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## Genesis of 73<sup>rd</sup> and 74<sup>th</sup> Constitutional Amendments

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### Abstract

Though women constitute half of Indian population, they are not adequately represented in governance and decision-making bodies. The affirmative step taken to increase their representation is 73<sup>rd</sup> and 74<sup>th</sup> Constitutional Amendments.

It is at this background that this article attempts to map those events that led to these amendments. The article starts with the political participation of women in pre-independence period. In post-independence period, though they participated in different movements their participation in governance was not adequate. The article then describes different events from Status of Equality report till introduction of reservation in few states that ultimately led to passing of these amendments.

**Keywords-** Governance, affirmative action, political participation, amendment

The role of women in Indian Governance has become a subject matter of study only recently. Let us see what is meant by 'Governance'? Nussbaum put it, "A study of governance must include not only economic management but also political participation very generally – and participation in both formal institutions of the state (including legislative, legal and administrative institutions) and the informal groups, movements and institutions of civil society." (Sudarshan 2008)

Women in India constitute nearly half the population of the country but their representation in the various governance and decision-making bodies seems to be poor. In spite of Constitutional guarantee of equal political status, women in India are unable to exercise their right to participate in political affairs. Women are not adequately represented in Lok Sabha and State Legislative Assemblies. Very few reaches top position in their parties. Their role in the formal political structures has remained low.

On this background, the Government of India adopted an affirmative action for providing reservation for women in local self-governing institutions in the year 1993. The 73<sup>rd</sup> Constitutional Amendment Act introduced not less than 33 per cent reservation for women in the Panchayat Raj institutions in the rural areas. Similarly, the 74<sup>th</sup> Constitutional Amendment Act introduced similar reservation for women in Municipal councils and corporations in towns and urban areas.

The entry of women in local self-governing institutions is considered as a milestone as far as participation of women in political domain is concerned. Number of events and developments culminated in these amendments. This paper highlights these developments.

### Need of the Study

With these Constitutional Amendments, over three million women are now actively participating in shaping the policies and programs of the country, though only at the local levels of governance. Therefore, it was necessary to describe different developments that led to the empowerment of women through reservation in local self-governing institutions.

### **Research Methodology**

Data for this paper is collected through secondary sources and research is primarily library based. The books, reports and articles describing political participation of women in pre and post-independence period are studied in order to map the developments that ultimately led to empowerment of women at local level. The paper starts with political participation of women in pre- independence period and in post – independence period, attempts made to increase the participation of women in political sphere, various initiatives taken in this regard which led to these amendments.

This paper limits its scope to highlight the above amendments only in historical perspective and does not encompass the actual implementation of these amendments. To get vivid picture of the present, it is necessary to see or view how the present social reality has been evolved or emerged through the past events. Therefore, to understand women's status in the public sphere and in the political sphere, it is necessary to understand thoroughly how amendments were passed in the spirit of uplifting the cause of equality

### **Political participation of women in pre- independence movement**

Political participation of women started with establishment of Indian National Congress. Ten women attended the fourth session of the Congress at Bombay in 1889. Women who attended the Congress sessions worked as volunteers. They sang patriotic songs. The agitation against the partition of Bengal and the swadeshi movement attracted the attention of women in many parts of India. Women like Annie Besant or Sarojini Naidu were inspiring women to participate in political process. But participation of women was limited to few elite women.

Mahatma Gandhi inspired women to participate women in freedom movement on large scale. Women participated on large scale in Non-Cooperation Movement and Civil Disobedience Movement. They organised processions, propagated use of khadi and charkha. They left government run school and colleges. Sarala Devi, Muthulaxmi Reddy, Raj Kumari Amrit Kaur, Susheela Nair are few prominent names. Though women did not join the Dandi march, they gathered on the route of Gandhi's march to meet him and hear his speech. Ultimately, few women joined Gandhi in breaking the salt law. Along with salt Satyagraha, women started picketing of liquor shops and foreign cloth shops. Women participated on large scale in Quit India Movement. Aruna Asaf Ali, Usha Mehta and SuchetaKriplani are few prominent names.

Along with nonviolent movement, women also participated in revolutionary activities. Bina Das shot the Governor of Bengal Stanley Jackson. Kalpana Dutt and PritilataWaddedar, along with 15 other members of the Indian Republican Army, attacked the European club at Chittagong. A mention must also be made of Captain Lakshmi.

Women fearlessly participated in violent and non-violent movements.

### **Political participation of women in post- independence movement**

Indian women played an important role in enacting the Indian Constitution. Out of 299 members 15 were women. These eminent women were Durgabai Deshmukh, Begum Rasul, Renuka Re, Rajkumari Amrit Kaur, Hansaben Mehta, Purnima Banerjee, Lila Roy, DakshyaniVelayudhan, Sarojini Naidu, Vijaya Laxmi Pandit, Kamala Chaudhry, MaltiChawdhury, SuchetaKripalani, Ammu Swaminathan and Annie Mas Karen.

After independence, the Constitution of India accorded women equal status. The Indian Constitution guarantees to all women the fundamental right to equality. (Article14) and equal voting rights and political participation to both men and women. Women's right to equality and non-discrimination are defined as justiciable fundamental rights (Article15) and there is enough room for affirmative action programmes for women. Directives for promoting harmony and renouncing practices derogatory to the dignity of women are also provided in the Indian

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Constitution. The political rights of women are recognized without any discrimination, and they have the right to participate in decision making at all levels equally with men. The right to constitutional equality has been supplemented by legal equality by the passage of number of Acts through which traditional inequalities in respect of marriage, divorce and property right are sought to be eliminated.

In post-independence period women participated both in formal and informal channels of politics.

After independence women have participated in number of movements. They were from different castes, classes and communities. They put forth number of issues. It brought change in the life of women at least from middle class and upper middle class. They entered almost in all the fields that were earlier dominated by men. Women participated in different movements like Shahada movement, Nava-Nirman agitation, Anti- price rise movement, Chipko movement, Narmada BachaoAndolan or in peasants' movements.

After reviewing participation of women in informal structure, a review is imperative to understand participation of women in formal structure. The election manifestos of the political parties agree that women constitute backward section of the society to whom special privileges have to be granted to bring them on par with men. But Women do not find place in decision-making committees of political parties.

The representation of women in parliament is dismal. It is not easy for women aspiring for political power in Lok Sabha to get a ticket. And even if they do, very few are elected. In 1952, only 22 women were elected. This number rose to 34 in 1962. But again, it declined to 22 in 1971. Looking at the low political participation of women, the issue of reservation of seats for women was first time discussed in 'Towards Equality' report.

In 1972, the Government of India constituted a committee on status of women to examine the multifaceted problems faced by women of India at every stage of their life cycles. (Patel 2008) This was the first comprehensive gender audit held in India. Women in India were facing problems such as poverty and deprivation, participation in workforce, political governance and decision-making processes, access to justice, personal laws, declining sex ratios, lack of social security and existing legal framework. The report of the committee titled 'Towards Equality' was published in 1974. The question of women's reservation as a remedy to underrepresentation came up. The committee observed that "the rights guaranteed by the Constitution have helped to build an illusion of equality and power which is frequently used as an argument to resist protective and accelerating measures to enable women to achieve their just and equal position in society." (Raman 2002)

During the course of tours, the Committee received a demand from groups of women in some states for a system of reservation of seats for women in the legislative bodies in the states and in the Parliament. The arguments in favour of reservation were:

- a) The reluctance of the political parties to sponsor women candidates
- b) If this process continued over a period of time, women losing faith in the political process would opt out of the political system and become passive partners or rebels.
- c) Reservation would provide an impetus to both the women as well as the political parties to give a fairer deal to nearly half the population in various units of government.
- d) A system of reservation would also mean increase in the women legislators' sense of responsibility and concerns for the problems affecting women.
- e) Support for reservation also came from group of scholars who undertook an examination of women's role in political process at the committee's request.

The Committee received strong opposition to the reservation suggestion from representatives of political parties and most women legislators. They felt any system of special representation would

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be a retrograde step from equality conferred by the constitution. There was also some resistance to women being equated with the socially backward communities as all women do not suffer from the same disabilities as the underprivileged groups.

The committee was unable to recommend a system of reservation to the state assemblies and the Parliament. The reasons for rejecting suggestions were as under:

- a) The women's cause in India has always been championed by all progressive elements, men as well as women. Any betterment of women's status can be best created by their joint efforts.
- b) So far, women have served as representative of people. Separate constituencies for women would narrow their outlook.
- c) Women's interest as such cannot be isolated from economic social and political interests of groups.
- d) Such system of special representation may precipitate similar demands from various other interests and communities and threaten national integration.
- e) Experience has shown that privilege of reservation, if once granted, is difficult to withdraw and that would amount perpetuation of unequal status.

The Committee did not accept the suggestions for reservation for women in the Parliament and the state assemblies. However, they could be provided with special opportunities for participation in the representative structures of local government. The committee felt that the time had come now to move out of this token provision for women's representation to a more meaningful association of women in the structures of local administration. (Towards Equality Report)

The year 1975 was declared as the International Women's Year. In the same year, the Lok Sabha passed a resolution to initiate comprehensive programs for women.

In the Sixth Plan document there was for the first time a chapter on 'Women & Development.

The Department of Women and Child Development was set up in the year 1985. This was done as a part of the Ministry of Human Resource Development in order to give the much-needed impetus to the holistic development of women and children. With effect from 30.01.2006, the Department has been upgraded to a Ministry. (<http://wcd.nic.in/>)

In the year 1988, The National Perspective Plan (NPP) for Women was drawn up. It provided a plan for action for the period 1988-2000. In the final version of the Government's NPP there was recommendation for reservation for women in panchayats and municipalities which were to be filled by elections. Thus, in the NPP demand was reiterated to reserve 30 per cent seats for women in all decision-making bodies.

The National Commission for Women was set up in 1992 to look into cases of discrimination against women. (Mohan 2005)

The Janata Party Government in Karnataka in 1991 passed a Bill to implement 25 per cent reservation for women in local elections. This spurred a national debate on the issue of reservation for women in several other states. For example, Sharad Pawar, then Chief Minister of Maharashtra announced 30 per cent of seats in Municipal Corporations and the Panchayat Raj Institutions to be reserved for women in Maharashtra. (Mohan 2005)

The Government of India noting the low participation of women in politics; acknowledging the recommendations of the Committee for Status of Women Report, 1974; and drawing from the pioneering experience of Karnataka which provided reservation for women in the three tier Panchayati Raj system (institutions of local self-governance) in 1983; adopted an affirmative action for providing reservation for women in these institutions in the year 1993. (Mohan 2005)

The Seventy-third and Seventy-fourth Amendment Bills relating to panchayats and municipalities respectively were introduced in the Parliament in September 1991 to provide constitutional

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remedy for the inadequacies plaguing these bodies which were unable to perform effectively as vibrant democratic units of self-government. The Bills were referred to two joint bodies of parliament and after necessary revision were introduced in July 1992, and passed by the parliament in December 1992. Both the bills were ratified by the required number of states and the President gave his assent in April 1993. The changes made by Seventy-third and Seventy-fourth Amendment Acts to the Constitution were of historical significance. In short, panchayats and municipalities are now constitutional bodies forming the third tier to the federal polity of India.

The 73<sup>rd</sup> Constitutional Amendment Act introduced not less than 33 per cent reservation for women in the Panchayat Raj institutions in the rural areas. Similarly, the 74<sup>th</sup> Constitutional Amendment Act introduced similar reservation for women in Municipal councils and corporations in towns and urban areas. It further provided for one-third reservation of posts for Presidents and Vice-presidents in these political institutions. This reservation is implemented through a process of rotation, by identifying different constituencies as a reserved constituency for each election term.

The amendments are considered as an important step towards women empowerment through reservation though only at local level.

### **Concluding Remarks**

Radical feminists have propounded that the roots of women's oppression are social roles and institutional structures that are being constructed from male supremacy and patriarchy. Therefore, it is essential to make positive changes in these institutional structures. As a positive step towards the change in institutional structures, these amendments were followed by 81<sup>st</sup> Constitutional Amendment Bill introduced in the year 1996. This bill proposed similar reservation of seats for women in Lok Sabha and State Legislative Assemblies. But after more than two decades of introduction of this bill it is not yet passed in parliament. It is true that at grassroot level attempts are made towards empowerment of women. But the real centres of decision making at state and central level are still dominated by men. The reservation made at local level will be meaningful only when it is supplemented by similar reservation in higher bodies of governance like Lok Sabha and State Legislative Assemblies. Otherwise these two amendments passed in 1993 will remain half hearted efforts towards empowerment of women.

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