

A CONSTITUTIONAL ANALYSIS ON MAHATMA GANDHI'S MODERNIZATION APPROACH

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Abstract

Many of the Constitutional framers were highly influenced by the Gandhian ideals during the formation of the Indian Constitution. The incorporation of the Panchayati Raj system in the Part-IV, Directive Principles of State Policy of the Indian Constitution, gives us a vibrant testimony of it. Gandhian philosophy being sceptical about mechanization is mainly due to the notion of inequality which came out as a result of concentration of wealth by few industrialists, depriving the mass. Though machinery and its dehumanizing aspects was abhorred from the Gandhian context, but the ideas of technological-use which could reach the needy was highly felt. The evolution of “Charkha” from traditional to its modern version can be analyzed from the present-day sustainable development perspective. The healthy coexistence of technology with that of the environment without infringing anyone’s environmental rights was given thought. The Gandhian concept of “village development” embraced the ideas of cottage industries, organization of village panchayets and local self-governance in the Indian Constitution and its inclusion helped to explore many unexplored legal areas which addressed environmental and technological issues in a much humanistic way.

Keywords: Gandhian-Philosophy, Constitution, Technology, Environment

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Introduction

Though the word environment-protection was never used by Gandhi, but it reflected in so many ways when it comes to his conception regarding unrestricted industrialization, mechanization, its adverse impact on the public health and other socio-cultural spheres. His book "Hind Swaraj" (1909) cautioned about this as a direct-outcome of the extreme 'materialism.' A sharp contrast was drawn between a "man's greed" and "man's need." The threat of unrestricted-industrialization, modern-technologies and inhumane-consumerism was observed and the need of "physical-labour" was realized where the participation of the mass was needed as there was an alarming indication for Gandhi which could probably create 'concentration of wealth' in the hands of few industrialists, depriving a fair amount of labourers due to promoting of modern industrial technologies of his time. The 'real needs' and 'artificial wants' of the people was easily grasped by his understanding which in the coming times led to his approach about handing the natural-resources to the next generation "as it was handed over to us."²

Gandhian Principles and the Indian Constitution

Many of the Constitutional framers though were highly influenced by the Gandhian philosophy and such type of fervour led to infusing of these ideals into the Indian Constitution not only as the "Constitutional Values" but also as the "Constitutional Goals," which got explicit space especially in the Directive Principles of the State Policy (Part-IV) manifesting as six substantial Articles, but the ripples of this philosophy can be observed throughout the Indian Constitution directly or indirectly perhaps due to Gandhi's pluralistic visions. Another massive impact of Gandhian philosophy when it comes to environmental rights could be observed in various welfare-legislations and judicial pronouncements. One of the substantial steps when it comes to upholding Gandhian philosophy was taken in April, 1993 by the 73rd Constitutional Amendment Act, which was passed by the Parliament providing Constitutional status to the Panchayati Raj Institutions. The "three tier" system of the Panchayati Raj and constitutionally recognizing the

² C., Heredia, Rudolf, Interpreting Gandhi's Hind Swaraj, *The Swaraj Foundation*, Retrieved from: <http://www.swaraj.org>

ideas of “Local Self-Government,” led to the empowerment of the village levels. DPSP as the directives which are given to the Union and State Governments, as such could emanate Gandhi’s ideals in the form of concrete legislations and later on numerous Acts like *Panchayats (Extension to the Scheduled Areas) Act, 1996* etc., came into being highly impregnated by the Gandhian principles. Moreover Article 243 to Article 243-O deals with various Constitutional provisions related to the Panchayets like the powers and functions of the Gram Sabhas, constitution and composition of the panchayets and so on. The 73rd Constitutional Amendment which was highly influenced by the Gandhian principles is known for adding 11th Schedule, which contains 29 subjects. Some of the key principles of this 11th Schedule are related to non-conventional sources of energy, health and sanitation by providing primary health care, cottage industries by promoting khadi clothing, the concept of ‘social forestry,’ land reforms, soil conservation etc., which are directly or indirectly related with the environmental rights of the rural population.

Gandhian Philosophy and the Environmental Rights

Through vision and practice Gandhi proved himself to be as an environmentalist in many ways. The Stockholm Conference in the early 70s, gave India a new vision when it comes to Environmental Protection, as India was one of the participating nations and the impact of it could be seen in its wide array of environmental legislations like *The Water (Prevention and Control of Pollution) Act, 1974*, *The Air (Prevention and Control of Pollution Act), 1981*, *Environment Protection Act, 1986*, *National Green Tribunal Act, 2010* etc., and later on several environmental movements were initiated like Chipko Movement of Chandi Prasad Bhatt and Sunder Lal Bahugana and subsequently Narmada Bachao Andolan was started by Baba Amte and Medha Patker, which were highly influenced by Gandhian ideals. The idea of “Swaraj” or “Self-rule” manifested as practical approach towards sustainable development. Moreover the adverse affects of industrialization, urbanization, mechanization were not only seen from the perspective of unemployment of the poor villagers, but also it was acutely observed seeing the inhumane work conditions in the industries. In his Harijan (7/9/1934) the “need for open air” was discussed by Gandhi as the increase in the appreciation of such concepts among the intelligentsia was highly appreciated by him. Article 43 which is one of the substantial Constitutional provisions, upholding the Gandhian principle of promotion of “Cottage Industries,” is not only confined within this sphere but at the same time passing of suitable legislations in favour of industrial

workers by ensuring their “decent standard of living,” has been explicitly mentioned. Such Constitutional spirit paved the way for many “labour and industrial legislations,” with a sustainable approach without degrading the surrounding environment and the health of the involved workers.³ The 42nd Amendment of the Indian Constitution in this regard played substantial role by inserting Article 43-A, which upheld securing of the participation of the workers when it comes to the management of the undertakings by inspiring the Governments to make legislations which are more “workers-oriented” in nature. *The National Rural Employment Guarantee Act, 2005*, which was later renamed as “*Mahatma Gandhi National Rural Employment Guarantee Act*,” not only ensured the Gandhian principle related to “right to work” but at the same time it substantially addressed “social security.” While observing Article 46 of the Indian Constitution, it was discussed in “**Shantistar Builders v. Narayana Khimalal Totame**”⁴, when it comes to “weaker sections” and promotion of their economic interests mentioned in Article 46, it directed to lay down guidelines to the Government which were appropriate in nature. Thus the ripples of such judicial interpretations led to the birth of many welfare legislations in the coming decades like *The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2000*, which deals with the rights and interest of the forest dwellers when it comes to eviction processes, ‘*Right to fair compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013*,’ which upheld the concept of “just and fair” compensation etc., which were highly influenced by the Gandhian views on social and environmental justice as Gandhi was also dedicated in promoting the rights of the forest dwellers (Adivasis).⁵

³ R. T. Rajnarayan (2019, Jan), Gandhi as an Environmentalist, *IJMR*, Retrieved from: <https://www.ncbi.nlm.nih.gov>

⁴ AIR 1990 SC 630

⁵ Pathak-Broom, N., Ajit, S., Tatpati, M., (2019, May 3), The Indian Forest Act’s proposed amendment is dangerous and fanciful, *Down to Earth*, Retrieved from: <https://www.downtoearth.org.in/>

“Swaraj” and “Sarvodaya” from the Industrial and Environmental Perspective

The concepts of “swaraj” and “sarvodaya” are having deep impact on the Constitutional values of India. When judiciary is interpreting “Constitutional-Morality” nowadays, such interpretations hold many aspects of Gandhian philosophy. “Sarvodaya” is an all-inclusive and comprehensive concept which resonates with the ancient Rig Vedic verse, “Bahujana sukhaya bahujana hitaya cha,” which means “the welfare and happiness of the many,” and it maintains consonance with the philosophy of “welfarism” where the “universal uplift” concept of Gandhi declared India as a “Welfare-State.” Here it is to be noted that John Ruskin’s influence on Gandhi gave birth to this term and later on it became his very own political philosophy and welfare-state as one of his primary mottos addressed the industrial and environmental issues in an effective way. These Gandhian approaches, when it comes to Directive Principles of the State Policies, did not remain confined within Article 40, Article 43, Article 43 B, Article 46, Article 47 and Article 48 only, but it got expanded towards the liberal principles enshrined in the DPSP. One of the examples can be cited here is about Article 51, which talks about the promotion of international peace and security, which resonates not only with the ancient Indian concept of “Vasudhaiva Kutumbakam,” which means “Whole world is one family,” but fundamentally with the Gandhian principles of a “non-violent world-order” after observing the brutal consequences of the two world wars. Seeing the manifestation of UDHR in 1948 and India’s significant role in it for a complete end of colonialism and gravitating towards an equal and progressive global-order, Gandhi’s vision of Indian nationalism reflected internationalism and not as a selfish priority. Thus these concepts of “Dignity and Justice” of UDHR, addressed several environmental and labour rights directly or indirectly to end up various exploitations. For Example Article 23 of UDHR, talks about “Equal pay for equal work,” and Article 1 declares that all human beings are born free. Such ideals bounced back in the Indian context which shaped not only social activism under Vinoba Bhave and others but also paved the way for neo-Gandhian methods of peace of the present day era. *The Lokpal and Lokayuktas Act, 2013*, which was done as an anti-corruption Act, was the direct outcome of such neo-Gandhian movements.

Gandhi's Concept of Industrialization

Gandhian industrialization did not promote modernization, urbanization and mechanization; rather it promoted rural industrialization (the term not used by Gandhi) which had its strong connection with agro-based Indian society. Article 39 (c) when talks about an economic system where concentration of wealth may not surface, it simply reveals Gandhian influence on the minds of the Constitutional framers, that economy should not be dominated in the hands of the few rather the Gandhian vision of economy revolved around the concept of return to the villages which are neither polluted by the industries and railways nor degraded by social injustice. Thus his self-sufficient economy did not remain confined within economics, but it addressed areas like self-governance which includes his several environmental and industrial concepts like self-cultivation, self-reliance and 'living wage of spinners.' Thus the 'cottage industries' of Article 43 has been enriched with the concepts related to the "living wage" from the economical/industrial perspectives and "decent standard of living" from the environmental perspective. Thus Gandhian concept of "Khadi" can be regarded as a generic term for various village industries which promotes self-reliant village economy. In *Vacuum Refining Co. of India vs. Workmen* ("Standard Vacuum")⁶ it was held that living wage being not a static concept is expanding with the growth of economy but it was also discussed that social dignity and security could only be rendered through 'fair remuneration.' Such judicial interpretations did not deviate from the Gandhian spirit, but reminded us that Gandhian principles and modern liberal views can move forward with the changing time, maintaining consonance without distorting the core principles of the former.⁷

Green Litigations from the Gandhian Perspective

When during the early 80s, the PIL mechanism surfaced in the Indian Legal scenario, it also manifested in the form of "Green Litigations," which addressed concepts like sustainable

⁶ SC 1961 AIR 895

⁷ Kolge, N., N., Sreekumar, Gandhi's Criticism of Industrialization and Modernity; An Environmental Perspective, *The Institute of Gandhian Studies (Gandhi Vichar Parishad)*, Retrieved from: <http://www.gvpwardha.iecit.in/>

development, protection of natural resources and wildlife, human rights issues related to the health of industrial workers etc., all of these can be invited on the common-ground of “Sarvodaya” as environmental-ethics promoting coexistence of living beings with the nature. Several green litigations like *MC Mehta vs. UOI*⁸, resulted in the stringent orders which was given by the Honourable Court against the Mathura refineries for polluting surrounding ambience near Taj Mahal. This case is significant both from the industrial and environmental aspects as for the first time, the concern for environmental-protection dawned upon the Indian judiciary which took Gandhi’s vision of industrialization to a new dimension from the modern perspective as the adverse affects of uncontrolled industrialization was substantially addressed.

Conclusion

It cannot be said Gandhi had an anti-industrial stand, but what he wanted was to bring a sustainable concept which not only could promote the socio-economic-development of the mass especially people belonging to the distant rural areas, but by bringing a new concept of industrialization where monopolization of economy by the few was totally absent. Moreover his concept of industrialization upheld not only rights of the workers but also was equally concerned about the environmental rights which manifested later on in various welfare legislations and judicial interpretations. With the Gandhian philosophy on the background, the Constitutional framers paved the way for modern doctrine of harmonious construction where Part-IV started to go hand in hand with Part-III, as such Gandhian principles of DPSP started to permeate especially when it comes to interpretation of Fundamental Rights by the Judiciary and in cases like *Olga Tellis vs. Bombay Municipal Corporation*, such fervour got reflected⁹.

⁸ SC 1987 AIR 1086

⁹ SC 1986 AIR 180