, saying “asphyxiating gas and such other abominations have not advanced us by an inch” and were “capable of killing masses of men at a time.” Gandhi observed that the introduction of ‘asphyxiating gases’ not only presented health risks but also introduced structural inequalities into societies by privileging large-scale corporate chemical production over time-tested local food production practices.

Second, regarding redistribution, Gandhi viewed society as having a duty to aid the individual’s independence, and therefore, society’s wealthiest people held their wealth in trust for the benefit of the world’s poorest individuals. Gandhi’s view of material life can be summarized in his saying, “Earth provides enough to satisfy every man’s need but not for every man’s greed.” To Gandhi, excess wealth, or wealth beyond need, existed only to benefit everyone. Because the wealthy had far more than material needs demanded, Gandhi encouraged and expected the wealthy to use their excess wealth for society’s benefit.

In addition to his call to the wealthy, Gandhi believed government had the duty to aid the poor in their achievement of self-sufficiency by providing immediate economic opportunity when necessary. In these opportunities, the poor must own their own labor and have the power to determine their own wages and hours. For instance, Gandhi explained that the state could open establishments which were self-sustained by the labor of the recipients, such as a soup kitchen where the recipients received healthy meals in exchange for their labor to maintain a sanitary environment by cleaning the floors or washing the dishes. In addition, the state could create village food markets and dairies with affordable nutritious products. These markets would be self-sustaining, where the poor could give their labor or spend their earnings rather than receiving charity. As Gandhi explained:

---

107 Mahatma Gandhi, 67 CWMG, supra note 63, at 184–85.
108 Id. at 13.
109 PANI, supra note 96, at 70–72.
111 See, e.g., Shyamkrishna Balganeh, Gandhi and Copyright Pragmatism, 101 CALIF. L. REV. 1705, 1718 (2013) (providing an application of Gandhi’s thought to copyright law, in which he quotes Gandhi: “You may say that trusteeship is a legal fiction. But if people meditate over it constantly and try to act up to it, then life on earth would be governed far more by love than it is at present. Absolute trusteeship is an abstraction like Euclid’s definition of a point, and is equally unattainable.”).
113 See Dasgupta, supra note 65, at 34.
114 Id.
115 Id.
116 Id.
117 Id.
By their own efforts, by their own work these people should earn their livelihood and get their clothing, and they must not be taught to depend upon others for their necessaries\textsuperscript{118} . . . there is nothing to prevent them from becoming so except public disinclination to give the requisite skill and capital.\textsuperscript{119}

The only exception was for those who were not able-bodied to contribute, and Gandhi placed much of the responsibility to feed and clothe the weakest and disabled squarely on the shoulders of the state.\textsuperscript{120}

Consequently, Gandhi’s economics calls for a system in which all parties were expected to act through love (i.e., compassion for others) and serve others (i.e., through individual responsibility). To Gandhi, exploitation was not possible in a system where the individual was in control of her own labor.\textsuperscript{121} Therefore, in Gandhi’s conception of the economy, opportunities did not come from jobs in which people worked in the interests of large companies; when corporations determine their own needs first—and only provide employment that fits their interests—they do not put the dignity and independence of the poor first. As a result, if the current standard of corporate self-interest continues, then the current economic model is doomed to fail at achieving the public goals of social justice and welfare. In Gandhi’s thought, self-interest is lame without collective well-being, and all parties in a society are responsible for collective well-being because everyone—and all life—is intertwined in a collective destiny.\textsuperscript{122}

Gandhi’s economics, therefore, combines the material and spiritual, the mundane with the sacred, and the economic with the ethical.\textsuperscript{123} By expanding the notion of ‘self’ to include ‘others,’ Gandhi revolutionized how economic ‘self-interest’ is understood and applied. In its narrow conception, self-interest easily can be perverted to imply immediate gain for oneself, even at the expense of others and future generations. In contrast, Gandhi’s conception of the self does not contain the atomistic quality that makes a purely separate individualized existence seem like a ‘truth’ in the

\textsuperscript{118} Mahatma Gandhi, 24 CWMG, supra note 63, at 30; Dasgupta, supra note 65, at 34.
\textsuperscript{119} Mahatma Gandhi, 68 CWMG, supra note 63, at 117; see also Weekly Letter, HARIJAN, Nov. 2, 1935; Dasgupta, supra note 65, at 34.
\textsuperscript{120} Gandhi was open to the involvement of private organizations with the state. As long as the goals of swadeshi and caring for the incapacitated were met, Gandhi did not distinguish or show a preference between public and private sources. Gandhi explained, “the disabled should not be fed with thousands watching them. There should be a proper place, private and quiet, for feeding them.” Mahatma Gandhi, 32 CWMG, supra note 63, at 232; see also Dasgupta, supra note 65, at 34.
\textsuperscript{121} “If I can produce things myself, I become my master and so need no machinery.” Mahatma Gandhi, 78 CWMG, supra note 63, at 104.
\textsuperscript{122} See Parekh, supra note 112, at 134–35.
\textsuperscript{123} See generally Judith M. Brown & Anthony Pare, The Cambridge Companion to Gandhi (Cambridge University Press 2011); Dasgupta, supra note 60; Gupta, supra note 78; Das, supra note 78; Diwan & Lutz, supra note 78; Swarup, supra note 78; Kanthi, supra note 78; Kanthi & Singh, supra note 78; Pani, supra note 96.
west. His sense of ‘the self’ originates largely from meditative traditions that view the self as part and parcel of a whole. The Sanskrit axiom ‘tat tvam asi’ (“you are the other”) permeates Gandhi’s ontology and epistemology and their implications are profound: we are not simply separate but connected parts of a whole universe; we are the whole and the whole is us.

As a result, swadeshi for one person nourishes the whole, and actions that limit swadeshi degrade the whole. Within Gandhi’s thought, the current domination of corporate self-interest in economic decision-making can seem bizarre and inconceivable. The current state of affairs in Bhopal especially is bewildering, given that the scale of destruction caused by the disaster seems largely unaddressed after 30 years, and the swadeshi of the thousands of survivors seems no more enhanced by corporate presence in Bhopal. As Gandhi’s life suggests, the tragedy in Bhopal begs us to take swadeshi beyond theory and into the question of policy and implementation.

D. The Next Step: Implementing Swadeshi

One of the challenges for CSR initiatives is reducing the tension between contemporary industrial “progress” and swadeshi for local poor populations. Events such as Bhopal that devastate local populations do not empower through self-sufficiency; instead, Bhopal highlights the ways that big businesses externalize costs while poor populations suffer. The aftermath of the Bhopal disaster suggests that modern economic structures do not provide realistic opportunity for the disempowered to live in swadeshi, and corporations function no more on non-injury (ahimsa), self-rule (swaraj), or the welfare of all (sarvodaya) than the colonial companies of Gandhi’s time.

If the global economy is to promote greater good through economic growth, then corporate transnational activity must not sap local peoples of both resources and dignity. In Bhopal, poor populations have been left with little option but to resist corporate imperatives and practice non-cooperation, and similarly situated populations have taken comparable action. For example, rural residents in other parts of India have mobilized to fight the effort of multi-national corporations and the Indian government to build a dam along the Narmada River. Similarly, in the U.S., there are over 7,000 distinct community protests that are challenging the inclusion of

---

hazardous waste facilities into American neighborhoods. Furthermore, in Madagascar, activists and indigenous people have struggled to protect rainforests by advocating for economic development that protects the natural environment and native peoples. In Ecuador, local populations have taken action against Chevron Corporation for oil pollution and local groups in Nigeria have taken similar actions against Royal Dutch Shell Corporation. Therefore, many local populations around the world face a form of industrial ‘progress’ that creates disaster for their ways of life and well-being and are resorting to similar non-cooperation tactics as survivors in Bhopal.

In Gandhi’s thought, the problem with modern resource extraction and industrialization is that its processes exploit many for the benefit of others and make people dependent on industrialists behaving out of self-interest rather than out of the welfare of all (sarvodaya). According to Gandhi, when major social decisions are determined by the self-interest of the elite few, a system of dependency can develop in which the masses are reliant on elites to give them life’s necessities. To Gandhi, in its most chronic and dysfunctional form, the modern economic system undermines the needs of many in favor of the wants or pleasures of a few who mindlessly consume.

The principles that provide remedy to these problems are no less relevant today than they were during Gandhi’s lifetime. The relevance of Gandhi’s thought perhaps is most apparent when we examine basics needs such as clothing and food. Gandhi’s insistence on khaddar (khadi, or homespun cloth) represented his attempt to sever India from its dependence on British goods, and most importantly, to end India’s psychological subservience to perceived British superiority. However, both today and in Gandhi’s time, dominant economic frames influence many upwardly mobile youth in the developing world to desire the styles and fashions of the

127 Id.
128 Id.
130 Id. at 341–48.
131 “The method of exploiting human labour under a system of indenture should be prohibited by law. Therefore, the main duty of Natal Indians in this matter is to start an agitation on a big scale, to adopt satyagraha, if necessary, and bring the system of indenture to an end.” 9 CWMG, supra note 63, at 187.
132 “They hold whatever dominions they have for the sake of their commerce. Their army and their navy are intended to protect it.” 10 CWMG, supra note 63, at 263.
133 “If Hindus and Muslims in India were to unite and refuse to hold down their own people, the country would not remain dependent.” 9 CWMG, supra note 63, at 294.
135 See Dasgupta, supra note 60, at 25–30; see generally Gupta, supra note 78; Das, supra note 78; Diwan & Lutz, supra note 78; Swarup, supra note 78; Kanthi, supra note 78; Kanthi & Singh, supra note 78.
developed world, and this desire reproduces the same cultural subservience to dominant economic interests as Gandhi described in his time.\textsuperscript{136}

Similar to Gandhi’s \textit{khaddar} movement, in the urban United States, there is a food independence movement that attempts to compete with large food industries. Will Allen has spear-headed educational campaigns to show urban dwellers how one inch of topsoil and seeds can turn an abandoned parking lot into a garden.\textsuperscript{137} Allen’s urban farming efforts have been one of the most notable alternatives at a time when many poor Americans live in areas described as “food deserts” where the most plentiful food often is processed by the fast food industry.\textsuperscript{138} However, rather than hearing the message that \textit{khaddar} or urban farming is a path to \textit{swadeshi} and \textit{swaraj}, today’s youth in the developing world are bombarded with corporate-driven messages that give the same message brought by colonialists in past times: ‘You need our products to prove you have arrived.’ Many people such as Will Allen already are practicing forms of \textit{swadeshi} in the effort to free disempowered populations from psychological and industrial dependency. If industry will benefit from \textit{sarvodaya}, it must be re-shaped to maximize \textit{swadeshi}, not to destroy it. Therefore, we must ask whether corporations can further \textit{swadeshi}, or whether their very existence is antithetical to self-sufficiency.

1. Can Corporations Enhance \textit{Swadeshi}?

Gandhi’s preference for local economic production as a way to prevent excess consumption challenges modern patterns of urbanization and industrialization. His village ideal contains a world in which villages are not dominated by industrializing urban areas.\textsuperscript{139} However, the perceived availability of industrial employment has contributed to the exodus of rural populations to urban centers.\textsuperscript{140} This migration has created the risk that

\begin{flushright}
\textsuperscript{136} See Dasgupta, \textit{supra} note 60, at 21–30.
\textsuperscript{137} \textbf{WILL ALLEN, THE GOOD FOOD REVOLUTION} (Gotham Books 2006); \textit{see also} Will Allen, \textit{Conversations}, KCTS 9, https://www.youtube.com/watch?v=eG95z8LoD6s; \textbf{GROWING POWER, INC.}, http://www.growingpower.org.
\textsuperscript{139} See Patel, \textit{supra} note 58, at 369, Figure 1 (2015).
“housing and infrastructural services such as water supply, sewage, electricity, communications, and transportation”141 would not keep up with the swelling urban population. As Shrivastava states:

Industrialization and urbanization reinforce each other to create a vicious circle of increasing public risks. First, the gap between available and needed physical and social infrastructure increases. Second, more industries get established near densely populated areas to draw upon the pool of labor and the sparse infrastructure, in turn imposing still higher risks on neighboring populations.142

Bhopal illustrated this ‘vicious circle’. Bhopal was the second fastest growing city in India between the 1950s and 1980s, and its overwhelming urbanization resulted in “nearly 30 percent of the city’s residents liv[ing] in slums near industrial plants” at the time Union Carbide’s plant exploded.143 In a profit-driven capitalist system, this public health deterioration should not be surprising. From one reasonable view, the drive to capture cost-effective locations to build plants and find cheap urban labor can contribute to the subsequent squalor of the urban masses.144

As a result, Gandhi found the modern capitalist economic system dangerous because its motor was competition without consideration of both material and non-material concerns for all (sarvodaya).145 Modern economies put pressure on organizations to maximize self-gain because industrial societies largely “have organized their economies on some variant of the capitalist system, consisting of privately owned or state-owned enterprises.”146 As a result, cost-cutting becomes a method of maximizing profit and includes “reducing manpower and cutting back non-production services, such as worker training, maintenance, safety, and environmental protection.”147 As a result, externalities and hazards are likely to persist under such an economic regime.148

141 Shrivastava, supra note 33, at 257.
142 Id.
143 Id.
144 See generally Murphey, supra note 140, at 162; McNulty & Adelemo, supra note 140, at 213; Khalifa & Moheiddin, supra note 140, at 258; Minocha, supra note 140, cited by Shrivastava, supra note 33, at 257.
145 Weber, supra note 98, at 143–150; Gandhi, supra note 14, at 68.
146 Shrivastava, supra note 33, at 257.
147 Murphey, supra note 140, at 162; McNulty & Adelemo, supra note 140, at 213; Khalifa & Moheiddin, supra note 140, at 258; Minocha, supra note 140, cited by Shrivastava, supra note 33, at 257.
148 Murphey, supra note 140, at 162; McNulty & Adelemo, supra note 140, at 213; Khalifa & Moheiddin, supra note 140, at 258; Minocha, supra note 140, cited by Shrivastava, supra note 33, at 257.
Unfortunately, it often is far easier for large corporations to pollute and repeatedly pay small fees or settlements than it is to pro-actively prevent disasters from occurring. 149 Bhopal raises the question of what incentivizes corporations to act in socially responsible ways. However, even in India, where Gandhi lived most of the latter half of his life, his theory of political economy largely has been abandoned. 150 Shrivastava states:

An important cultural contradiction is apparent in the ambivalent Indian attitudes toward nature. There is a deep conflict between the respect for nature inherent in Hinduism, the dominant religion of India, and the nature-destroying and anthropocentric values inherent in modern secular India's aspirations of industrialization. Traditional religious values of ahimsa (non-violence among humans and nature), high respect for natural elements (trees, land, water, air), deification of animals, and the naturalism advocated by such mid-century leaders as Mohandas Gandhi and Rabindranath Tagore were formally rejected by the Indian Constitution, which made India a “secular” state. In contrast to these traditional values, anthropocentrism and its attendant consumerist orientation serve as the base for Indian economic plans for rapid industrialization in the Western mold . . . 151

Modern India largely has embraced western economic models, but Gandhi’s thought contains several concepts that can alleviate the problems of modern economic practice such as corporate violence. Therefore, a serious engagement with his principles in CSR discourse is long overdue. In the following section, I discuss several concepts central to Gandhi’s thought, most notably his Theory of Trusteeship that can aid corporate governance. Through Gandhi’s Theory of Trusteeship, CSR discourse can shift into a discourse on corporate social justice (CSJ) and transform corporate violence into corporate nonviolence.

a. CSR in India: Shades of Gandhi’s Influence

Over the past century, Gandhi’s Theory of Trusteeship has influenced India’s CSR discourse. 152 In his theory, wealth is not indefinitely and

149 See generally THE WORLD ACCORDING TO MONSANTO (Marie-Monique Robin 2008).
150 “A basic economic contradiction lies in the industrially based strategy of economic development adopted by India and common to much of the Third World. Industrialization generates contradictory effects. It speedily improves the economic welfare of a segment of people, but simultaneously imposes new and unevaluated risks on their lives.” Shrivastava, supra note 33, at 256.
151 Shrivastava, supra note 33, at 261.
152 Sethi understands Gandhi’s theory of trusteeship as originating from swaraj, ahimsa, and equality; Ravindra Varma understands Gandhi’s theory of trusteeship as emanating from ahimsa and
exclusively ‘owned’ by a private party; instead, the owner temporarily possesses wealth.\footnote{See generally Patel, supra note 75.} One text that deeply influenced Gandhi was the Isha Upanishad, which presents a path to joyful Enlightenment through renunciation rather than possession.\footnote{See generally Patel, supra note 134, at 326–27.} Therefore, to Gandhi, it was illogical to conceive of wealth as being one’s “own,” or to “own” exclusively, because such a possessive view contradicted the call to renunciation in the Isha Upanishad. Moreover, because material wealth inevitably ends at death, it was unproductive to be preoccupied solely with self-interested ownership.\footnote{See generally Patel, supra note 75.} In other words, to Gandhi, to own exclusively was to own at the expense of others\footnote{See generally Patel, supra note 75; Mahatma Gandhi, Letter to Narandas Gandhi (Aug. 24/26, 1930), in 50 CWMG, supra note 63, at 5 (“A seeker after truth, a follower of the law of love, cannot hold anything against tomorrow.”).} because the experience of Enlightenment (moksha or nirvana) reveals a reality constituted by collective connectedness.\footnote{See generally SURENDRA VERMA, METAPHYSICAL FOUNDATION OF MAHATMA GANDHI’S THOUGHT, ORIENT LONGMANS FOR THE GANDHI PEACE FOUNDATION (1970).} Therefore, to Gandhi, it was more enlightened to view one’s wealth as being held in trust for everyone, and that one’s actions with that wealth – if governed by enlightened principles – would be only out of the well-being of all (sarvodaya).\footnote{See generally Patel, supra note 112, at 140–41.}

With his Theory of Trusteeship, Gandhi tried to awaken the moral consciousness of prominent businessmen, and he believed that this awakening could lead them to more responsible practices.\footnote{Nehal A. Patel & Ksenia Petlakh, Gandhi’s Nightmare: Bhopal and the Need For a Mindful Jurisprudence, 30 HARV. J. ON RACIAL & ETHNIC JUST. 151, 160–62 (2014).} However, in current corporate decision-making, a collective disinclination to exercise moral preference shields corporate executives from the standards of conduct presented by Gandhi. The interests of the general population can never compete with the profit motive when net profit is the corporation’s primary concern, regardless of whether shareholder or stakeholder theory is used to justify corporate behavior. Moreover, even within a stakeholder theory, it is unclear how corporate officials have any need to entertain sarvodaya (the welfare of all) or ahimsa (nonviolence), especially when U.S. courts use metaphors such as ‘the corporate veil’ to protect the most prominent businessmen from external scrutiny.

Gandhi’s Theory of Trusteeship plays virtually no role in American CSR discourse; however, the influence of his Theory in CSR discourse is greater

\begin{footnotes}
\item[154] See generally Patel, supra note 75.
\item[155] See generally Patel, supra note 134, at 326–27.
\item[156] See generally Patel, supra note 75.
\item[157] See generally Patel, supra note 75; Mahatma Gandhi, Letter to Narandas Gandhi (Aug. 24/26, 1930), in 50 CWMG, supra note 63, at 5 (“A seeker after truth, a follower of the law of love, cannot hold anything against tomorrow.”).
\item[158] See generally SURENDRA VERMA, METAPHYSICAL FOUNDATION OF MAHATMA GANDHI’S THOUGHT, ORIENT LONGMANS FOR THE GANDHI PEACE FOUNDATION (1970).
\item[159] See generally Patel, supra note 75.
\item[160] Parekh, supra note 112, at 140–41.
\end{footnotes}
in India than in the U.S. Therefore, Indian CSR discourse seems to be an amenable environment in which Gandhi’s Theory of Trusteeship can be furthered. Some wealthy Indian corporations already donate in part because of a pervasive Gandhian ethic. Gandhi stressed the role of businesspeople in curing social ills that the government proved ill-equipped to handle. As recently as 2011, the Indian Ministry of Corporate Affairs (MCA) created ‘Business Guidelines’ that emphasize a historical connection in India between responsible commerce and society. The MCA’s proposal refers to a tradition of social welfare dating at least “from around 600 BC” and recorded in past millennia “in the Mahabharata and the Arthashastra”. The Guidelines further state that “many of India’s leading businessmen were influenced by Mahatma Gandhi and his theory of trusteeship of wealth”. In addition, R. Bandyopadhyay, secretary of the MCA, said that laws are not enough to create change, and an ethic of care is necessary among executives. He claimed that business leaders are "custodians of public money, they are the trustees—if we go to the Mahatma Gandhi concept of trusteeship . . . they are actually the trustees of the nation.”

Because Gandhi saw the modern idea of ownership as illusory, he expected corporations as well as real people to recognize the transience of wealth itself. Therefore, rather than follow the illusion that anything could be “owned,” a corporation ought to recognize that its resources are only

---


163 Afsharipour, supra note 161, at 1001–03; “For example, the Tata Trusts, which controls 65.8% of the shares of Tata Sons, the holding company of the Tata Group conglomerate, regularly uses its income to support social causes.” Id. at 997; see also Parekh, supra note 112, at 140–41.

164 MINISTRY OF CORPORATE AFFAIRS, GOVERNMENT OF INDIA, NATIONAL VOLUNTARY GUIDELINES ON SOCIAL, ENVIRONMENTAL, & ECONOMIC RESPONSIBILITIES OF BUSINESS 1 (July 2011); see generally Afsharipour, supra note 161.

165 MINISTRY OF CORPORATE AFFAIRS, GOVERNMENT OF INDIA, NATIONAL VOLUNTARY GUIDELINES ON SOCIAL, ENVIRONMENTAL, & ECONOMIC RESPONSIBILITIES OF BUSINESS 1 (July 2011).

166 Id.

167 Id.; see generally Afsharipour, supra note 161.


170 See generally Nehal A. Patel, Mindful Use: Gandhi’s Non-Possessive Property Theory, 13 Seattle J. SOC. JUST. 289 (2014); Patel, supra note 134; Patel & Petlakh, supra note 160.
under its control because society allows for temporary control.\(^{171}\) To Gandhi, this short-term control meant that corporations “borrowed” their right to control resources from society and nature, and therefore, corporations “owed a duty to use the wealth it possessed for the betterment of the society which provided it the opportunity to gain wealth in the first place.”\(^{172}\) In other words, it is sensible for local people to be dominant decision-makers in a sustainable economy because corporations control resources only by the consent of the society.

Gandhi’s influence might explain why many scholars comment on the unique qualities of India’s business ethic. A new study reported that “Indian companies disproportionately have social missions that are considered on par with profitability.”\(^{173}\) One scholar noted that “Indian executives take pride in enterprise success—but also in family prosperity, regional advancement, and national renaissance. When asked about their priorities, Indian executives ranked investor interests below strategy, culture, or employees, much the inverse of what we usually hear from Western executives.”\(^{174}\) In light of these findings, the potential for development of CSR along the lines of Gandhi’s thought in India could exceed the potential for such development in the United States.

Gandhi’s contribution to Indian CSR discourse is significant in its potential to alter the paradigms of modern business theory. Gandhi’s Theory of Trusteeship and principle of \textit{sarvodaya} (welfare of all) do not focus purely on how markets work, and as a result, Gandhi’s principles do not treat market growth as a value in and of itself.\(^{175}\) However, in contrast to some western scholars’ portrayals,\(^{176}\) Gandhi’s principles are not necessarily “anti-business” or “pro-poverty.” Rather, Gandhi’s principles support commerce within the context of how the business sector can improve the well-being of everyone involved.\(^{177}\) As a result, many pre-existing economic theories are compatible with Gandhi’s thought and can be used as

\(^{171}\) Patel, \textit{supra} note 170; Patel, \textit{supra} note 134; Patel & Petlakh, \textit{supra} note 160.


\(^{173}\) Afsharipour, \textit{supra} note 161, at 1001–03.


\(^{177}\) \textit{See generally} Parekh, \textit{supra} note 112; \textit{Anthony J. Parel, Gandhi’s Philosophy and the Quest for Harmony}, (Cambridge University Press 2006); \textit{see also} Mahatma Gandhi, \textit{Notes}, in 33 CWMG, \textit{supra} note 63, at 135 (Seven Social Sins, according to Gandhi were: “wealth without work, pleasure without conscience, knowledge without character, science without humanity, commerce without morality, worship without sacrifice, politics without principles.”); M.K. GANDHI, \textit{The Quintessence of Gandhi in His Own Words} 10 (Madhu Maskan Publications Private Ltd. 1984) (“No doubt, capital is lifeless, but not the capitalists who are amenable to conversion . . . I do not regard capital to be enemy of labor”).
a starting point for incorporating some of his economic principles. For instance, a broad view of stakeholder theory posits that corporations must consider the interests of all parties impacted by a pending decision. Implicit in this broad view is the notion that corporate behavior can impact many parties, and that the impacted parties must raise their concerns for corporate behavior to ultimately enhance the social good. However, such a theory can be criticized for leading to a cacophony of voices, often with competing needs. In contrast, Gandhi’s Theory of Trusteeship and principle of sarvodaya do not advocate for several self-interested voices providing input on a corporate decision. Rather, it is incumbent upon the corporation to actively identify stakeholders (including the environment), proactively seek their input (in the environment’s case, via a guardian) and anticipate all needs before they create violence and conflict. To avoid violence and conflict, all the parties involved must collectively and truthfully deliberate upon the broader consequences of the proposed corporate behavior before investment begins, not after the corporation already is collecting profit.

An example of corporate short-sightedness that foments conflict can be seen in Green Giant Corporation’s move to Mexico. Green Giant argued that their presence brought more jobs to the area. However, even though some villagers may have gained financially in the short-term, the water level in the village dropped considerably and the natural environment suffered considerable damage. As a result, despite the new employment, many villagers resented Green Giant’s presence. A broad stakeholder theory would suggest more careful consideration of the interests of the villagers than Green Giant’s narrow focus on financial gain and short-term employment. Similarly, applying sarvodaya and Gandhi’s Theory of Trusteeship would prevent such narrow reasoning. Even if wealth (narrowly construed) increases in the village, the other long-term damages can render the short-term focus on jobs and economic growth futile.

Despite countless examples of poor transnational corporate planning, there are examples of CSR in practice, and some of them come from the largest corporations in the world. Currently, one of the world’s largest corporations is the oil giant Royal Dutch Shell Corporation (Shell), as measured by total 2013 revenue ($481.7 billion) and profit ($26.6 billion). Despite its titan status in the corporate world, Shell has made efforts to alter corporate behavior to further nonviolence. For instance, in Nigeria, Shell

---

178 Fort & Schipani, supra note 36, at 426 (quoting Dunfee, supra note 42, at 139–43).
180 Fort & Schipani, supra note 36, at 389.
181 Id.
182 Id.
recognized the unstable political environment in which it was extracting oil when bandits kidnapped Shell employees and gained wealth by collecting ransom from Shell for the employees’ safe return.\(^{184}\) As a result, Shell recently has implemented a collaborative protocol in Nigeria that seeks input from indigenous populations; in response to local concerns, Shell has expressed an intention to help remediate the damaged regions to “an internationally agreed environmentally acceptable condition.”\(^{185}\) However, despite Shell’s stated intention, many local villagers are dissatisfied with the degradation of their region, which has been called “the most polluted place on earth.”\(^{186}\) Although Shell claims the degradation often is caused by the bandits, many villagers believe Shell has not properly managed its oil extraction processes and have sued Shell in a Dutch court.\(^{187}\)

Alcoa Corporation is another company known for its CSR efforts. Fortune magazine recently included Alcoa on its list of Most Admired Companies,\(^{188}\) and Alcoa also recently made the Dow Jones Sustainability Index.\(^{189}\) As a leader in aluminum manufacturing, Alcoa has been recognized largely for its sustainability efforts through consumer recycling awareness.\(^{190}\) However, problems still persist. Alcoa touts its environmental restoration projects as showing leadership in voluntary stewardship, but the federal government on multiple occasions has been forced to order Alcoa to remediate Superfund sites.\(^{191}\) Also, the Environmental Protection Agency repeatedly has charged Alcoa with Clear Air Act violations over a decade,\(^{192}\) and Alcoa recently has been sued by


\(^{185}\) Id.


\(^{187}\) Queally, supra note 186. See also LAMBOOY ET AL., supra note 129, at 441–48.


employees who claim they have been exposed to carcinogens without notice.193

The conduct of Shell and Alcoa may not exemplify Gandhi’s ideal of using all wealth purely for the welfare of all, but the actions of these two corporate giants have received considerable attention and could shift the CSR discourse toward finding the corporation’s role in reducing rather than fomenting violence and political unrest. Modern CSR standards, however, still barely scratch the service of what is needed to achieve swadeshi. There continues to be a huge gap between CSR expectations in the business community and the affected stakeholders. This is evidenced by the fact that employees and local stakeholders continue to file lawsuits against corporations while the business community heralds the same corporations for their CSR efforts.194 In the next section, I explore the implications of corporate-local tensions on Bhopal and address whether the modern corporation can be transformed into an organization that fills the gap between its own interests and sarvodaya.

III. A NEW CSR?: SOLUTIONS BASED ON SWADESHI

There are several calls in academic literature for an end to corporate violence through CSR reforms, but the scholarship has not gone deeply enough into the thought sub-structure that animates modern business. The CSR discourse must engage with the underlying assumptions that buttress modern notions of ‘progress,’ and Gandhi’s thought provides this opportunity. In Gandhi’s economics, material considerations are tempered by people’s non-material needs.195 He said, “True economics stands for social justice; it promotes the good of all equally, including the weakest and is indispensable for a decent life.”196 Thirty years later in the United States, Martin Luther King, Jr. called on American intellectuals to follow a just economics:

I am convinced that if we are to get on the right side of the world revolution, we as a nation must undergo a radical revolution of values. We must rapidly begin the shift from a “thing-oriented” society to a “person-oriented” society. When machines and computers, profit motives and property rights are considered more important than people, the giant triplets

194 Id. See also LAMBOOY ET AL., supra note 129, at 336–48.
195 See Mohandas K. Gandhi, Primary Education in Bombay, HARIJAN, Oct. 9, 1937, at 292; see also Weber, supra note 98, at 139.
196 Id.
of racism, materialism, and militarism are incapable of being conquered. A true revolution of values will soon cause us to question the fairness and justice of many of our past and present policies.\textsuperscript{197}

King and Gandhi’s calls for ethical consideration make our current economic distinctions between “self-interest” and “selfishness” seem flimsy and arbitrary. To King and Gandhi, there was no distinction between “self-interest” and “selfishness” in modern economic thought if the tortured use of ‘self-interest’ functioned to exploit oppressed subjects.\textsuperscript{198} Therefore, to Gandhi and King, the conceptualization and use of ‘self-interest’ in modern economic practice was in need of serious correction in order to achieve the economy’s proper function of providing for all (\textit{sarvodaya}) and maximizing self-sufficiency (\textit{swadeshi}).\textsuperscript{199}

In our current economy, the creation and regulation of modern technologies present one of the greatest challenges to reconciling corporate self-interest with world-interest. In one of his most prophetic passages, Gandhi emphasized that the importance of his critique of industrialization was not to reject machinery per se.\textsuperscript{200} Rather, any technological invention should be valued for its ability to add to human efficiency without depriving people of the opportunity to secure dignified labor.\textsuperscript{201} He could have been speaking of Union Carbide’s plant in Bhopal when he wrote the following passage:

\begin{quote}
I should not care for the asphyxiating gases capable of killing masses of men at a time . . . I can have no consideration of machinery which is meant either to enrich the few at the expense of the many, or without cause to displace the useful labour of many.\textsuperscript{202}
\end{quote}

In this passage, Gandhi emphasized the freedom to choose one’s labor and the ability to determine one’s own destiny. Machines were justifiable only to the point “just where they cease to help the individual and encroach upon his individuality.”\textsuperscript{203} He added, “Should man lose his control over the machines and allow them to control him,”\textsuperscript{204} machinery “will certainly

\begin{flushright}
\textsuperscript{197} M\textsc{artin} L\textsc{uther} K\textsc{ing, Jr.}, A Testament of Hope: The Essential Writings and Speeches of Martin Luther King, Jr. 240 (James Melvin Washington ed., 1991), \textit{quoted in} William P. Quigley, \textit{Letter to a Law Student Interested in Social Justice}, \textsc{1 DePaul J. Soc. Just.} 1, 14 (2007).
\textsuperscript{198} Id. See generally Patel, \textit{supra} note 134.
\textsuperscript{199} See generally Patel, \textit{supra} note 134.
\textsuperscript{200} 67 CWMG, \textit{supra} note 63, at 184, \textit{quoted in} Weber, \textit{supra} note 98, at 146.
\textsuperscript{201} Id.
\textsuperscript{202} Id.
\textsuperscript{203} 29 CWMG, \textit{supra} note 63, at 270; \textit{see also} Weber, \textit{supra} note 98, at 147.
\textsuperscript{204} 54 CWMG, \textit{supra} note 63, at 216, \textit{Id.}
\end{flushright}
The way to avoid this outcome was to assure that labor only worked “under the most attractive and ideal conditions, not for profit, but for the benefit of humanity, love taking the place of greed as the motive.”

In Gandhi’s words, “It is an alteration in the condition of labour that I want.”

In his attempt to alter conditions, Gandhi envisioned a practical economics rooted in sarvodaya and comprised of small-scale village production through the practice of swadeshi. In Gandhi’s view, people’s material well-being could not be conceptually separated from their well-being in every other sense. Therefore, the freedom of self-determination (swaraj) and self-sufficiency (swadeshi) was part and parcel of the welfare of all (sarvodaya). In contrast, an approach solely focused on material goods would lead people into falsely thinking that purely material measures, such as GDP, defined society’s well-being.

In business and academic thought, perhaps the most disturbing modern tendency is the relentless insistence that economic calculations have a “value-free” basis. Gandhi argued that economic models and theory always involve value judgments regardless of whether businesspeople or academics choose to acknowledge them; in other words, ignoring ethical consideration is itself a normative judgment. Ironically, a person who claims to be “value-neutral” will not see his own value judgments, and yet, this mentality has embedded itself into the dominant economic and business communities globally.

Gandhi intuitively recognized the shortcoming of this supposedly “valueless” thinking in modern economic thought. His life was an effort to re-connect economics to ethics, and to illustrate the beauty that comes from the recognition that the various dimensions of life mutually sustain each other. Gandhi’s core principles of ahimsa, swaraj, sarvodaya, and swadeshi provide a cohesive and comprehensive alternative to the oversimplified and deeply flawed notion that today’s obsessive self-interest somehow produces common good.

Perhaps the most enduring characteristic of the Bhopal disaster is the fact that its legacy continues to be shaped thirty years later. Litigations have
not ceased, the site of the plant never has been cleaned, and most importantly, people continue to suffer.\(^{213}\) As Shrivastava states:

The tragedy of Bhopal suggests, in sum, the need for a radical reorientation in worldwide thinking about the causes and prevention of industrial crises . . . . Our challenge as scholars, policy makers, and citizens is to draw from industrial crises some genuinely new lessons about the future: to articulate actionable principles, to develop new economic and social policies, and to re-envision the relationship between humans and nature in ways that can prevent more Bhopals on our only too fragile planet.\(^{214}\)

Gandhi’s thought contains a comprehensive vision for such a “radical reorientation,” and he dedicated his life to showing that his core principles were actionable. When asked about explicating a science of \textit{ahimsa}, Gandhi replied, “Action is my domain . . . . The world does not hunger for Shastras [treatises]. What it craves, and will always crave, is sincere action.”\(^{215}\) A \textit{swadeshi}-based corporate social responsibility can create a framework to avert future corporate violence. Therefore, Gandhi’s principle of \textit{swadeshi} must be a core doctrine of any serious CSR discourse, and \textit{ahimsa}, \textit{sarvodaya}, and \textit{swaraj} must be operating principles for a world that has genuine dignity for all.


\(^{215}\) Mohandas K. Gandhi, \textit{Two Requests}, in 90 CWMG, supra note 63, at 1.
When asked what his message was for the world, Gandhi once elegantly replied, “My life is my message.”

His entire adult life was his experiment with how an individual and a community can live non-violently with others and with nature. Part of Gandhi’s genius was his view of the world and all its parts as comprising a family. Therefore, in Gandhi’s thought, the corporation could be an institution within the global family, and the modern corporation’s lack of fit within Gandhi’s family model should be a call to recreate modern business practices to fit the vision of a global family. Existing dominant models arguably can provide short-term material gains, but the risks to the global commons have reached proportions too potentially catastrophic to dismiss. Gandhi seemed aware of this danger a century ago, and the horror of Bhopal serves as reminder of the relevance of swadeshi and sarvodaya to modern business. American CSR discourse can continue to ignore Gandhi’s existential challenge to fundamental assumptions of modern economic and business discourse, but as Martin Luther King once said of Gandhi, “[i]f humanity is to progress, Gandhi is inescapable. He lived, thought, and acted, inspired by the vision of humanity evolving toward a world of peace and harmony. We may ignore him at our own risk.”


217 Gandhi, supra note 177, at 48 (“For a non-violent person, the whole world is one family. He will thus fear none, nor will others fear him.”).