

# GENDER BIAS AND THE 73<sup>RD</sup> AMENDMENT: LOOKING CLOSER AT THE VILLAGES OF HARYANA

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## **Abstract**

“An ideal India would be a collection of villages.”

- Mahatma Gandhi

Mahatma Gandhi envisioned to have a decentralized, village centric Constitution of India. Many notable scholars have mentioned the Father of the Nation’s desire to have a country consisting of developed villages that will, in turn, lead to building a developed nation. The 73<sup>rd</sup> Amendment is commonly known as the Panchayati Raj Amendment as it aimed to restructure the foundational tenets of rural governance in India. It sought to establish an administrative system with a bottom-up approach where the villages of India would have the maximum leverage to develop a decentralized arrangement to suit their needs. But even after more than two decades of this Amendment, Bapu’s vision feels like a far fetched dream for the country. There still exists a wide gap between the classes, genders, wages, opportunities, and whatnot.

For understanding the aims and objectives of the Panchayati Raj Amendment, we need to gain a perspective on the importance of giving power to each village to make it self-sufficient. Through this research work, we will attempt to shed light on the condition of gender discrimination at the grass-root level by focusing on the data collected from the villages of Haryana. A descriptive analysis will help us bring to fore the gaps between the claims of authorities and the reality. Additionally, we will pinpoint the challenges in the effective implementation of the government-sponsored schemes and the possible solutions for the same.

Sadly, women have not been able to utilize the reservation of one-third seats for them to enter into public life. They are still considered incomplete without their male counterparts, even in today’s world. The male members exploit the women quota to get any female family member elected in the village panchayat. After she becomes the office bearer, she is just a puppet who has to act according to the whims and fancies of these patriarchs. In any case, women are thought to be nothing short of a liability on the entire family. They do not have the right to decide what is right and wrong for them.

**(Keywords:** village, gender, females, governance, rural, problems, decentralization, discrimination.)

## **I. PROLOGUE**

“Saving justice is in the paramount interest of humankind.”

-Daniel Webster

The most basic human right conferred to us is access to justice. The judicial system has been established across jurisdictions to serve the people by making them aware of their rights, use that information to prevent any breach, and approach the appropriate authority for resolution of legal disputes without delay. The real question here is if the women, the so-called weaker sex, have access to justice in today’s world. The answer, in theory,

seems affirmative due to various international and national regulations for the protection of women. The ground reality, on the contrary, is disturbing.

In India, the idea of justice dates back to ancient times when everything was governed through ‘Dharma,’ which encompassed both human rights and the law and is a combination of moral and social order. It is a concept that is ingrained in the Indian legal system since time immemorial. Every individual has the privilege to make use of the bundle of rights which facilitate the accessibility and exercise of legal recourse. It also encompasses the availability of legal mechanisms to undertake in case of any need.

We are living in extraordinary times where the COVID-19 outbreak has locked us in our homes. It has exposed the devastating truth of women trapped in abusive households. The National Commission of Women in India has shared a report of 370 claims relating to women's abuse by 10th April. But what about the several other women who cannot speak up against the perpetrator because they are afraid that the brutality will increase as they have nowhere else to go. Who is accountable for the lack of legal remedy, mental trauma, and their appalling condition? The researcher will attempt to reveal the struggles of rural women of India by sharing some interactions with them through the course of this research work and try to suggest possible solutions that we genuinely need at this hour.

## **2. A GANDHIAN VISION FOR AN IDEAL INDIAN CONSTITUTION**

Gandhi's initial reflections on the existing colonial state and its flaws were recorded in his political manifesto *Hind Swaraj*. It lays the ground for his ideas about what the future of an independent India should look like. An interesting fact to notice is that Gandhi supports the concept of a constitutional democracy almost out of compulsion, for the lack of a better practical alternative. So, while he critiques the model of constitutional democracy, he also vouches for establishing a democracy having parliamentary *swaraj*. Anthony Parel, a renowned Gandhian scholar, has argued that, on the one hand, Gandhi was highly critical of a "highly centralized, welfare-oriented modern state." On the other hand, four conditions would be necessary for the flourishing of Gandhi's political philosophy (which the scholar calls "Pax Gandhiana"):

First, it requires the coercive politics of the constitutional order, established by the consent of the people, expressed in the Constitution, and put into practice jointly by honest federal, state, and local governments. Second, it requires the politics of nonviolent NGOs engaged in the constructive program. Gandhi believes that if India is "to live and live well, there is no alternative to the constructive program." Next, Pax Gandhiana requires the politics of *satyagraha*/civil disobedience, though limited to redressing specific, local (and not national) issues. Finally, it involves party politics that seek political power through free and fair elections.

Another seminal work deconstructing the Gandhian idea of the Constitution comes from a rather little-known Marathi scholar (also a former Bombay High Court judge) Narendra Chapalgaonker. He notes that a mini-constitution was prepared for the princely state of Aundh, which was approved after consultations with Mahatma Gandhi, which worked out well for almost nine years. It was a breakthrough for the Gandhian vision in terms of its practical implications. After the visit of the prince of Aundh to Gandhi, the latter noted that:

"I congratulate both the Rajasaheb and the people of Aundh on the grant of responsible Government. This small state has always been progressive. The ruler of Aundh has anticipated the wants of his people and has even been in advance of them in social matters. The declaration of full responsibility was the natural result of the past acts of the ruler. I hope that the rights conferred by the proclamation will not in any way be whittled down in drawing up the Constitution. I would suggest that the privy purse should on no account exceed rupees thirty-six thousand. There should be a definition of fundamental rights, i.e., equality of all in the eye of law, abolition of untouchability, and liberty of speech. The last para of the proclamation is appealing. It truly says that 'self-government implies self-control and self-sacrifice,' and adds: 'in the new era that is coming to Aundh, and we hope to the whole of the country, the strong will serve the weak, the wealthy will serve the poor, the learned will serve the illiterate.' It is hoped that the noble example of Aundh will be copied by the other States and that its people will, by their conduct, prove themselves in every way worthy of the responsibility that is to devolve on them. The fact that in the heir to the Gadi, they have one who, from all accounts I have received, is a true servant of the people, must be a great help all at the time of the inauguration of responsible Government. The Western education received by him has not spoiled him. He is reported to be a votary of truth and *ahimsa*. He himself takes part in village uplift, does road cleaning himself in common with other volunteers, and handles the spade and the basket with as much ease as they. He wields the pen. He takes pride in doing the scavenging work, including the removal of night-soil."

### **I. CONSTITUTION OF AUNDH: THE FIRST GRAM(VILLAGE) CONSTITUTION**

The Constitution of Aundh was in operation for around nine years. It had followed Gandhiji's philosophy in accepting the village as the basic unit. The heads of village panchayats formed the taluka panchayats, and delegates elected by them sat in the legislative council. The authority to allocate funds from the public treasury was vested in people. The autonomy of decision making had percolated to ground level. The geographical coverage of the experiment was not extensive, but it aimed to assure the efficacy of a constitution inspired by Gandhian philosophy. It was the first and only experiment of a Gandhian constitution.

Gandhi rested his vision of the Constitution primarily on the idea of gram swaraj, which he expounded in detail as such:

“My idea of village swaraj is that it is a complete republic, independent of its neighbors for its own vital wants, and yet interdependent on many others in which dependence is a necessity. Thus, every village's first concern will be to grow its own food crops and cotton for its cloth. It should have a reserve for its cattle, recreation, and playground for adults and children. Then if there is more land available, it will grow useful money crops, thus excluding ganja, tobacco, opium, and the like. The village will maintain a village theatre, school, and public hall. It will have its own waterworks, ensuring clean water supply. This can be done through controlled wells or tanks. Education will be compulsory up to the final basic course. As far as possible every activity will be conducted on a co-operative basis. There will be no castes as we have today with their graded untouchability. Non-violence, with its technique of satyagraha and non-co-operation, will be the sanction of the village community. There will be a compulsory service of village guards who will be selected by rotation from the register maintained by the village. The Government of the village will be conducted by a Panchayat of five persons annually elected by the adult villagers, male and female, possessing minimum prescribed qualifications. These will have all the authority and jurisdiction required. Since there will be no system of punishments in the accepted sense, this Panchayat will be the legislature, judiciary, and executive combined to operate for its year of office. Any village can become such a republic today without much interference even from the present Government whose sole effective connection with the villages is the exaction of the village revenue. I have not examined here the question of relations with the neighboring villages and the center, if any. My

purpose is to present an outline of the village government. Here there is perfect democracy based upon individual freedom. The individual is the architect of his own Government. He and his village are able to defy the might of a world. For the law governing every villager is that he will suffer death in defense of his and his village's honor.”

The Gandhian vision of the Constitution was a quest for swaraj, a manifesto against all-pervasive government regulation, demand for freedom, and his civilizational ideal of the Ramarajya.

### **3. DISCUSSION ON THE GANDHIAN VISION DURING CONSTITUENT ASSEMBLY DEBATES**

Until the late 1940s, Gandhi was the unchallenged leader of the Indian freedom movement and by a look at his influence and reach. One could easily conclude that he would play the most vital role in the shaping of the Constitution for a free India, if not directly, then through his colleagues and followers. However, as it later turned out, the Aundh experiment was not even referred to when the actual drafting of the Indian Constitution began with the Constituent Assembly Debates. What is of the most significant import is S.N. Agrawal's book laying out the detailed blueprint of Gandhi's Constitution. The fact that Gandhi himself approved its drafts and that he had stated that the document was closest to what an actual Gandhian Constitution would look like, makes it all the more relevant for our purposes. It proves the fact that there did indeed exist a clear vision of a post-colonial constitution in Gandhi's mind for India. A mere perusal of the text would lead us to the conclusion that it was mostly about decentralization.

However, when the drafting of the Indian Constitution began, and village panchayats were excluded from it, Gandhi lost all faith in the process and seemed to have “abandoned hope of realizing his dream of new India (see, Gandhi's India of My Dreams) through the Constituent Assembly and Constitution it was preparing. He was disappointed about both the Constituent Assembly and the Congress Party.” A broad overview of the entire drafting period suggests that this failure (used here for the lack of a better term) on Gandhi's part was mostly due to two reasons. First, although India did free itself of the clutches of British rule, it failed miserably to shed off its colonial baggage. Second,

although Gandhi was the leader of the freedom struggle, with the rest being his followers, the drafters didn't agree with Gandhi's vision of what India's future should look like due to which his ideas were not incorporated into the Constitution.

While Gandhi was rigidly pro-decentralization, the drafters wanted India to be a centralized modern welfare-state. One of the most crucial differences turned out to be those between Jawaharlal Nehru and Gandhi. Since Nehru was declared openly as Gandhi's political heir, by the 1940s, all the leaders of the freedom movement looked up to Nehru as the supreme leader. Gandhi, by this time, had turned into a larger-than-life figure who was both a guide and a saint, above and aloof from the day-to-day politics (Although this was a common perception, it was not quite so. Gandhi's politics was very different due to which it did not restrict itself to the question of who would take up political and administrative positions but was instead a decent game of politics).

The differences between Gandhi and Nehru had emerged quite early in the letters exchanged between the two. On Gandhi's critique of the West, Nehru responded thus:

"I think you misjudge greatly the civilization of the West attach too great an importance to its many failings. You have stated somewhere that India has nothing to learn from the West and that she has reached a pinnacle of wisdom in the past. I entirely disagree with this view, and I neither think that the so-called Ramarajya was very good in the past, nor do I want it back. I think the western or rather industrial civilization is bound to conquer India, maybe with many changes and adaptations."

Nehru's views deeply hurt Gandhi, and he conveyed the same to the latter. By 1945, when the Constituent Assembly was ready to be formed, Gandhi once again brought up the issue and conveyed implicitly a subtle resistance against his ideas being put down. It has been stated that:

"Gandhiji wrote in a letter to Nehru on 5th October 1945 on the difference of outlook between them. 'If the difference is fundamental, then I feel that the public should also be made aware of it,' he said. According to him, that was good for the democratic process."

However, Nehru did not support the idea of bringing out these differences (which meant differences due to a certain kind of philosophical outlook for Nehru) in the public domain as he felt that it would result in confusion and chaos both within the Congress and the Nation as well. He had a feeling that since now India was finally about to

gain independence, such vital differences at the top echelons of the leadership would demoralize the common citizenry which would not be able to bear the consequences of this display of an infight and was already reeling under the feeling of being torn apart due to an imminent Partition of the Nation. By the end of the debates, Gandhi was too exhausted and lost hope of having his ideas being given flesh and blood in the newly formed Constitution. He lamented thus:

"Today, politics has become corrupt. Anybody who goes into politics is contaminated... Has what I am doing today penetrated your hearts? (If yes) Then you should have the strength to remove corruption, wheresoever it may be. For that, you need not go into Committee. Your work is among the masses. The Constituent Assembly is today forging the Constitution. Do not bother about affecting changes in it. Shriman Narayan Agrawal has written to me that in the Constitution that is being framed now, there is no mention of grampanchayat, whereas the Congressmen have always said that the grampanchayat must be the foundation of our future polity. We have to resuscitate the village, make it prosperous and give it more education and more power. What good will the Constitution be if the village does not find its due place in it? But we must recognize the fact that the social order of our dreams cannot come through the Congress of today. Nobody knows what shape the Constitution will ultimately take. I say, leave it to those who are laboring at it... And supposing you get a Constitution after your heart, but it does not work. Think of the root and take care of it as much as you can and make self-purification the sole criterion. Even a handful imbued with this spirit will be able to transform the atmosphere. The people will soon perceive the change, and they will not be slow to respond to it. Yours is an uphill and difficult task, but it is full of rich promise."

Some of the Constituent Assembly members did raise a voice of concern regarding the non-incorporation of Gandhian philosophy in the draft Constitution but could not succeed in their attempt. Ultimately, Gandhi was reduced to a footnote in the final Constitution with being given a small space in the directive principles (such as banning alcohol and drugs, banning milch cattle slaughter). Later, through the 73<sup>rd</sup> Amendment, the Panchayati raj system was also recognized by the Constitution. However, in the final analysis, the fact-of-the-matter stands unchanged that Gandhi was reduced to the footnote, a larger-than-life father figure for

the Nation whom the Nation bowed before but only to put on a charade, a farce.

#### 4. OVERVIEW OF THE 73RD AMENDMENT

Democracy, from time immemorial, has been followed by the words “FOR THE PEOPLE, BY THE PEOPLE”; however, for the longest time there was a divide in the society that created a massive gap between the villagers and the governmental authorities who made decisions for all the citizens of India on behalf of them as their elected representatives. More often than not, the gap created was so huge that people from rural areas were completely unaware and detached from the political scenario in the country. Local governance was not something unknown and had been existing since the British era. Mahatama Gandhi actively supported the idea of the management starting from the lower grass root levels and moving upwards to the center for the governance to be inclusive of people on all levels. However, the chairman of the Committee that was to draft the Constitution, Dr. BR Ambedkar, was firmly against the idea of village panchayats and their empowerment. Being a victim of cast oppression and exclusion, he viewed this empowerment from that very lens. He believed that this would lead to extreme abuse of the lower castes by the upper castes who would invariably be the members representing them on village levels. Despite the legitimate claims made by him, he ignored the greater good that the village panchayats would bring about. Gandhi raised strong opposition to this notion and thought that villages are a part of the community and that we must follow communitarian principles and that the flow of power must start from the bottom and build to the top.

However, Ambedkar still believed that the deprived sections of the society were not a part of the “community,” and such a step, if nothing, would lead to more exclusion and increased oppression in the Nation. These measures were not included in the Constitution. However, there was a clear-cut need for these ideas to be somewhere, so they were later put in the DPSP (Directive Principles of State Policy). Article 40 of the same sets forth the structural organization of the rural areas and villages in a manner that each village has a panchayat and that Panchayat would be given the power to enable and encourage self-governance.

Initially, these Panchayats were not taken into consideration for any development plans and were

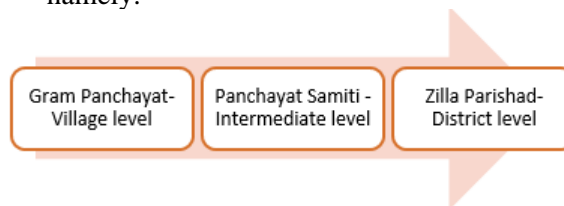
a body of people only “on the paper.” This made the whole idea of inclusion and connectivity redundant. In order to improve upon it and bring out more participation and enthusiasm, the planning commission chose to appoint another committee in 1957, which was headed by Mr. Mehta. This Committee believed that to bridge the gap in governance, the governance had to start from the ground level, and for that to happen, they had to earn the trust of the local people. The only way to create a link between them and the central government was to have one of their people who had their best interests in mind be the mid person, and that is how the three-tier Panchayati Raj system was first imagined. Nehru said that this system was ‘the most revolutionary and historic step in the context of new India.’ Democracy on the top level would not be a success if it were not built from the bottom.

#### 5. AIMS AND FEATURES OF THE 73RD AMENDMENT

**AIM:** The 73rd Amendment aims to develop democracy from the grassroots and build it to the top. This was done by introducing a three-tier Panchayati Raj System in all the villages to have more inclusive governance throughout.

#### SALIENT FEATURES OF THE 73<sup>rd</sup> AMENDMENT

- Three tiers of Panchayati Raj System  
This is the main feature brought about by the 73<sup>rd</sup> CAA. The Panchayati Raj Institutions are now divided into three levels in each state; namely:



Exception: In states with a population of fewer than 20 lakhs, they can choose to skip the intermediate level and have only two tiers

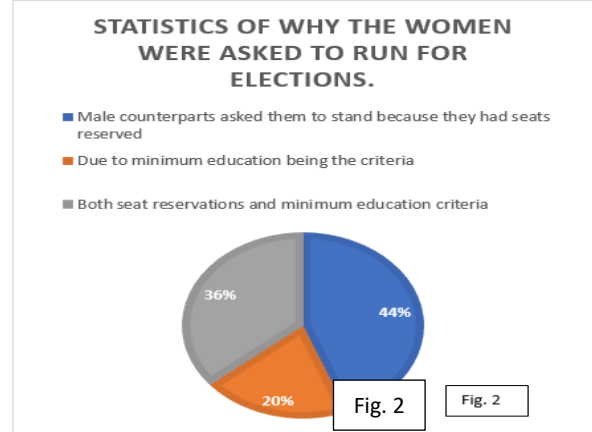
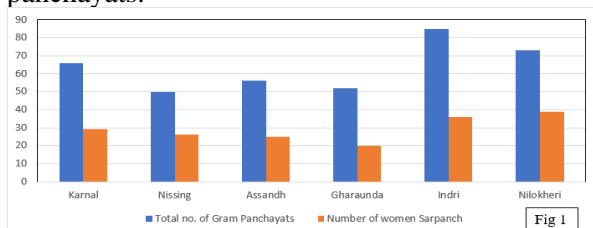
- Establishment of Gram Sabha: Gram Sabha is a constitutional body of people from the villages whose names are present on the electorate. It is a permanent body and forms the base to the three tiers and is not a part of them. Each state legislature holds power to govern the scope of roles and authority their Gram Sabha must have.

- Reservations for women in all the three levels of governance: A minimum of 1/3<sup>rd</sup> of seats must be reserved for women at all levels.
- Reservations for people belonging to SC/ST: Reservations for people belonging to the backward castes become essential to give them an equal chance of representation. However, unlike women with a minimum blanket reservation, the seats reserved are in proportion to the population of those villages.
- Elections to be conducted every five years: Elections are to be held once in every five years. However, in case of dissolution of the Panchayat due to express provisions governed by law, then it must be conducted six months before dissolution.
- Bar on court interference in Panchayat related matters:
- Disqualification criteria: Article 243 of the Indian Constitution deals with the same.
- Appointing a commission to deal with finances: Every state government must constitute a finance committee. This Committee shall be responsible for reviewing the economics of the Panchayat and make recommendations, which include but are not limited to taxes, healthcare, schools, Anganwadi, etc.

Authority and power: Every state is to make its laws laying down the scope and power of each Panchayat. The distribution of powers b/w the state governments and local panchayats is given in the 11<sup>th</sup> schedule.

**6. ANALYSIS OF THE RESPONSES COLLECTED FROM THE VILLAGES OF HARYANA**

We chose the Karnal district to conduct our research because of its proximity to the college. It has a total of Three Hundred and Eighty-Two gram panchayats. Out of which, we have women as heads in one Hundred and Seventy-Five. We spoke to and interviewed women from about Thirty Gram panchayats.



**ANALYSIS 1:** While speaking to them, we asked them why they chose to stand for the elections in the first place, what was the motivation and inspiration behind the same. Most of them mentioned that it was because their family members asked them to. (Please refer to the pie chart, fig.2 below for exact statistics of research). Some explicitly stated that it was because “their husbands or their father-in-law wanted to do something for the village.” Since it was easier for a woman to get a seat instead of the reservation, they asked them to run for the elections. A few of them clearly stated that had it not been for the reserved seats, their male counterparts would have stood for the elections instead. This is a clear reflection of how these reservations could be misused and why the ideal outcome that was sought is challenging to achieve in our existing society. Out of all the women we spoke to, 2 of them said that they stood in the elections by themselves to do something better for their village.

**ANALYSIS 2:** What are the challenges these women face in performing their duties in their capacity as a sarpanch.

In order to understand the role of women Sarpanch in the village, we spoke to the villagers who attended this meeting. Haryana Panchayati Raj act mandates the gram panchayat to meet two times a month. The Sarpanch sits with all the people and discusses the problems faced by them. We asked the villagers if it is the Sarpanch who convenes these meetings or her male relatives. Here is what we found:



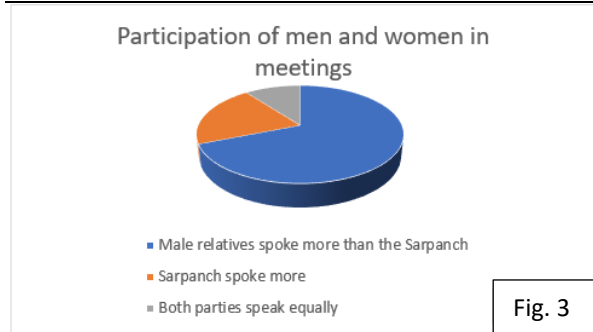


Fig. 3

This is a clear example of why giving seats to women does not mean giving them their voice to speak up. One of the most significant issues the women Sarpanch’s face is the customary tradition of “pardha pratha,” wherein women are supposed to cover their faces in front of any man that is not her husband or younger brother. It becomes tough to a vast crowd without actually seeing them. But on a brighter note, when asked about what are the kind of topics women Sarpanch’s talk about when they speak, most of the villagers said they were women-centric issues such as education schemes for girls in rural areas, more resources for anganwadis, employment for other women in the villages, etc. Considering that most of the communities still hold the patriarchal mindset, it is crucial to bring up these topics and do something about them. The reason behind women take up these issues is because they come from a position of better understanding, having faced a lot of problems themselves. The male relatives or sarpanches mostly spoke about the infrastructure of the village or fixing the roads etc.

**ANALYSIS THREE:** How does their post as a Sarpanch affect their households.

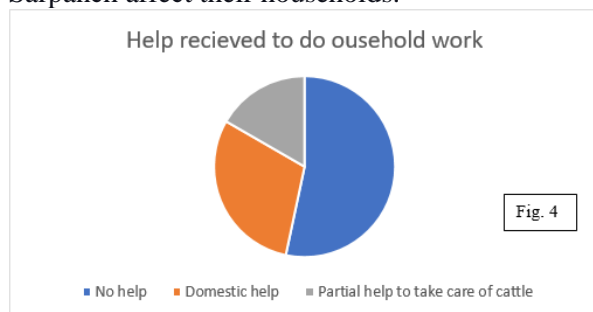


Fig. 4

Another prominent challenge women as Sarpanches face is their duty towards their household. When interviewing them, we asked them if they had children. One lady out of the thirty ladies we talked about did not have a child. Five of them had a single child, and twenty-two women had two children. Two women had three children. Having kids, especially in a rural scenario, can impact the potential and productivity of a lady

Sarpanch. They are the primary caretakers of the household and children, and that is supposedly considered to be their first duty before anything else. We tried analyzing if they were given any support or help to strike a balance between their work-life and house responsibilities. We asked all of them if they had any help at home. Most of the women (Please refer to fig.4 for accurate statistics.) did not have any help at home. And all of these women said that they do the household work despite them having house help. We tried asking them how they strike a balance between all their work at home, attending the meetings, supervising the work being done, catering to the problems of the villagers, etc. There were some primary responses that we received. Some of these women came from joint families, which meant that there were other women in the family to take care of household work, so it got comparatively more straightforward. Some of them said they wake up early in the morning, finish their house-related work, and then try to do the village work. Some had domestic support from help. But in most of the cases, it was clear that they prioritized their family life before their work. This ideology stems from the age-old stereotype of women being the primary caretakers. This idea is so deeply engrained that if women are looked down upon if they choose not to do otherwise. Apart from the excessive burden on women to do everything single-handedly, this gives rise to more problems. Prioritizing family and keeping work secondary or even waking up early doing all the household work, etc., in one way or the other affects the performance of women or, as a matter of fact, anyone in the same position. Important decisions like this must not be compromised and need to be given full attention. The only way to make this happen is by changing the mindset of the society and spreading awareness about the non-existence of gender roles and sensitize men to help out in household works if their wives are governing the village instead of going and speaking on their behalves in the meetings and misusing the whole idea of reservations.

**7. MISMATCH BETWEEN CLAIMS AND REALITY**

Our Indian Constitution has mandated all the states to reserve a certain number of seats for women representatives and people belonging to the backward castes. This is enshrined in article 243D

of the Constitution. After the 73<sup>rd</sup> Amendment was passed, every state gave out the number of seats they chose to reserve for women. Despite 1/3<sup>rd</sup> positions being the requirement, some states have gone beyond this number and have given more seats to encourage women participation and that of the backward castes. However, patriarchy and oppression based on caste systems are still prevalent in India and especially more so in the rural areas. Thus, like we have claimed decentralization to be the solution for impactful governance, does it create that impact? Or is there anything that needs to be done.

### **I. A REALITY CHECK ON WOMEN RESERVATION**

The 73<sup>rd</sup> Amendment was a power move to ensure the inclusivity of women by giving them seats in political positions and reserving seats for them in an otherwise male-dominated society. We wanted to go down to the grass-root level to check if the reality matches the outcome that was desired. As a part of a clinical course – Rural Governance offered by our college, O.P Jindal Global University, we had the opportunity to speak to and interview the women of nearby villages in 2019 in collaboration with a member at the Chief Ministers office. One-Third of the seats in all three tiers of the PRIs are explicitly reserved for women. The same has been expressly laid down in The Haryana Panchayati Raj Act, 1994. These reservations are implemented in a way that Thirty Three percent of these Gram Panchayats are specifically allocated for women of those areas. The villages that fall under this list of reservations are changed every election to encourage the participation of women from every ward. Even though the minimum requirement prescribed by the law is only Thirty-Three percent of seats to be reserved, states like Haryana have taken this initiative a step ahead towards a more progressive and inclusive growth of the society and has allocated Forty-One percent of the total seats for women. However, is this genuinely progressive? On the face of it, it looks like they're bridging the gap caused due to gender disparities. But is it actually the case? Is it safe to assume that an increase in the number of women representatives also means an increase in their involvement in the governance and the right of decision making? If not, how exactly do these things work? To understand better, we researched the same in the villages of Haryana.

### **II. PROGRESS CHECK ON RESERVATIONS FOR SC/ST?**

At the beginning of this paper, we already discussed why Dr. B R Ambedkar, the chairperson of the drafting committee, was against the idea of what we now refer to as the 73<sup>rd</sup> Amendment. He repeatedly mentioned that “the deprived sections of the society were not a part of the “community” and such a step, if nothing, would lead to more exclusion and increased oppression in the society.” Have reservations for scheduled castes and scheduled tribes solved the problem of social exclusion?

Caste-based oppression traces back to the origins of the Hindu religion and has been prevalent in our country since time immemorial. Untouchability is the outcome of the caste system governed by the concept of purity and pollution; by the interpersonal relationship among individuals being dictated in terms of food and occupation; and by rituals related to them being divided into pure and impure. In the research mentioned, even though it was specific to women Sarpanches, we got the chance to speak to some of the elected representatives who belonged to schedule caste. The problems of untouchability, no doubt, still exist. The terminology might have changed, but the people from this section of the society are yet looked down upon and treated as inferiors. More often than not, when a disadvantaged group is given reservations, they tend to focus on improving upon that disadvantage that others also face rising above the inequality. For instance, as we mentioned above, women sarpanches speak more about projects that are personal to them and uplift women.

Similarly, the Sarpanch that we spoke to who belonged to the scheduled caste told us the same thing. With due respect to his position, he wanted to make a change. However, he spoke of some harsh truths of the society that still need to be addressed. Because of the power disparity that exists due to caste discrimination, a sarpanch belonging to schedule caste is not treated at the same accord as any other Sarpanch. While talking about the same, he said, “hum ko ek barabar ka samjhate hi nahi” (Translates to “they never consider us their equals”). He mentioned how in order to do something in aid of others belonging to the same section, they face a lot of backlash in a political context and always give importance to



other issues. The critical decisions that need to be taken in a village are still made in groups, and these groups have a lot of diversity in terms of caste, and that ends up making the schedule caste sarpanches a minority again. This is the problem of the whole structure in itself where the members of different wards outsize these members and consider them inferior/weak. He also mentioned that there had been instances in the past where even the Sarpanches belonging to the scheduled caste have been corrupt and put their personal befits above the general public interest. He said it is probably because they have finally gained some stature in society and can do slightly better. Despite all these drawbacks, there is a definite positive impact of these reservations in two ways:

1. There is someone who can be the voice of the people belonging to the backward castes. Even though the system comes with flaws, there is some level of representation now.
2. This has the potential to create a more reliable connection between the backward sections of the society and the local authorities, which would, in turn, lead to a change of mindset amongst villagers and more inclusivity.

Therefore, we believe that despite the flaws in the structure, prevailing prejudices, corruption, bias, and intolerance, the reservation act as the first step in the direction of growth and more inclusive society. The chances of a schedule caste member coming into power without these reservations seem quite improbable, which is why we believe that reserving seats was the solution to the fears of Dr. Rao. Because it has made governance more inclusive and is also impacting the psychological mindset of the people and making them more tolerant and accepting, that being said, we still need to speak of all the issues and challenges they face and address them.

### III. MEASURES TO IMPROVE THE CONDITION OF RURAL INDIA

There is a five-step approach that needs to be adopted to improve the condition of our villages:

- i) **Recognition:** The first step towards any change or improvement is recognizing that there is a problem. Unless this is done, the solution to the fallacy can never be found. There is a strict requirement of identifying the problem areas which need immediate fixing for the smooth functioning of a society. Lack of proper infrastructure,

workforce, resolution mechanisms, awareness, public participation, redressal forums, legal aid, and other such issues have to be addressed.

- ii) **Awareness:** For any individual to seek justice, he or she has to understand the quantum of myriad rights that they have been bestowed with. This realization of rights and liberties can only be done through proper mass engagement and awareness camps. Till the time people are not fully aware of their rights, we cannot expect them to avail of the benefits of the justice system. There should be awareness and knowledge among the people concerning their rights, and their ability to utilize the legal process, tools, and procedures to protect their interests. This can be achieved by way of suitable training of both the people and the judicial officers, diffusion of available materials among the common masses even reaching the rural areas, and creation of adequate legal services and paralegals.
- iii) **Claiming:** Legal aid societies and legal counsels act as facilitators of justice whenever any claim for legal protection arises. There should be proper training of the people who are directly dealing with the people so that correct and cost-effective measures are suggested as a means of imparting justice speedily. Before advising the people about the rights and remedies, these counsels should educate themselves about the presence of various legal processes that should be resorted to as every case and client is different from the other. The legal advice should be in the best interest of the people availing of their services.
- iv) **Adjudication:** There should be an adequate number of courts, infrastructure, and human resources to ensure speedy delivery of justice. The judges should encourage the parties to resort to alternate dispute resolution mechanisms to save time and money. It decreases the burden of the civil courts by shifting a considerable number of cases to the other dispute resolution mechanisms. The judges should be devoid of any bias as they are held in high regard by the people, and they have been vested with power by the Constitution to protect the interests of the people. Justice cannot be done if the judge himself is tainted with bias. In such cases, the judge should be vigilant

enough to recuse himself from deciding over the dispute.

- v) **Enforcement:** Proper enforcement of legislations leads to effective dispensing of justice. Due process of law should be followed, and the particular emphasis should be laid on eliminating the procedural as well as economic obstacles that hinder access to justice. Upholding the principles of law and judicial remedy while deciding disputes relating to socio-economic issues or administrative rights. The test of reasonableness should be resorted to while adjudicating such litigations, and civil societies should be encouraged to act as a watchdog to identify cases of abuse of judicial power.

73<sup>rd</sup> Amendment, in our opinion, is a form of constitutional change that is affected and can be brought about through state legislations. As it has already been mentioned, each state can choose to either stick to the minimum requirements or go beyond them. Therefore, the progress of people in each state lies in their governance and the people who govern them. Having people from disadvantaged groups in the position of power is extremely important to bring up the issues that they, as a community, face for their upliftment.

## 8. CONCLUSION

When we see the progress our country has undergone ever since the 73<sup>rd</sup> Amendment was introduced, it has indeed been remarkable. It has changed the whole structure of governance, wherein we start from the bottom and make it to the top. This model of decentralized governance is not only more inclusive but also more effective. Is it flawless? Is it perfect? We guess not. Because a decentralized form of governance with inclusivity does not mean equally accessible by all. When the reservation bill for women was to be passed in the Lok Sabha, there was a considerable commotion created against the same. The first thing any society requires in order to gain access to justice is being aware of their rights. India is a country with a mass population. The majority of people are not aware of the legal systems prevailing in the country and also of their constitutional rights. Most of the people in rural areas are not educated enough. They don't even know what their rights are in order to claim them. This is specifically true more so for marginalized communities, which include women, schedule caste, schedule tribe, persons with

disabilities, etc. Therefore, we believe that to make justice genuinely accessible, and people need to be made aware.

Patriarchy and caste discrimination are deeply engrained in our society and have refrained women and people from backward castes to access equal participation. Considering the male-dominant culture and them acting on their behalf, one might argue that decentralization as a solution isn't sufficient.

Decentralization was brought about to connect the rural areas and the central Government to bridge the gap, and that has been hugely successful. Today, the central government is in a position to understand what the problems of villagers are in remote areas on a ground level and extend help to them in forms of initiatives, schemes and bringing about reforms. The gender disparity needs to be addressed, no doubt. However, reservations are the first step in furtherance of the same. There are a lot of barriers that need to be fought for them to be truly useful. However, today women or people from Schedule castes and schedule tribes can at least come into a position of power. Without reservations, this would not have been possible. More such initiatives need to be taken, and hopefully, with time, this major flaw can be no longer a part of the governance structure.

No one is in a better place to understand the problems and challenges faced by a disadvantaged minority than a person belonging to that particular community. Dr. Ambedkar was hesitant in passing the 73<sup>rd</sup> Amendment because he thought that would create more social exclusion instead of an inclusive government. He had these inhibitions because he came from a society where he faced similar elimination and backlashes for belonging to a backward caste, and he was right. Without reservations, women or people belonging to the SC/ST wouldn't be able to come to power even today. Therefore, what we need is a combination of people who are cynical alongside with a set of people who can think of solutions to overcome the cynicism and eradicate the cause for that cynicism in the first place. It is safe to say that the implementation of Gandhian ideology in our present-day governance has made our country more connected to our ground levels and has made it more inclusive. This form of management encourages more local participation that, in turn, makes them more aware of the laws that are in place for them. Gandhian ideology has helped the rural areas not only in terms of political growth but also socially and economically. It uplifts the spirit

and soul of our Constitution that is democracy and tackles with anarchy, injustice, and discrimination. Lastly, we would like to end our research work by quoting the words of Dr. Sachidananda Sinha, the Provisional Chairman of the Constituent Assembly, during the inaugural speech on 6th December 1946: “The structure has been erected by architects of consummate skill and fidelity; its foundations are solid; its compartments are beautiful as well as useful; its arrangements are full of wisdom and order; and its defences are impregnable from without. It has been reared for immortality, if the work of man may justly aspire to such a title. It may, nevertheless, perish in an hour by the folly, or corruption, or negligence of its only keepers, THE PEOPLE.”

## 9. ANNOTATED BIBLIOGRAPHY

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- [6]. NARENDRA CHAPALGAONKER, *MAHATMA GANDHI AND THE INDIAN CONSTITUTION*, ROUTLEDGE TAYLOR & FRENCH GROUP, LONDON AND NEW YORK (2016)  
The author presents the impact of Gandhi not only in the freedom struggle but also on the mindset of Indians. The ideals of Hind Swaraj, village panchayats, self- rule founded on self-made Constitution was time and again expressed by Gandhi in various documents. The author analyzes multiple concepts from Gandhi’s perspective and the way they have been incorporated into the Constitution. The borrowing of western ideas was not appreciated by Gandhi but was still done by the Assembly.

The author distinguishes the Gandhian thoughts and the ideas that have been incorporated in our Constitution. It helps in understanding the Indian Constitution in a better and simplified way.

- [7]. SHRIMAN NARAYAN AGARWAL, *GANDHIAN CONSTITUTION*, KITABISTAN, ALLAHABAD (1946)

In this book, the author has tried to show what it would be like to have a constitution based on Gandhian ideologies. He describes in detail the provisions that should have been incorporated to make the Indian Constitution, a Gandhian Constitution. It has been beautifully mentioned in the book that will be the basis of any state and not force. The Constitution should gain acceptance from the people, and the interests of poor people should not be ignored for any law to be successful. It shows the shift in the ideology of Gandhi from Civil Disobedience to the Non- Cooperation Movement. The contents of this book are beneficial while analyzing whether the current Indian Constitution is based on Gandhian Constitution and rightly states that constitutions are not exportable commodities.

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The author pinpoints the conceptual framework of Mahatma Gandhi's political ideologies and analyzes his political philosophy within that plan to provide readers with a better understanding of Gandhian beliefs. He goes further to raise a compelling argument that civic non-violence is the kind of idea of non-violence that Gandhi's political philosophy defends and not the monastic non-violence in any way. This book highlights how towards the end of Gandhi's career, he moved the focal point of his political philosophy from the idea of satyagraha, promoted in civil disobedience movement, to what he called "constructive program."

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freedom under the movements led by Gandhi and the ideologies adopted during the process of constitution-making. It helps in getting clarity over the nature of the Indian Constitution. She further states that the Indian Constitution is grounded on the concept of justice as the sovereign legislative principle.