

## I N T R O D U C T I O N

Gandhi held a unique place in the history of the Indian freedom movement as well as in the historic transition from tradition to modernity. The period ranging from 1920 to 1947 was popularly believed to be the Gandhian period. It was during this period that Gandhi had exhibited his brilliant skills and techniques which not only brought him to the forefront of national leadership but, by the inexorable logic of history, virtually vested in him the enormous and onerous task of nation-building as its acknowledged "father". Therefore, it was only natural to expect that his leadership, during those fateful and momentous three decades, would have a definite impact in the making of the Constitution for free India. That expectations were mostly belied, at the time of Constitution-making, is a cruel commentary on the unpredictable course of politics in a period of cataclysmic changes as well as the strangely conflicting leadership-response to the demands and compulsions for modernization and development.

This study is exploratory as well as analytical and descriptive. It tries to locate and identify the forces which worked for the incorporation or non-incorporation of the Gandhian elements within the Constitution. It also seeks to explore the causes, from their genesis onward, which, in fact, hindered, and acted against the incorporation of the Gandhian ideas. The study

also describes Gandhi's basic ideas and concepts, the history of the Indian National Congress along with the annual resolutions, during the Gandhian era. It gives an account of the Constituent Assembly Debates containing Gandhian elements. It also describes the evolution of the concept of fundamental rights in India and Gandhi's role in this process.

Scores of books have been written on the Indian Constitution in general or on its particular aspects, and even on the fascinating story of Constitution-making in India. Again, there is no dearth of literature on the Indian National Congress or on Gandhi or his ideas and thoughts. But one important aspect of study has not been adequately touched upon, that is, to what extent the Constitution of India had inherited from the Gandhian thoughts; or how far 'India of his dream' had influenced the framing of the Constitution. A common criticism that is labelled against the Indian Constitution is that it is more adventitious and derivative than an original document, something which has not grown out of the indigenous tradition and culture of this country. Gandhi had steadfastly adhered to all that was typically Indian in character. He had resurrected the social and political ideas from India's hoary tradition, and had sought to make them the basis of the nation-building effort. The present study is an attempt to fill this gap, at least in one direction. An attempt has been made, inter alia, to give a dispassionate account of the nature and extent of the influence the Gandhian thoughts had

exerted on the shaping of the content and the contours of the Parts III and IV of the Constitution of India, which are supposed to be the "conscience of the Constitution."

Granville Austin's book, "The Indian Constitution-Cornerstone of a nation", is a "political history of the framing of the Constitution", of how past and present events, ideals and personalities inspired the members of the Constituent Assembly "to write the Constitution as they did ...." (Introduction - p.XV). It is a fascinating story of a still more fascinating experiment in the democratic process, and provides us with "some insight into the political bases and motivations of Indian life." Based on a plethora of source materials including Committee reports, minutes and proceedings, as well as personal files and papers of the prominent decision makers, and other published and unpublished documents and materials, this book has already become a 'classic' in Indian studies, a pioneering and path-breaking effort in understanding the constitutional dynamics in India. Although not exclusively devoted to a study of the working of the Constituent Assembly in relation to Parts III and IV of the Constitution -- it deals with such important aspects as executive, legislature, judiciary, federalism, language, etc. -- its two chapters on Fundamental Rights and the Directive Principles, the "conscience of the Constitution", provide rich materials for understanding the play of forces in the shaping of the 'Rights'

provisions.

An article entitled "The impact of Gandhian ideology on the Indian Constitution" by O.P. Minocha, published in The Indian Political Science Review, Oct. - March, 1969-70, seeks to highlight the implications of the Gandhian Constitution, Gandhi's contribution to the emergence of the Constituent Assembly, choice of the Assembly etc. The author discusses the areas approximate to Gandhian ideology. But here, too, he does not keep his focus on the fundamental rights and the directive principles of state policy alone. He also deals with issues like franchise and elections, minorities, official language etc.

The present work starts with a brief study of the philosophy of Gandhi in the opening chapter. It deals with the metaphysical foundation and ethical principles of Gandhi which includes dharma, karma, 'atmaunnati', universal upliftment, non-violence, ends and means, satyagraha etc. Besides, the fundamental beliefs and ideas, the fulfilment of which had been the life-long dream of Gandhi, have been discussed. His ideas are divided into three categories-- political, social and economic. These include, inter alia, his concept of swaraj, rights and duties, political self-government and the right of minorities, removal of untouchability, equal respect for all religions, status of women, sarvodaya, concept of ideal state, and his concept of economic order, trusteeship and ideas on socialism.

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The second chapter contains a study of the relation between Gandhi and the Indian National Congress from the time of his entry into the Indian political scene till his death. Secondly, this chapter deals with the nature and extent of the impact of Gandhism on the Indian leaders and statesmen, especially the architects of the Constitution. And, in the light of this discussion, it is intended to bring out the reasons for the departure of the Constitution from Gandhian ideas.

The third chapter deals with the historical evolution of fundamental rights in India, stages in the evolution, Gandhi's influence on the attempt in this direction, and his influence behind various congress resolutions and official reports on fundamental rights.

The fourth chapter deals with the scheme of fundamental rights in the Constitution of India, the different stages in its evolution, their classification into justiciable and non-justiciable rights, fundamental rights and the directive principles of state policy. It discusses the impact of Gandhian principles on the making of the rights to equality, freedom, religion, education and property. Chapter V examines the extent to which the Gandhian principles are working behind the directive principles of state policy. His influence in respect of the incorporation of the constitutional safeguards of minority interests and democratic decentralisation (Panchayati Raj) form

the subject matter of the next two chapters.

The last chapter (Chapter VIII) is a study of the relevance of Gandhi in the present stage of India's constitutional history. This is the operative aspect of Gandhi's ideas. In this part governmental and non-governmental (private agencies or institutions) initiatives with regard to such schemes as sarvodaya, panchayati raj, social welfare, khadi and cottage industry, education, welfare of the weaker sections, prohibition, preservation of animals, social justice etc. have been discussed. And an attempt has been made to see how far the Five Year Plans of India, the provisions of the Constitution, the laws passed by the central and state legislatures etc. are directed towards implementing the above schemes and thereby vindicating the Gandhian ideas.

India is now on the threshold of the 'big leap forward' from tradition to modernity. There is now a clear sign of realisation, belated though, that much of the Indian Constitution had been dysfunctional in operation, and that radical, far-reaching revisions were needed to make the constitution normative, in the ontological sense, to convert it into an adequate vehicle for realising the new goals of the nation, and to attune it to the political culture of this land and the realities of the political process. The various and rather frequent amendments to the Constitution, especially the Constitution (Forty Second Amendment)

Act, 1976, have sought to make piecemeal and half-hearted attempts to restore stability in the political system and transform the Constitution from the 'nominal' to the 'normative' category. But constitutional amendments have only limited utility; much depends on how the political process translates the norms of the Constitution into concrete and actual reality. However radical or revolutionary these amendments might be, they indicate only structural changes. Their fruition into actual social transformation is a function of human endeavour and the prevailing level of socio-political culture. Much also depends on the capabilities and achievements of the political leadership in giving shape and form to the socio-economic ideals and principles. Considered in this light, one cannot fail to be struck by the failure of the leadership both in incorporating Gandhian thoughts and ideals as the basis of Constitution-making, and in upholding such principles while making the Constitution work. While the tensions and conflicts associated with a 'derivative', 'adventitious' constitution, dissociated from the indigenous political culture symbolised by Gandhian ideals, have been increasingly coming to the fore, one can only regret that a glorious opportunity had been lost, during those fateful years of the making of the Indian Constitution, in imparting greater legitimacy to it and narrowing the hiatus between the norm and the existential reality.