

The Constitution (Seventy –third Amendment) Act, 1992: A Special Measure towards Women Empowerment – Deconstruction of Rural India, Phenomena and Strategies

By

Dr. Nabamita Barman, W.B.E.S.

Assistant Professor & HOD, Department of Political Science, Durgapur Government College, Department of Higher Education, Government of West Bengal, West Bengal, India

Email: dr.smt.nabamita@gmail.com

Abstract

The present study contains the discussion regarding the essence of empowerment and the other necessary conditions to attain true empowerment of women especially in rural India. It mentioned the important Constitutional provisions as well as Legal framework in India which have been supporting and fostering the development of the status of women in India since the dawn of Independence. The study upholds a critical analysis of impact of The Constitution (Seventy-Third Amendment) Act, 1992, which has already gained world-wide praise in respect of Governmental initiatives regarding women empowerment in grass-route level. Definite survey aiming at assessing the real achievement of this Amendment and some suggestive measures from the researcher's end for an speedy attainment of the goal of that Amendment Act are contained here which also can be drawn on any sequential study in this field.

Keywords: Entitlement, Empowerment, Measures, Provisions, Development.

Introduction

Empowerment in most of the cases appears, in every nationality over the globe with coupling the term 'women'. The present era of feminist study focuses on the universal atrocities on women are different explanation of it with theoretical narration and resolution. The foremost important problem lies in core of every atrocities of women is equality, i.e., women at par men- from both semblances of role and performance as well as from community depiction perspective. This establishment of equality within the society through legal-rational framework is the key to empowerment viz. the process of endowment of power from the state of powerlessness since long back. This process targets the perfect balance of entitlement with enjoyment. Hence it can be called basically an enabling process. It fosters access to entitlements to the underprivileged segment though the issue of access largely depends upon the capacity rather than capability of the targeted people. The process of empowerment focuses on developing psychological affirmation which put importance on knowing self. The manifestation and result, from both perspective, empowerment largely designed to change in the social structure, change in psychology, change in tradition and convention which hinders equal access and enjoyment of rights, change from and within family, the smallest human association towards the largest i.e. the society and state. Empowerment is thus primarily transformation, transformation in wider scale as well as comprehensive.

Empowerment- meaning and essence

It is a global phenomenon that women have been experiencing unfair power relation and society depiction irrespective of degree of development and advancement of any particular

society and also irrespective of their (women) contribution in development and advancement of that given society. The universal increase in the study in this area proves the importance of empowerment but the fallacy is this it is very hard to define the term universally. Let us first have a look on the universally recognized dictionaries.

Oxford Learners' Dictionary presented the meaning of the term as “the act of giving somebody more control over their own life or situation they are in” and “the act of giving somebody the power or authority to do something” [1].

Merriam Webster definition of Empowerment tells it as “the act or action of empowering someone or something: the granting of the power, right, or authority to perform various acts or duties” and as “the state of being empowered to do something: the power, right or authority to do something” [2].

Cambridge Dictionary put forwards the meaning of empowerment as “the process of gaining freedom and power to do what you want or to control what happens to you” [3].

Collins Dictionary lines that “the empowerment of person or group of people is the process of giving them power and status in a particular situation” [4].

But From a scholarly perspective it can be said that empowerment encompasses many more and definitely a complex phenomena to be understood in respect many sides and critical analysis. It also demands extensive researches based on explicit deconstruction.

The essence of the term may bring up; so far the present study is concerned, through the following lines -

- It indicates a definite particular situation where a particular segment is experiencing injustice and thereby imbalance and dissatisfaction for quite a longer period;
- It also refers the acknowledgement of the necessity to put them at par with others;
- It establishes the need for the process of abolition of inequality in all respect;
- It aimed at balance i.e. equity and equal entitlement as well as equal enjoyment of the same.
- It is an act of providing the favourable condition to the targeted segment to come out of misery also to fight against prolonged suffering;
- It also ushers the enabling process i.e. invoking spirit to acquire, fight for the correct phenomena and holding on to it;
- It focuses on participation and thereby to make them into the system of decision-making;
- This process stresses upon the determination of the person or people to act upon choice; thus also focuses on the development of firm psychological state to have courage to hold on to be undeterred irrespective of any adverse situation.
- It is a process to motivate the person or people to not to adjust or compromise the correct choice;
- It is also an enabling process to make choice correctly and thus put importance on knowledge and awareness and personality development;
- It is a process may be called as renaissance i.e. the process of awakening self-confidence and analytical consideration of deeds or contributions made by them; a state of renaissance within self.

- Empowerment is comprehensive in nature i.e. empowerment within and empowerment outside. Where 'within' means determination on the value and importance of the contribution made by them towards family or society along with the power to ignore negative depiction of illogical devaluation by others, being undeterred on self-satisfaction; and 'outside' is the favourable conditions extended by the social agencies and legal framework of the country concern;
- The process of empowerment include both the privileged and underprivileged groups' pursuance;
- The fundamental of empowerment lies in change, change from within viz. mental state as well as outside viz. circumstances;
- Empowerment includes all -- the persons concern, the society they belong and the State. It needs comprehensive efforts from all to restructure the allocation of power as well as proper access in along with the exercise of power sanctioned.

The subjugation of women is universal and alteration of the scenario demands a continuous process of reallocation of power and obligatory participation which usually called as empowerment. UNO's declaration of International Women's Year in 1975 was an inception of this alteration process in international forum to bring this marginalized section to the forefront in every sphere viz. political, economic and societal. At most all the countries over the globe already has started taking steps through various means like Fundamental Rights, enactment and enforcement of Laws towards creating favourable conditions to enjoy entitled rights to them. Swami Vivekananda- the monk once said that the best scale to measure the progress of a nation is to look at the Nation's treatment towards its women. The evidence of series of steps taken towards empowerment of women by the Government of India, it is already perceptible that the Government is in the follow-line of the realm of Swamiji's message. Since Independence numerous policies and initiatives for the development of women are being taken targeting at women empowerment especially women in rural areas. There are so many statutes which had also provided special protection to them. Legal Provisions and thereby putting mandates also are made to the Institutional level towards the arrangement of more and more qualitative viz. spontaneous participation by women in both rural and urban areas. It is quite evident that pre-independence period had a horizon of active participation by women in public life. But at present women's representation in higher posts of administration as well as in politics is not at par to the expectation.

The Constitutional entitlement of women in India

Let us have a quick glance on the Constitutional support and statutes favourable towards women in India. In India, the Constitution has provided, since the dawn of independence, equal opportunity and rights to every citizen irrespective of any criteria in different mode of enforcement and prohibited any kind of discrimination on the ground of sex through its different protocols such as Preamble, Fundamental Rights, and Directive Principles and also continued with the same with updating itself, according to the new needs of the situation, by means of Amendments.

The Notion of Women's Empowerment and Preamble

The Preamble of the Constitution of India, minutely though the lines of it, holds and foster the notion of securing justice to all citizen a comprehensive justice with all aspects viz. social, economic, and political. It also promotes liberty to its apex covering all aspects of freedom. The philosophy of equality has also been established as the guidelines to the

administration by the lines of the Preamble. The Preamble also fosters the realm of fraternity, unity of the nation, and holding dignity by everyone towards everyone to hold the nation in one thread. The lines of The Preamble proves that our Constitution makers accepted the fact that without including women, by making them at par, no nation can march forward.

Women's Entitlement and the Fundamental Rights

The Indian Constitution contains Fundamental Rights in Part-III of it within Art.12 to Art.35. These are basically necessary human rights secured by the main Law of the Land without which development is impossible. Fundamental Rights though granted to all citizens but in some areas it provides supports towards women's entitlement and enjoyments of rights entitled. The areas which indicates equality for all and passively acknowledged women at par such as follows -

- i. Art.14 which provides the equality before law for all inhabitants of this land.
- ii. Art.15 (1) states that no discrimination will be rendered there by the State to any citizen considering only about the religion, race, caste, birthplace, creed and so on such assigned at birth not acquired, among which sex is also been mentioned there.
- iii. Art.15(3) orders the State to initiate to provide special provisions favourable to women as well as children aiming at prevalence of justice (such type of justice has been categorized as distributive justice by John Rawls).
- iv. It is mentioned in our Constitution about equality viz. equal opportunity for all regarding employment in public offices by the lines of Art.16.

Manifestation of Support to women though the Directive Principles

Directive Principles are basically philosophical guidelines to the Sate to act upon social, political and economic issues in our country. By the lines of this segment of our Constitution we can easily understand the Constitution favours equality and aim to obtain it. Few foremost important areas to uphold here are as follows-

- i. It stated about equal pay for equal work for both men and women, which alternatively a protection against discrimination towards women workers as the common practice is to pay lesser wage to women workers comparing to men workers [Art. 39 (D)]
- ii. It promotes proper livelihood for every citizen by the means of the State Direction towards initiating policies to ensure right of equality which is an important condition for that [Art. 39 (A)].
- iii. Directive Principles Instructs the State for providing humane condition for all employees in work places and to secure maternity relief for female workers. In the year of 1961 The Maternity Benefit Act was enforced [Art.42 instructs], following the Directive Principles and considering the importance of it.
- iv. This part of our Constitution upholds the very basic of equity in our society. The proof of this statement is the lines of Art. 44 which is actually the Constitutional expression towards endeavor to secure for the entire citizen a uniform civil code for pan India.
- v. It also mentioned there about the novel duty of all the children of our Motherland to foster the harmony as well as to promote the fraternity and to abandon all the practices which found derogatory considering the dignity of women [Art.15(E)].

Else than all these, the Constitution can evoke positive discrimination by way of providing special provisions regarding the measures for the marginalized segment of the society especially women and providing special care too by enacting laws towards maintaining favourable conditions to place women at par [5].

Legal framework for punishment for crime against women

Enjoyment of the entitlements is not possible unless there is mechanism to control hard the crime against any particular segment of the society. The Indian Penal Code is one of such mechanism towards stop crime. The Indian penal Code i.e. the Law book regarding crime which has identified crimes against women and Acts are there to punish the criminals. The crimes under Indian penal Code violate women's right and entitlement and act to make women at down fall and severe to their psychology are following –

1. Section 376 mentions rape or penetration against will, and even with consent in case of girls below sixteen years;
2. Section 363 to 373 speak of kidnapping and abduction;
3. Section 302 and 204 speaks of homicide due to dowry or dowry death or attempts respectively;
4. Section 354 speaks of any psychological as well as physical torture;
5. Section 354 and section 509 speaks of molestation and sexual harassment;
6. Section 370 speaks of women trafficking [6].

Legal framework and women empowerment

India's legal framework is also very sound in combating the mentioned crimes as well as protection of women. The important laws in respect of this are –

- i. The first to mention is that The Immoral Traffic Prevention Act, 1956 - the fundamental aim of this Act is to save women from immoral trafficking of women. The punishment under this law to prevent such trafficking is imprisonment of two years may be with or without fine and shall be not less than seven years in case of child imprisonment which also shall not exceeding ten years. The Act punishes for keeping brothel or allowing premises for brothel, for living or earning of women, for indulging for prostitution [7] ;
- ii. The second important to be mentioned here is The Dowry Prohibition Act 1961 --This Act actually a relief for women from harassment by husband's family due to non-payment of dowry and the objective is towards put an end to dowry death [8] ;
- iii. The third is The Protection of Women from Domestic Violence Act 2005

This Act is a Protection towards women against by husband or any other family member within the periphery of her household [9].

These legal protections for women in India against atrocities by different governmental means are the proof that the Government is very keen and providing endless efforts to develop and uplift the status of women in all respect viz. social, economic and political spheres.

Among all those protective laws which has secured women's interests as well as provided favourable conditions for women to avail all the opportunities under the Constitution, very few important to be mentioned here among them are the following-

The first to present here is The Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex- Selection) Act 1994 which has restricted the sex determination of fetus to stop killing of female fetus for the termination of pregnancy to deliver baby girl.

The second is Indecent Representation of Women (Prohibition Act 1986 -

This law is an action against those persons who engage themselves in taking part in publishing, exhibiting women or figure of women true or artificial in indecent way by any of media. The objective is to stop the culture of mind derogatory towards women's dignity or to consider women as sex-object or commodity.

The third is The Legal Services Authorities Act 1987 -

This is to provide free legal services to women recognized by law for special care from the Governments end.

There are provisions to secure the dignity of women even for the women prisoner and wrong doers such as –

Special Rights towards Female Prisoners:

1. Separate cell;
2. Provision for necessary sanitary equipment and liter labour during menstrual cycle of women prisoner;
3. Female staff for searching body of suspected woman;
4. Provision for necessary diet and medical arrangement for pregnant as well as nourishing female prisoner;
5. Allowance to keep religious ornaments and to keep children up to six years old;
6. Female constable while arresting women and the timing is within 6:00 am to 6:00 pm.

The Government keeps on introducing favorable laws towards women from time to time as per the demand of our society. Few of them in sequence the Hindu Marriage Act 1956, The Hindu Succession Act 1956, The Hindu Adoption and Maintenance Act 1956, the Muslim Women (Protection of Rights on Divorce)Act 1986, the Prohibition of Child Marriage Act 2006 are also very well known Acts which are favouring and fostering humane societal environment towards women [10].

The Constitutional Amendments look forward women's uplift

Amendments are basically made to make the Constitution flexible to address the current social needs and to keep legal framework of the land in accordance. In the other form, Amendments also can be perceived as developmental measures towards women and girl child. Two of the most fundamental as well as prime Amendments of the present time are the followings.

Spread of Education in Support of The Constitution (Eighty-Sixth Amendment) Act, 2002 -

No one can ignore the role and importance of education in development. Perhaps for this reason in a third world country like us where Governmental initiative is the final to change positive, the law-maker of our land initiated such kind of amendment in recent era. This Amendment has inserted Art. 21-A in the Indian Constitution to secure free and compulsory education of all the children between the age from 6 to 14 years old as their Fundamental Rights in such a manner as the State Government determination and may enact law. The Right to Children to Free and Compulsory Education (RTE) Act 2009 is the consequential Legislation as envisaged under Art.21A. This is predominantly an initiative towards the development of child especially girl child as growth and psychological affirmation can take proper shape in the light of education [11].

Establishment of Participatory Democracy and The Constitution (Seventy-third Amendment) Act, 1992 -

This objective behind these initiatives is to establish proper representation, in democratic institutions at grass route level all section of our society specially the weaker sections which also include women of every strata of our society. To be focal on the issue of women representation and thereby empowerment, foremost important part of this Act to be mentioned here, is the stipulation of minimum 1/3 of the total number of seats reservation of women in general and Art. 243 D (2) which speak of the mandates that not less than 1/3 of the seats reserved for women under clause 1, shall be reserved for the Scheduled Caste and Scheduled Tribe women [Art 243D(1)]. It also stipulates minimum 1/3 of the posts of the Chairpersons in the Local self- Governmental Bodies for women [Art. 243D(4)] and provided the same for the Schedule Caste and the Scheduled Tribe women to hold the post [the Art.243T(3)]. Empowerment and development of self by participating in the system were the main motto of this amendment in rural areas as rural women who are still the most vulnerable than the urban areas while talking about atrocities [12].

Present scenario of India: studies by different scholars and similarity with the present study

The frequent Legislations for the betterment of women by the Indian Government itself is a proof about the fact that we are still far from satisfaction regarding the improvement of status of women and thereby empowerment of them. The situation is much darker in rural areas. The frequent news publications of various atrocities related to rural women especially are also alarming us to take rigorous measures. These are actually hindering the development of women and the Nation is deprived of women resources in a greater amount. Though there is every possibility to turn women into human resource which can contribute National development definitely. The development of women is important from all aspects. Why the series of Governmental initiatives towards that are unable to achieve the final target, this needs a scholarly introspection. The researcher here has made experiments on selected Gram Panchayats of the two districts of West Bengal, one is from Uttar Dinajpur and another is North 24 Paraganas district to obtain a deep understanding of the problems of rural women that why they are far from empowerment in proper sense irrespective of such Governmental mandates and stipulations. Here the researcher has employed multi-staged sampling method, means of hypotheses testing, qualitative data analysis to reach the conclusions. Here the conclusions are both positive as well negative in nature.

Firstly, this specific government initiative is still now can be perceived as a process as it has immensely opened door for participation to unprivileged rural women in local politics. Different Scholars from different parts of India and their studies also accord the similar view. The study of Kuldeep Mathur endorsed that it has expanded already the democratic base for the targeted population. He also proved that the Reservation Policy regarding the seats for women in local governmental bodies has addressed well the issue of gender-disparity as well as problems in rural areas [13]. Scholars like Dr. C Paramasivan has put stress and importance on the protocol of quota for women occupied seats in local bodies. He established that even in developed countries too women got proper representation with the help of mandating quota for them. The policy of reservation of seats has proven itself as a successful mechanism all over the globe in respect of bringing women to the public forum. India too is expecting a positive result in near future [14]. 'Empowerment of Women; emerging dimensions'- an editorial presentation by Dr. Krishna Gupta has presented the fact that mandates of one-third seat for women in local self governmental bodies has already increased women participation specially

in rural areas [15]. Nikunjalata Dutta also expressed the view that The objective of the 73rd Amendment Act is being fulfilled and under this process through creating the opportunity to access decision-making authority by means of participating it is actually making women empower and oriented to public life though they suffer much from the problem of community depiction as well as disregard [16]. Another scholar in this file, S. Nagendra Ambedkar observed that the reservation has widened the opportunity to join local politics. Thus the provision to take part in local decision-making by the weaker section specifically in the rural society and more especially by the women is marching forwards towards the establishment of equality in rural areas [17]. A Study of Rakesh Prasad' in the State of Bihar also established the similar fact [18]. Prabhat Dutta's book entitled as 'Political Empowerment of Rural Women in India', presented the fact that that the reservation of seats has already placed women within local decision-making process. It has put a bar in the practice of patriarchy in rural areas [19]. Scholars like Tulsi Jain has accepted the reality that Act is a landmark in the paradigm shift in Panchayats in rural India [20].

Hence the reservation policy of can be perceived as an effective measure to correct the society where women and other sections of society who are still being kept apart, even in such advance era of digitization, from political sphere as well as other public domain.

Secondly fact is that the soul full support backed by their (women participants) household is essential while making in depth participation of women in public domain. It is the foremost important societal factor to have public life of women in our society. The change in attitude as well as perception towards women is the first condition to make changes in their political status. The reality that the nature of declining participation of women was because of lack of family support has also been accepted by the scholar like J. C. Jain [21]. Thus it can be said that any changes in society require first a definite prior change within the family and household.

Based on the present survey, the researcher can opine here that one the reasons behind such sit back of women from public field is the lack of confidence and psychological affirmation of the women in rural areas. They themselves consider them subordinate to the male members and do not even willing to or having any wish to alter this. The researcher also feels that support from local administrator can give impetus to the progress of the process of empowerment. Positive gesture from the local administrators and their family members can make the new women participants of local democratic institution feel more comfortable. This will also help them to cope up with the new duties to them and slowly would make then a perfect performer in this filed.

Thirdly, it is observed that women representatives are not much educated and trained in pursuing developmental tasks. They are also suffering from community depiction even after performance on the other side. Hence a comprehensive training programme for the women representatives in rural local bodies in particular and more and more initiative for the spread of women education in general especially in rural areas are required. They are also eager for training programmes. Hence to build up the capacities of elected women representatives of the local self-governmental bodies, the second important condition is imparting proper education and training programmes.

The studies in different staes of India also established the silimal fact as like the present study. Studies by scholars like G. D. Bhat, M. S. Kulhari, Rakesh Parshad in, Lalit Ydav, Shalini Rajneesh in and in the states of Sikkim, West Bengal, Bihar, Rajasthan, Madhya Pradesh, Karnataka respectively are to be mentioned here as opined the same as the researcher.

The book by G.D. Bhat entitled as 'Panchayati Raj and Women Leadership in India' speaks that despite the legal provisions granted by the governments along with other initiatives for enhancing the participation of women in public domain and for equality for women, a distant gap in reality still is prevailing [22]. M.S. Kulhari stated that for achieving the goal of the Act education is vital [23]. Rakesh Parshad also all most in a similar way presented that for women empowerment the foremost essential preconditions is literacy. This also must be supported by health facilities as well as economic security to them [24]. The study in Rajasthan by Lalit Yadav established that the level of education is a determining factor except other socio-economic factors behind the effective women's participation in local bodies [25]. Dr. Shalini Rajneesh also observed that women representative still now are just obeying their male family members' wishes while rendering panchayat-works [26]. Kuldeep Mathur too pointed that these tokenism and surrogate representation can be altered only by the leads of education [27]. Starting from Plato every thinker on governance has accepted the need of training and education and the present study has bought once again a proof in favour of it.

Fourthly, the spark to join local politics and to be an active participant in the local democratic institution are still not there even after three decades of exercising of this legal mandate. They are also accepted as mere passive member just to satisfy the mandate only. Though the scope is there to exercise and gain power by women, very few of them are interested in power-politics. Still light of hope is there that in near future with illumination of training and knowledge they will overcome this and will be able to establish themselves as an active participant in the local democratic body.

Fifth, the present study tells that the support from the administrator can expedite the process of empowerment and make the women representative comfortable with new assignments in Panchayat as they are new and lacking proper knowledge in this regard.

Sixth, it is true that Reservation Policy has placed women in Local bodies but unable make them into the decision making process still now.

Seventh, the members of Local Bodies, irrespective of sex, must be paid sufficient honorarium so that they can make at least the expenses related to their performance, which is presently not there.

Eighth, traditionalism of our society is another hindrance. Patriarchy often hinders proper community depiction towards women and hence spontaneous joining in politics by women often not initiated as well as welcomed. Scholars like Dr. Ramesh H. Makwara ponide that the situation of women in rural areas is much more gloomy comparing urban areas and women are still suffering from different socio-economic problems which ultimately is obstructing women participation in public domain [28]. Another scholar Dr. Chandrashekhara Chidananda Banasode has observed the same situation in the state of Karnataka. His study established that irrespective of desirable depiction by the community concern, women panchayat members are performing well and responding very positive way to the need of the people [29].

Ninth, The situation of Dalit Women is to be taken with special measures to make their proper representation. Their representation often found proxy or puppet to satisfy the quota only.

Tenth, hence it can be said that the process of empowerment is in progress, should be supported by many other measures.

Measures may be taken to attain the goal

The present study tells that women panchayat members are suffering from varied problems. So, solutions are to be made by more and more 'deconstruction' of those problems to ensure women empowerment. There are some proposed measures from the researcher's end as follows

1. More importance to be put on education for all includes adults especially in villages.
2. Training should be imparted within their local area so that they can join after performing their household tasks.
3. Campaign should be made regarding women's entitlement provided by the State in rural areas to make them aware first. Then the other factors will enable them to enjoy gradually.
4. Awareness programmes need to be launched regarding the policy of reservation of the seats for women in Panchayat bodies time to time.
5. Public transport and communication should be made more frequent and available in rural areas.
6. Courses about the political set up of our State should be included in the syllabus of secondary and higher secondary level of study for general awareness.

Conclusion

Thus women empowerment depends on many factors and to be undertaken comprehensively. Deep analysis of need is required and thereby specific target oriented measure for that. Empowerment also includes self. Thus it's a process of within as well as outside and engages both.

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