

INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 4 | Issue 3

2021

© 2021 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com>)

This Article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in International Journal of Law Management & Humanities after due review.

In case of **any suggestion or complaint**, please contact Gyan@vidhiaagaz.com.

To submit your Manuscript for Publication at **International Journal of Law Management & Humanities**, kindly email your Manuscript at submission@ijlmh.com.

Gandhi's Constitution

CHE TAL SONI¹

ABSTRACT

After a fair study of Gandhi's personal, professional and political life I tried to sum it up in this research paper with a special emphasis on contemporary issues and this paper is in very much sync with the constitution of India which makes it even more relevant and interesting for a law student/professor, a student/professor of political science or a student/professor of sociology. Gandhi like any other renowned political thinker is greatly affected by the situations and circumstances of India and other places to which he travelled to and these played a very important role in developing his philosophy and ideals for his life which are subsequently applied by him in India when the situation demands. In the current scenario, his ideas can help the government and other organs to reshape themselves where needed.

Keywords: Gandhi, Constitution, preamble, politics.

I. INTRODUCTION

Gandhi is known as the father of the nation² who is a renowned social reformer, a political thinker, a great lawyer, pioneer of non-violence and propounded it as well throughout his life, and a person who played a major role in the formation of our Indian constitution and who was also an active participator in all the constituent assembly debates. When he came back to India after completing his higher studies in England, he précised his attention towards the problems which are faced by the current Indian population during the British rule and when he has gone to South Africa, he witnessed stark racism embedded in their culture and mindset. These two tours greatly affected his views and laid the foundation for the future course of action which can be seen in the underline ideology of our constitution.

II. THE CONTRIBUTION OF GANDHI TO THE INDIAN CONSTITUTION.

"WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizens:

¹ Author is a student at Dharmashastra National Law University, Jabalpur, India.

² M.K. Gandhi, My experiments with truth, (2011).

JUSTICE, social, economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity;

and to promote among them all

FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation;

IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION".³

The above-mentioned terms are not for namesake per se but their function and relevance are obvious in the contemporary world and the words mentioned in our preamble are present in it with a humungous contribution of Gandhi. For instance, the word Equality mentioned in our preamble is very much present in our current constitution and one can refer to article 14 of the Indian constitution for the clearest relevance of the same and even some relevance can even be seen in article 15 and 16 of the constitution of India which empowers the government to make certain reservations in the public sector jobs along with the creation of a reasonable provision for the upliftment of women and children living in our country.

To enhance the argument that Gandhi was a pioneer in our constitution-making I will relate few more words in the preamble with his ideology.

Justice: - Gandhi was a renowned lawyer who had obtained his degree in law from England and he has travelled to India, England, and South Africa to have a deep understanding of the written text. For Gandhi justice is not that a party shall be punished or penalized but to bring a reform in the society by the use of reasonable coercion and exercise of legitimate power which also ensures a check on the activity of the citizens dwelling in that area. This kind of ideology can be traced in ancient India as well where the master Kautilya who was the pioneer of politics and in his book the Arthashastra⁴ very vividly defined all these ideas and specifically talking about the justice delivery system which was much more advanced from its time. Similarly, Gandhi also did the same and tried to make justice an easy access forum for the general public.

Fraternity: - Gandhi was a believer of the thought that an individual should maintain his individuality and shall perform his actions as per the morals of the society and his family to ensure uniformity in the approach of the society along with overall development of the same. In his autobiography, he mentioned various incidents which insist on the idea of moral

³ India Const. Preamble.

⁴ H.V. Sreenivasa Murthy, History of India, (1993).

development and cultural approach of society and individual. If the aforesaid ideology is been followed by people it will automatically bring integrity, Sovereignty, Democracy and make a country a Republic state, and all these factors work as a glue that holds the nation together and ultimately resulting in Fraternity.

Liberty: - John Locke, the father of liberalism⁵ kept an individual's liberty above all and authorized them to revolt to ensure that but this is known as negative liberty⁶ which ultimately proves to be harmful to the state but Gandhi on the other hand who was inspired by other renowned thinkers chalk out a near-perfect ideology for the Indian population and was of the thought that "*Excess of everything is harmful*"⁷ and allowed the sovereign to exercise reasonable restrictions over the same.

III. A HYPOTHETICAL CONSTITUTION THAT IS GANDHI-CENTRIC

A constitution is the supreme law of the land and "*even the sovereign drafts that law he is under that law*"⁸ and therefore checks on the absolute and unruly power can be kept.

Keeping in mind the depth in his ideology only a limited area will be dealt with to give the readers a fair idea about his ideology which can be used to make our constitution livelier.

First, let us understand how important is Article 19(1)⁹ for an individual of our country which gives you the right to speak which not only covers verbal communication but also written things and gestures as well and by the virtue of these powers an individual can even revolt against the government and state but this power has been tried to be suppressed by the use of certain Draconian laws like sedition which is a cliché tool for the state to even stop a peaceful protest and a fair criticism of anything.

Applying Gandhi's approach in this situation who empowers, propagate, and even though his participation and leadership have done several peaceful protests against the British government like Non-cooperation movement¹⁰, The famous Dandi March¹¹, etc. In modern times the right to exercise the rights can be improved by filling the loopholes in the system using the abovementioned approach derived from the acts of Gandhi.

In the contemporary world, we can witness various stereotypes formed by people relating to the obligations and work which an individual and government shall perform to ensure smooth

⁵ O.P. Gauba, An introduction to political Theory, (2020).

⁶ O.P. Gauba, An introduction to political Theory, (2020).

⁷ M.K. Gandhi, My experiments with truth, (2011).

⁸ RWM Dias', Jurisprudence, (2019).

⁹ India Const.art.19.cl (1).

¹⁰ M.K. Gandhi, My experiments with truth, (2011).

¹¹ M.K. Gandhi, My experiments with truth, (2011).

functioning of the state machinery. A common thought which is getting a mushroom growth is that a certain caste is supposed to perform a certain task like the people of the lower class are supposed to clean the sewers and streets and people of upper caste will work so hard to not even take a glass of water by themselves. Although this concept is not new in India, if we talk in brief about the history of the Indian sub-continent, we will witness very obvious and shameless class discrimination and will suppression of “*have-nots by the haves*”¹².

But Gandhi from his childhood use to do all his work by himself and even when he uses to study in Sabarmati Ashram, he uses to clean his toilets rather than relying on someone to just come and do his work and many more such incidents can be found in his autobiography. Applying this ideology in the current scenario in which the conduct of some people violated the provisions of Article 14¹³ and Article 21¹⁴ of our constitution the loopholes can be covered by his example and the mentioned class of equal and unequal¹⁵ the gap between the two can be reduced to a great extent and as per a report published in The Hindu, most of the sewage workers works without proper safety equipment which led to the loss of life of those workers which violated their fundamental right of life can be rectified with his ideology by putting pressure on the sovereign by the means of peaceful protest and penetration of the supreme law of the land can be ensured.

Article 5-11 of the constitution covers within itself the provisions of citizenship and in the modern era and the recent turmoil witnessed by our country India over the issue of CAA and NRC poses a serious question on this provision of citizenship and it has been accused that it’s a political move to declare India as a Hindu state and comments on this issue has been received from all over the world. Now if we talk about what Gandhi use to think over this issue is that he was against the notion of the state having a centralized power over this issue as the state may use coercive power over its citizens or the one who wants to be a citizen¹⁶ and was of the notion that a state while granting citizenship “*shall think locally and act globally*”¹⁷ by this he means to say that state shall also keep in mind the political situation without severely affecting its relations with the world and at the same time ensuring the sovereignty of the same.

¹² Karl Marx, Das Capital, (1867).

¹³ India Const. art 14.

¹⁴ India Const. art 21.

¹⁵ India Const. art.14.

¹⁶ M.K. Gandhi, My experiments with truth, (2011).

¹⁷ M.K. Gandhi, My experiments with truth, (2011).

IV. THE RELEVANCE OF GANDHI'S IDEOLOGY IN THE CURRENT SCENARIO WITH FEW EXAMPLES

Even after many years of his assassination maybe his physical presence has vanished but his charisma and ideologies are surviving and work as an example for the current and future generation. I would like to quote and will try to draw an analogy between the current situation of the world and India with his ideologies as a remedy for the same.

Non-violence: - Had anyone ever read about this nobleman Gandhi or maybe ever heard of him, the very first trait or characteristics of Gandhi which it came to our knowledge is that he was the living idol of ahimsa. For him, non-violence is *“goodwill toward others and doing well toward others. It is not a weapon of the weak and the coward. Ahimsa means the largest love and greatest charity. It is the weapon of the strongest and wisest”*¹⁸ *“According to Gandhiji, Non-violence does not mean meek submission to the will of the evildoer. It is the soul force or truth-force or truth sacking force”*¹⁹

The abovementioned philosophy is of great relevance in the current scenario with special reference when it comes to solve the internal issues of our country for example the recent and bloody incident of the border issue between India and China in the galwan valley and to resolve that this method is the best cause it will ensure minimum or no loss of life of both the sides and by mediation this issue can be resolved once and for all.

Another example can be taken of the recent and seemingly never-ending farmer's protest in north India which has occasionally turned violent and on the shameful move by some of them on the auspicious republic day degraded the image of India on the global stage and the incidents which followed this incident poses a serious question on the internal sovereignty of our country. Here also the best way to resolve this issue is a peaceful dialogue between the government and the farmers in which both sides must give up some of the provisions and demands demanded which can restore the situation to normal.

Satyagraha(revolt): - *“Gandhiji 's Satyagraha implies adhering to the truth. One should be truthful under all circumstances. According to Gandhi Satyagraha means non-violent resistance to political authority, non-co-operation with evil, and fasting constitute an essential part of it, but they do not exhaust its full import. There should be non-violence in Satyagraha. Violence is untruth and non-violence is*

¹⁸ M.K. Gandhi, My experiments with truth, (2011).

¹⁹ [www.thecho.in/Pratidhwani/Relevance of Gandhian Philosophy in Contemporary Period/](http://www.thecho.in/Pratidhwani/Relevance%20of%20Gandhian%20Philosophy%20in%20Contemporary%20Period/).

truth”²⁰.

Article 19 of our current constitution is one of the most important fundamental right holders as even if I need to write this research paper, I need those rights which are being insured by that article of the Indian constitution and within the interpretation of that article, the right of revolt can be safely inferred by a reasonable man and in this modern time when turmoil and regular infringement of rights is very common coupled with the draconian laws which are made and amended by the government the method adopted by Gandhi is very relevant as it gives Philip to non-violence means of fair and reasonable demand by a person from the government, a superior or from the charismatic personalities. A recent example of the ongoing protest in the Australian continent by the women for their equal rights in the society along with safety at the workplace is on charts and the method which they had adopted is perfectly in line with Gandhi’s satyagraha as it is a non-violent protest conducted by a mass in which they are following the way of non-cooperation with the existing malpractices and overwhelming patriarchy for their reasonable and fair demands to get a better position in the society with the male members present there.

V. THE MERITS AND DEMERITS OF GANDHI’S CONSTITUTION

The ideology and teachings of this Nobel and wise man still live on and kudos to his far-sighted approach that even in the era of modernization and westernization those ideas are still relevant in the current times and a trailblazer to the most complex problems in the Indian scenario but as a law student, I must present my views on this keeping a balance on the boons and banes of his ideologies.

(A) Merits

- **Pervasive:** - If the essence of his ideologies and teachings is used in the debatable and draconian parts of our legal, political, social system which can be seen as well as whatever happens in-camera can be improved and rectified respectively.
- **Detailed:** - Gandhi was a lawyer by profession and he very well justified his profession by the application and execution of his wit and charisma in the turmoiled Indian land which was awestruck by the British invasion and was in an awful economic state during that era and even in the worst phase of protest and struggle for independence he chalked out of the box plans to ensure our freedom.

²⁰ [www.thecho.in/Pratidhwani/Relevance of Gandhian Philosophy in Contemporary Period/](http://www.thecho.in/Pratidhwani/Relevance%20of%20Gandhian%20Philosophy%20in%20Contemporary%20Period/).

As it is not possible, to sum up, Gandhi's thoughts in one research paper so I am giving my views on very precise areas and after the merits of his views, I came across some shortcomings in his ideologies if we talk about the current time.

(B) Demerits

- **Superficial:** - The current era of globalization and a world which can be changed and changing every day his ideas don't hold much water for the modern problems which even force the wisest minds on this planet to scratch their heads to solve and the ever-changing legal field is the perfect example of this.
- **Ignores international relations:** - When the historical struggle for our freedom was going on and the only thing which an Indian want was nothing but independence, he kept his views and plans India and Indian centric and ignored what shall be done for maintaining a well and varied socio-legal-political structure to become an example in the international scenario and even in the contemporary times India struggles in this field and various rankings and indexes strengthen this argument.

VI. CONCLUSION

M.K. Gandhi which stands for his name but after this research in my opinion it shall be magnificent karsimatic Gandhi and a man like him take birth once in a century who has suffered for his rights and the nation's rights from his first breath till the last sigh which silenced the body of this wise person but his ideologies are still talking with the world and the people and keeps on showing us a viable solution for the most hectic and difficult problems. Certain drawbacks are present in his ideologies but one should keep in mind the circumstances and the needs of the society which shall be fulfilled and addressed to work as a binding agent preventing India to be torn further and an India centric approach was needed to do the same which has been ensured by him along with various eminent men who possessed the most prolific minds and worked in utmost good faith for our nation.
