

Mahatma Gandhi- A Lawyer and Social Engineer of India
Dr. Archana Arun Thorat, Asst. Professor (LL.M. course), B.V's Y .C
.Law College Karad.

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Law is a weapon to secure life of an individual as well as a nation. Law plays a pivotal role in the development of society at large. The controlling mechanism through the provisions of various laws protect and maintain the peace and order in the society. We cannot imagine a society without law. As Greek thinker and philosopher Aristotle pointed out that a man is noblest of all animals but if we separate him from law and justice he is the worst. A single word cannot define the word law. Law maybe in the form of rules, regulations, bylaws, ordinances, provisions and directions etc. We can compare law with sea. Both are very vast in nature. We cannot found the depth of the sea by our own eyes just like that law is a developing phenomenon deep in itself and having depth to solve the problems of the society. For protection of individual rights advocate plays a dynamic roles. A lawyer can be treated as a social engineer who applied tools of law i.e. provisions of law to build the society and assist to maintain the peace and order in the society.

“The law and the lawyers” is the famous book which was written by Mahatma Gandhi where he laid down what exactly law means and what is the role of lawyer to develop our nation. Mahatma Gandhi went to England in the year 1888 to study law and he became barrister. In the year 1891, he enrolled as an advocate at high court of England. He returned to India and started his practice as a lawyer in the high court of Bombay, later in Rajkot but he never choose it as his profession in India. He moved to South Africa and started his practice as an advocate. He acquired a large experience to fight against South African and British governments regarding political, economic and social justice of his brothers from India. While resolving the disputes Gandhiji realized that, importance of facts are paramount and we have to tackle the facts of the case very carefully that law will take care of itself. Mahatma Gandhi observed in his autobiography, " facts mean truth and once we adhere to truth, the law comes to our aid naturally."¹ Mahatma Gandhi worked as an advocate for 20 years in South Africa. The base of his practice was the truth only. At the time of the discussions with the clients, he advised to every new client that he shall speak truth, clients shall come with a true case, no fake case and witnesses will be entertained.

At the time of practicing at South Africa Bapuji realized that the real function of an advocate is to unite the parties to the case who are against each other. He tried to increase private compromises of the cases which connected with him for settlement of disputes. In the interest of public work

¹ M.K.Gandhi, An Autobiography De Luxe Edition, Vol.1(1968), pp.196,197

Gandhiji always advised his clients regarding the settlement with his opponent out of the court. His legal practice was for the helping people and he was not charging anything beyond out of pocket expenses. Obviously for poor people he charged very less fees or he tried to argue without any fee. When we compare Gandhiji's vision with today's balk and money centric practices at courtrooms, we realized that the idea of settlement of dispute out of the court by way of mutual consent was unique for maintaining the peaceful relationship between the parties and to avoid the burden of expenses which occurred during pendency of litigations. In his autobiography he wrote about his experiences. "It was so indelibly burnt into me that a large part of my time during the 20 years of my practice as a lawyer was occupied in bringing about private compromises of hundreds of cases."²

India in the year 1996 passed Arbitration and Conciliation Act which specifically comprises the parallel system to the court through Arbitration, conciliation, mediation and negotiation. This foot step regarding the settlement of dispute by amicable means is result of Gandhiji's idea of settlement of dispute outside the court. Mahatma Gandhi was very popular among his colleague advocates, his clients, magistrate and judges. He was having sincerity and inner merit regarding the case which attracts not only lawyers but also judicial authorities.

According to Mahatma Gandhiji, truth was the basic element in practice. Though there is a battle in courtroom between advocates, still Gandhiji try to develop the peaceful settlement within the clients. "Mahatma Gandhiji was a lawyer who has simply grown beyond the usual confines rather than grown away from them who has enlarged the scope of the lawyer's functions rather than grown away from them who has kept the virtues of the lawyer and only deepened them. He loved his country and its people, he respected civil authority even while opposing it, his weapons where nonviolence and passive resistance is a moderate and realistic. He was willing to negotiate and to advance step by step he was humble in manner and took as his symbols the simple handicrafts of his people and true to the negative leadership the lawyer exercises. He became a martyr to his country he was an Indian lawyer named Gandhi."³

Mahatma Gandhi always felt that an advocate shall not exploit legal and adversary advantages but he has to promote compromises and reconciliation. He never compromise truth while dealing the cases in course of law. He never encourage clients to speak lie and to have false witnesses in the court. He maintained his reputation as truth protecting lawyer due to which many clients with falls cases never approached tohim. After 20 years

²M.K. Gandhi, An Autobiography (1959), p. 97)

³James J. Cavanagh, The Lawyer in Society

of his legal career in South Africa, Mahatma Gandhi stopped to practice as a lawyer in 1910 and he choose to work for the service of the community.

He returned to India in 1915 and became one of the prominent leaders in our freedom struggle. Mahatma Gandhi's sedition trial is considered as one of the great trial in the history of Freedom Movement. According to section 124 A of Indian penal code Gandhiji was arrested and tried for the offense of sedition. He wrote three articles in 'Young India' which was serious and provocative articles against British India. It was considered as disaffection against the British government. In this case both judge and the prisoner tried to discuss the issues regarding solution. Mahatma Gandhi delivered most memorable speech during trial and pleaded that to punish him with severe punishments. This speech considered as a great legal classic in the history of Indian struggle

In the opinion of Mahatma Gandhi, the doctors and advocates shall not charge any fees towards their clients. The Government shall provide them fixed amount for service. The services of these two people will be free of cost to the people at large. There shall be equal treatment to poor as well as to the rich people. In today's world the free medical advice and the free legal assistance became unfulfilled dream of the society. We have inserted the subject professional ethics in our curriculum but we cannot found ethics within the four walls of Justice. Unfortunately the justice is delayed and cost of justice increasing day by day. The poor of this country never get the best legal talent to resolve the disputes and the best medical practitioner to tackle his health issues.

The Mahatma Gandhi learned through practice of the law. During his whole career as an advocate he never deceived the judge and his clients. He always believed on truth and whatever will be the consequences truth will prevail over it was his philosophy. Mahatma Gandhi was honest trustworthy and principled lawyer. The judges of South Africa were also honored his words. He always maintain transparency in legal mattress. People try to conceal the arrears from the higher authorities but in one case Mahatma Gandhi accepted his arrears and he contended judge that he will try to fulfill it as early as possible.

According to Mahatma Gandhi the language of the court shall be the language of the persons who are living in the jurisdiction of that particular province. Large majority of population, the language they are using shall be the language of the court because the disputes are from the people of that vicinity where specific language has been used as their mother tongue. Mahatma Gandhi, father of our nation, barrister from England, practiced at South Africa, argued for the protection of rights of the people who were living at South Africa. After 20 years of successful practice he relinquished the world of arguments, justice and tried to start his new era in India as a

leader, who leads India with the concepts of non-violence, non-cooperation, truth etc.

His journey from an advocate to father of a nation was not easy. His path was full of obstructions but he never excused the things which were his principles of life. Being an advocate he tried to develop the new atmosphere in the world of advocacy. He gifted the principle of alternative dispute resolution that is settlement of dispute with mutual consent and with peaceful manner outside the court. His work during freedom struggle as well as the Satyagraha will be considered as milestone in the history of mankind. Being an advocate rather being an academician his principles of advocacy will always guide me and my students how the law is helpful to the society and what is the exact role of an advocate to protect the society. As Mahatma Gandhi always pointed out that ‘Be the change you want to see in the world’, we shall take initiative to change the world with this positive thought I salute Mahatma Gandhiji as an advocate i.e. Social Engineer of our nation.