

## GIVING THE MARGINALISED THEIR DUE-AN IMPACT ASSESSMENT OF THE 73<sup>RD</sup> AMENDMENT

Stuti Lal

Student, B.B.A. L.L.B (Hons.) Chanakya National Law  
University, Patna.

Vishwas Singh Deepak

Student, B.A. L.L.B (Hons.) Jindal Global Law School, Sonipat.  
15jgls-vsdeepak@jgu.edu.in

***“I understand democracy as something that gives the  
weak the same chance as the strong.”***

- Mahatma Gandhi

*The 73rd Amendment Act had initiated a fundamental restructuring of governance and administrative system of the country, based on the philosophy of decentralization and power to the people. This research paper will firstly highlight the meaning and importance of the 73rd Amendment of the Constitution and the Panchayati raj. This research paper will be a factual study of the implementation at the grass-root level and identification of the loopholes in the dynamics of the Panchayat Raj governance.*

*The sizable presence of underprivileged and poor as representatives through reservations in the grassroots political institutions is a landmark development in rural politics of the country. Uttar Pradesh has shown a consistent performance with respect to the rural grassroots democratic institutions. Mahatma Gandhi's dream has not turned into reality as the weaker section of the society have still not got the same opportunities and level playing field like the strong.*

*Even after 69 years of independence and nearly two decades of the 73<sup>rd</sup> Amendment, in spite of the reservation of one third seats for women, the womenfolk have hardly been able to cross over to public life. There have been elected women sarpanchas who just endorse the real work done by their male counterparts. It is due to the male domination prevalent in the country that women have always been treated as liabilities. Overall the officialdom is dominated by men. Also even the central and state governments have been reluctant to many changes as in transferring women and child departments to Panchayats wholly. The solution basically lies in decentralizing the system further. This 73rd Amendment has been a precursor to many pioneering legislations serving the cause of the*

*underprivileged. However, a lot of work still remains to be done as the glass is still half full.*

*The authors will further interact with the people of Mau, Jaunpur, Mirzapur, Mughalsarai, Chandauli and Mohania to adjudge the ground reality and examine the current stature of the marginalized section residing in these areas in Uttar Pradesh. This will bring to the fore that how successful the government has been in empowering the neglected section of our society. The paper will then conclude with the authors summing up their research work and suggesting some measures to reform the current legislation.*

### Prologue

The last decade of the 20th century brought India into the limelight of the world as we rose from the shackles of the erstwhile Fabian Socialism, the License Raj and most importantly the Marginalisation of many of our communities, through some of the most significant amendments in India's history. The 1991 reforms transformed India's destiny by setting its course towards capitalism. The 73<sup>rd</sup> and 74<sup>th</sup> Amendments transformed India's trust with local grass-root governance, also allowing for the reservation of women and the marginalized in this tier of governance. India has seen sizable progress in terms of its economic recovery. However, in terms of the stature of women we have not made any accomplishment and it is high time that we brood over this grave concern.

Pondering over the achievements of these developments for the past two decades, we can sense something paradoxical. Despite the significant strides made by India towards Capitalism, it seems startling that we haven't made substantial progress by virtue of the proposed local governance models. Is there any fallacy with the models or is it that fantasizing about the gains of a purely capitalistic society (which is restricted to a fortunate few), we have turned a blind eye to the empowerment of our brothers and sisters? In attempts to elevate our economy to world level, we have not paid apt attention to the social problems plaguing the society. In fact, the marginalized feel more neglected due to such reforms. There have been cases of dalit farmers committing suicide. This paper aims to answer many such questions with special regard to the status of the 73rd and 74th Amendment in respect of the state of Uttar Pradesh. We

begin by adjudging the needs and the merits of this landmark agreement followed by an in-depth analysis of the specific problems plaguing the governance models.

### **73rd Amendment- A landmark development**

The father of Nation remarked, that India lives in villages and unless village life can be revitalized the nation as a whole can hardly come alive. This statement holds true because proper implementation of laws starting right at the grass root level is required for any country to develop and without this India cannot prosper. On 15<sup>th</sup> August, 1947 when India gained independence from British domination, traditional Panchayats were operating in about one-third villages and most of them were far from satisfactory. Independence has to begin at the bottom. Therefore, each and every village needs to be a republic with working Panchayat system with full-fledged powers. Every Panchayat should be capable enough to solve disputes, manage its affairs which will ultimately lead to empowerment of the village and it will emerge self-sufficient. If every village paces up its development and legal literacy, India will soon be considered as the fastest growing nation.

Article 40 of the Constitution clearly declares “The state shall take necessary actions to organize village Panchayats and to endow them with such powers and authority as may be necessary to enable them to function as units of self-government”<sup>i</sup>. The 73<sup>rd</sup> Constitutional Amendment Act, 1992 came into force on 24<sup>th</sup> April, 1993 and it provided constitutional status to the Panchayati raj institutions. To uphold the principles of Justice, Equality, Fraternity and Liberty, the Government of India in the year 1993, enunciated two amendments namely the 73<sup>rd</sup> and 74<sup>th</sup> Amendments to the constitution which brought to the fore the following provisions for the upliftment of people residing in rural areas. This Amendment introduced a uniform three tier system of Panchayati Raj Institution at village Panchayat, Block and District level. The Gram Panchayat level has been named as the Gram Sabha which elects the representatives directly. The reservation of seats for women, scheduled tribes and schedule caste was introduced.

The 73<sup>rd</sup> Constitutional Amendment Act has not only given a new dimension to the process of women’s empowerment in India by providing one-third

reservation of women in Panchayati Raj Institutions but the act has given constitutional powers and responsibilities for a range of issues including health, resource management and family planning. With their participation in Panchayati Raj Institutions, the interpersonal relations within their families have changed for the better and this political process has heightened women’s perceptions of their own capabilities. The reservation for Scheduled Caste and Scheduled Tribes is based on their actual proportion. The system proved to be a great tool for social empowerment.

Apart from giving reservations, the 73<sup>rd</sup> amendment provides that the Panchayati Raj institution shall continue for five years. The state can allow the Panchayati Raj Institution in their legislative act to impose and obtain several taxes. By this the institutions are able to generate economic resources at local level and make expenditure at a desired area as per the locally felt needs. Panchayats have the freedom to prepare plans for economic and social justice and their successful implementation. The state government may also allocate taxes and duties collected by them. The states were also asked to constitute a state finance commission every five year to determine the panchayat’s share out of state financial resources as matter of entitlement. To ensure the fairness and independence of elections the provision for setting up of state election commission and appointment of State Election Commissioner by the Governor was introduced by the amendment. The procedure for removal of state election commissioner is same as the high court judge.

However, without honest intention, these institutions would be misused by rural rich and the poor, illiterate masses will remain a mute supporters as is happening in the Parliamentary and State elections.<sup>ii</sup> Criminalization of politics are threatening the very foundation of democracy by shattering the provision of free and fair elections. It is the utmost duty of the government to ensure that such evils do not affect the working of Panchayati raj institutions.

### **Nexus between economic upliftment and marginalisation**

To talk the talk of Marginalisation of Communities and their Empowerment, it is necessary that we walk the walk of Economic Upliftment. People can never be expected to be uplifted from the social dogmas unless we nurture

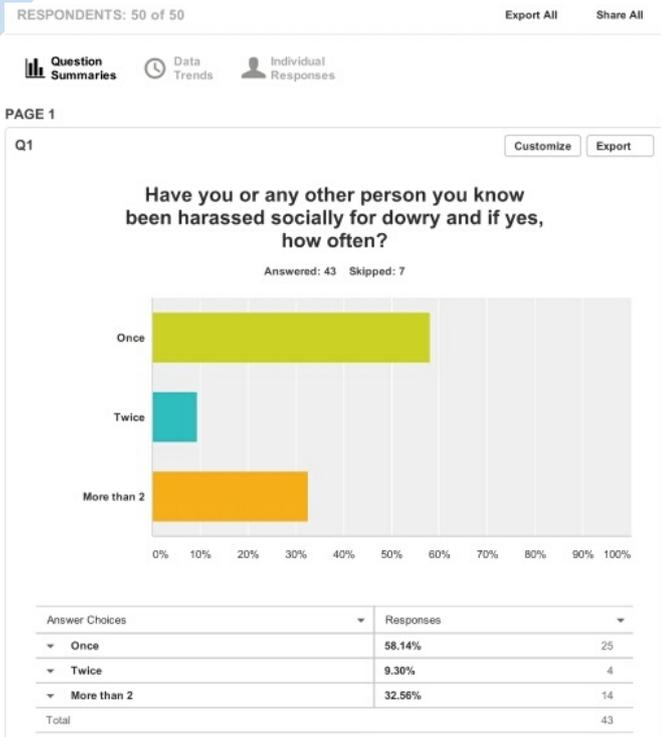
their prospects with permanent source of income. The creation of job opportunities is vital for overcoming the problem of poverty. It is only when every citizen is employed, our country will develop and the rift between the rich and poor will narrow down. India ranks amongst the highest when it comes to disguised unemployment rate. There is a dire need of job creation so that the problem of unemployment is eradicated. Employment simply means a socially desirable activity to earn means of sustenance. To bring about empowerment of these marginalised groups, first we need to uplift them from their miserable economic condition.

New concepts like social or human development were used recognizing human person as the central subject of study. Significantly, this perspective has visualized economic development as the means to human development whereby empowerment of the people (women, the young adults, poor and other marginalised groups) has been visualised as the surest strategy to contribute to economic growth and thereby to social development.<sup>iii</sup> The development practices in India have been reoriented once again since the mid-eighties to associate the notion of empowerment with development. During the eighties and nineties empowerment as a strategy is placed in the spectrum of state sponsored development processes. It was in the context of globalisation and structural adjustment programmes of capitalist economy that the term 'empowerment' has emerged. This concept was an important objective at the World Summit for Social Development held at Copenhagen in March 1995 and the Declaration and the Programme of Action of the Summit clearly linked empowerment with economic globalisation. Manoranjan Mohanty<sup>iv</sup> analysed the text and context of the emergence of this concept in the vocabulary of contemporary development discourse to that this concept is a part of globalisation and structural adjustment programmes of western capitalism, and provides only an institutionalised mode of giving power to the marginalised sections of the society.<sup>v</sup> Thus, it is observed that this is a concept promoted by the forces of new economic development initiative and applied to the emancipation of marginalised groups. Consequently, empowerment implies an external formal institutional agency granting power to marginalised groups. It implies formal rather than substantive power and it involves an external upper level agency to grant power rather than people below seizing it in the course of struggle. In this context, it is reiterated that the empowerment of weaker

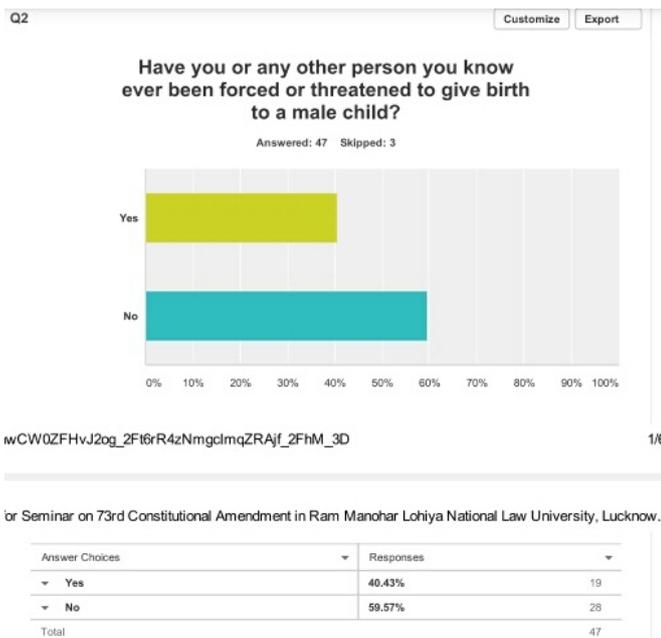
sections depends more on the initiatives from below through grassroots mobilization of organizations and political struggle of the masses.<sup>vi</sup>

### Participation issues for all

As per the survey created on SurveyMonkey.com<sup>vii</sup> by the researchers, 50 respondents took the survey. It was carried out for a factual study of the grass-root implementation of the Amendment, we found out that many people are considered as dummy representatives. The decisions are dictated by a select few and everyone in the mass is obligated to obey it. The image of government sponsored schemes are such that people don't feel that anything can be done without bribing the officials. There is lack of effective participation of the people either by choice or the willing ones are suppressed. There is little consultation with local communities generally and target groups in particular in deciding and implementing various schemes and programmes. Due to the indifference of the government officials, the common masses whose empowerment is being hampered. Despite reservation, the people belonging to marginalised group are unable to act for the welfare of the people. They carry out the decisions which are imposed on them by higher officials. The women are not given adequate opportunities for their development. Most of us believe that women are empowered and they are enjoying equal rights, it is only when we go at the village level to interact with these women that we are exposed to a different, unexpected reality. Women enjoyed higher social status in the Early Vedic era but after their deterioration there is no change in their desolate condition. Women still need to be taught about their legal rights and the feeling of equal status has to be inculcated right at their childhood stage. The results of the survey are displayed below:

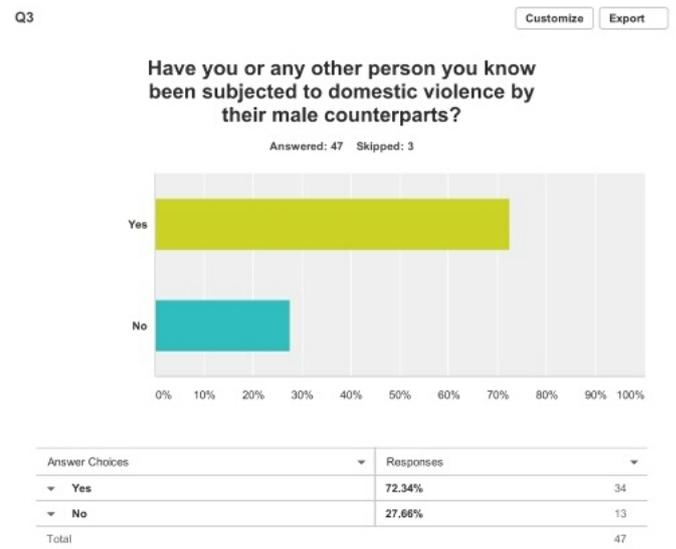


The respondents were asked whether any person they know or they themselves had been harassed for dowry. Their answers were quite surprising. 43 out of 50 people answered this question. Majority of the people who answered the question agreed that they have come across these situations in their life. It can easily be concluded that dowry, a social evil is still rampant in our society and the collective measures taken in this direction have not proved to be effective.



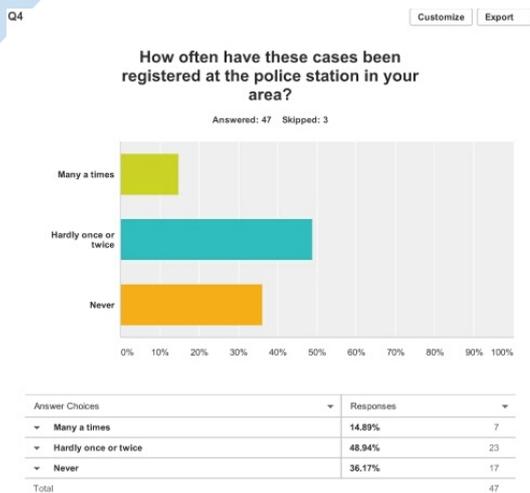
Regarding the preference of male child over female child was raised among the respondents and 40.47% of the respondent agreed that they know people who prefer

male child over female child. This depicts the situation of female child in the society. Even after living in such modern society unfortunately people still distinguish between male and a female child. There is need to transform the mind-set of the people. They have to be taught that females are no longer inferior to men in any field. They are performing better than males in many areas like education, governance, etc.



A question regarding domestic violence was asked by the respondent and the answer received by the respondents was very distressing 72.34% of people who answered the question said they know people who are subjected to domestic violence by their male counterparts. Though the Parliament has enacted the Domestic Violence Act, there is no fear in the minds of the wrongdoers. These legislations have not acted as a deterrence against such crimes. It is a grave issue to be addressed immediately as it shows us the real picture of the families living in 2016.

The respondent were asked about the registration of cases at the police station in their area. Just 14.89% agreed that cases are registered many times and majority i.e. 48.94% said that cases are hardly registered in the police station in their area while the rest 36.17% said that such cases have never been reported. There is a social stigma attached to raising voice against the wrongdoers by registering cases in the police station. People endure such things because they don't want to malign the reputation of their families by highlighting such deeds.



The respondents were asked about the frequency of visits made by higher officials in their area. 60.87% of the people said that their constituency has been visited only a few times and rarely any actions are taken there. It exposes the harsh reality in front of us that the officials are busy minting money and they have no time to perform their assigned duties. It is high time that the people change their attitude to bring about a change in the present condition of the people who are unable to avail the facilities sponsored by the government for them.

The question about the plan of building toilets was asked from the respondents and 54.17% of people feel that authorities are not taking proper actions for the development of the plan. Despite several campaigns run by the government, the facility has not reached the people. The government is sanctioning crores and crores of rupees but nobody knows where it is vanishing. It is not being used for the development of people rather the officials in-charge of it are filling their own pockets with the money to be used for the welfare of the people.

Only 22.92% of the people have not noticed a person belonging to a marginalised group being discriminated by the upper class landlords. While the majority i.e. 39.58% of the respondents have witnessed it once or twice and 37.50% believe that many a times they have seen such instances happen. Discriminating a person on the basis of his caste is an offence in India under the Schedule caste and Schedule Tribes Act. It is even enshrined in the Constitution of India still this malpractice is being followed even today. After 69 years of independence, we have not gained freedom of the marginalised section from the clutches of landlords belonging to upper class. It is a shame on entire

humankind that such a thing can be seen even in the 21<sup>st</sup> century and it is we who talk about empowerment and do not pay heed to the condition of the people belonging to the marginalised group.

The people belonging to the marginalised section are hardly able to raise such voice against atrocities inflicted upon them. They are not treated as humans, they are subjected to inhuman treatment just the same way as animals. But let us not forget that in today's world, even animals are treated properly. People can spend a hefty amount on feeding their pets but they cannot spend that money to provide meals to a starving poor human being. 31.91% of the people told that cases against such brutal treatment have never been reported while 51.06% of the people say that hardly once or twice such cases have been reported in the police stations in their area.

The respondents were asked that what the scene is regarding participation of people belonging to marginalised section in social functions. 16.67% of the people said that mostly these persons belonging to such groups are not allowed to participate in social functions while 29.17% of the people said that there have been few cases in their area. It is sad to learn that such things still exist in the contemporary society. All men are equal and should be treated as equals irrespective of the caste to which he or she belongs but this principle is not followed by the people.

The last question was asked regarding the effective implementation of Mahatma Gandhi National Rural Employment Guarantee Scheme. MGNREGA offers 100 days employment to the unemployed and the respondents were asked about the current scene in their area. 56.25% of the respondents said that it has not been implemented in their area. If such basic schemes for the welfare of the people have not been implemented, how can we think of their empowerment? The present condition of successful working of Panchayati raj is far from satisfactory. Instead of singing praises of the government, the officials should carry out the duties assigned to them with utmost responsibility, then only can we think of a developed India.

### Problems plaguing the system

There are serious problems which need to be addressed at the earliest for the success of Panchayati raj in India. These issues are weakening the system and as a result the entire objective of 73<sup>rd</sup> Constitutional amendment is

going astray. The strength and support is required from the masses and most importantly the marginalised section because without upliftment of all the sections of the society our country cannot develop. We need to provide a level playing field for them so that with their prosperity, India is also able to prosper. Women are no longer subordinate to their male counterparts but even in 21<sup>st</sup> century, they do not enjoy much freedom. Even if they are given adequate representation, they serve as a puppet in the hands of their husbands or any other such person. The mentality of considering women inferior has to change in our country. Without their empowerment, we cannot think of a developed India. However, no heed is being paid to solve these problems as the authorities have developed an indifferent attitude and hence, the people are uncared for.

- *Faulty implementation of schemes, objectives, etc.:* One of the major problem is faulty implementation of government sponsored schemes and yojanas. The people in-charge of it make the process so tedious that they targeted group stay away from availing those facilities and as a result, the money goes into the pockets of the officials. Hence, the entire effort of the government to bring about welfare of the masses goes in vain. The government is doing its job by bringing in new provisions and schemes. It is the people who have to be at their toes to get benefit out of it.
- *Lack of coordination between Centre and State governments:* When the Central government enacts a law for public welfare and it has to be implemented by all the states, there is lack of coordination between centre and states. The states fail to implement certain schemes just because it is the brainchild of the Central government. Many a times, the funds don't reach the states on time and as a result, it is the people who suffer. There should be a harmonious relationship between the Central and State governments. They should work collectively for the betterment of the people. It is their duty to do and they should act accordingly. The interest of the public should be kept above their own individual selfish interests.
- *Inadequate infrastructure:* There is lack of proper infrastructure for the government offices to work efficiently. The government offices are poorly kept and it induces lethargy in the

employees. It is the duty of the government to provide best of facilities to the people and this can be achieved by providing good buildings, roads, other amenities. They should be maintained and from time to time the necessary repairs should be carried out. In many offices, there is no system of keeping the old files after they have been entered into the record register. The records are dumped in a corner just like heaps of garbage. The authorities should take proper care of these and ensure that in case they are no longer useful, they are disposed of.

- *Bureaucratic approach:* There is bureaucratic intervention in every sphere in India. Right from the elections to appointments, the bureaucratic approach helps the people to secure government jobs which they could not have got on their merit. This is wrong and it should be stopped at the earliest. The government should take effective steps to control this menace. The government should make its functioning free from bureaucratic intervention. The people who belong to the elite class mould the rules to suit their needs and as a consequence, the deserving ones are left behind. There is no one to cater to their needs and their talents are trampled down by these evils. It has to stop else the rift between the rich and the poor is never going to decrease.
- *Financial constraints:* Proper allocation of funds and resources are not done due to which the welfare of the public which is hampered. The local bodies are not able to function effectively because they do not have adequate resources. There is corruption in every sphere and the officials lose a track of money collected for the benefit of the people. The government also delays in sending the funds to the villages and the people are not able to gain benefit out of the government sponsored schemes. It is sad to observe that it is due to the people who are sitting on the high government posts, the progress of the nation is in danger. If everyone performs his duty well, there would not be such problems of financial disability as the government sanctions sufficient funds which would be sufficient for the empowerment of the targeted group.
- *Corruption:* Although giving and taking bribe both are punishable, the government officials are hardly afraid of it. There is corruption in every

sphere in India and everyone needs to pay bribes to get their work done on time else it would linger on and on. The government officials fill their pockets even with the funds allocated to be used for the public welfare. If we see at the grass-root level, the government was supposed to give grants to make toilets but what is the reality? There are hardly any signs of proper working of this scheme as seen from the survey report. Steps need to be taken to combat this serious issue else our future will be in darkness.

### Conclusion: The missing link between the problem and solution

Only the district of Unnao is showing exceptionally great results in Uttar Pradesh. From the district magistrate to the superintendent of police, the chief development officer to chief medical officer, from the zila panchayat president to sub divisional magistrate, it's the ladies who have grabbed almost every top administrative posts.<sup>viii</sup> The district of Unnao is safe in the hands of women and is showing high pace of development. The women in other areas are still treated as puppets in the hands of male domination. The women are still deprived of equal status and it is seen in villages that the son is fed but the daughter is not. As a result of this, the girls in Uttar Pradesh are anaemic and weak. The maternal mortality rate is very high as the females are not strong enough to bear a child and at the same time take proper care of the nutritive requirement during pregnancy. It is agonising to learn from the survey that the women are still subjected to all kinds of torture and sexual assault despite having stringent laws against domestic violence in the country.

The tribal are not enjoying equal status as the other high caste people. Inhuman treatment is inflicted upon them and the saddest part is they are afraid to file cases against such atrocities. Their empowerment has not taken place in true sense and a lot of work needs to be done in this regard. They have to be economically, educationally and socially uplifted. The schemes directed for them should be implemented as soon as possible so that they are able to avail the benefits of such schemes run by the government. It has correctly been remarked by Lord Acton that '*power tends to corrupt and absolute power corrupts absolutely.*' Corrupt practices should be eradicated from the system and corrupt officials should be dismissed from their posts.

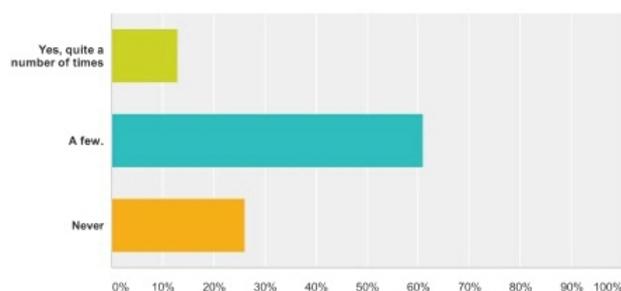
Is there any fallacy with our rural development model or are we forgetting something? Is the government taking all possible care to convert these exceptional pieces of legislations into execution? The solution lies with "WE, the people of India" as written in our Constitution because every successful implementation needs participation of the common masses. It is we, who will bring about a change in the current scenario. It is through our constant efforts that the picture will change. We need a modern, unprejudiced thinking Indian mind to solve the issues and overcome the crippling social perturbation in the fabric of Indian heritage. There is a need of generating involvement of masses in the Panchayati Raj. We have hardly moved on from where we were at the time of this 73<sup>rd</sup> Constitutional amendment.

Q5

Customize Export

#### How often is your constituency been visited by higher officials and are any actions taken?

Answered: 46 Skipped: 4



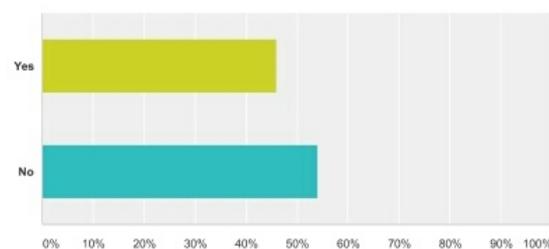
Answer Choices	Responses
Yes, quite a number of times	13.04% (6)
A few.	60.87% (28)
Never	26.09% (12)
Total	46

Q6

Customize Export

#### Do you feel the authorities have paid heed to the plan of building toilets?

Answered: 48 Skipped: 2

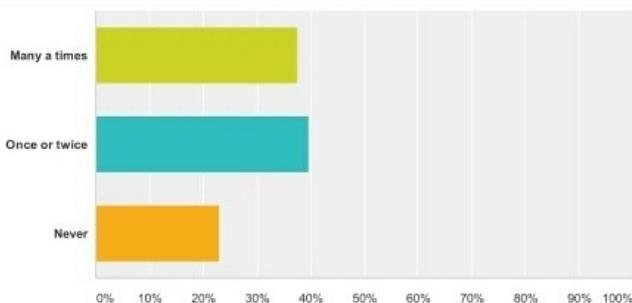


Answer Choices	Responses
Yes	45.83% (22)
No	54.17% (26)
Total	48

Q7 Customize Export

**How often have you or any other person you know( belonging to marginalised section) faced discrimination at the hands of landlords or the upper caste people?**

Answered: 48 Skipped: 2

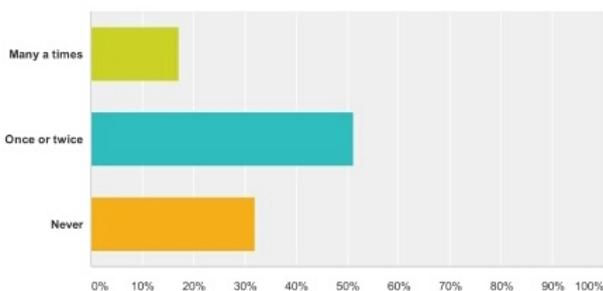


Answer Choices	Responses	Count
Many a times	37.50%	18
Once or twice	39.58%	19
Never	22.92%	11
<b>Total</b>		<b>48</b>

Q8 Customize Export

**How often have FIRs been registered against such brutalities in your area?**

Answered: 47 Skipped: 3

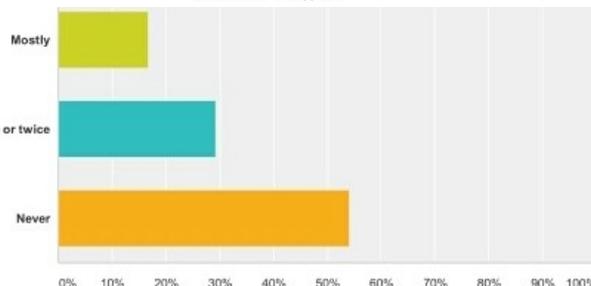


Answer Choices	Responses	Count
Many a times	17.02%	8
Once or twice	51.06%	24
Never	31.91%	15
<b>Total</b>		<b>47</b>

Q9 Customize Export

**How often have you or any other person you know(belonging to marginalised section) been stopped from attending social functions?**

Answered: 48 Skipped: 2

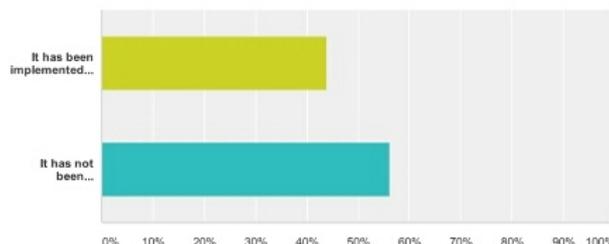


Answer Choices	Responses	Count
Mostly	16.67%	8
Once or twice	29.17%	14
Never	54.17%	26
<b>Total</b>		<b>48</b>

Q10 Customize Export

**The MGNREGA offers 100 days employment to the unemployed. What is the current scene in your area?**

Answered: 48 Skipped: 2



Answer Choices	Responses	Count
It has been implemented effectively.	43.75%	21
It has not been implemented.	56.25%	27
<b>Total</b>		<b>48</b>

<sup>i</sup> D.D.Basu, Constitution of India.

<sup>ii</sup> Dr. J.N. Pandey, Constitutional law of India, Central Law Agency, 52<sup>nd</sup> Edition, 2015.

<sup>iii</sup> Debal K. Singha Roy (ed.), *Social Development and the Empowerment of Marginalized groups: Perspectives and Strategies*, Sage Publications, New Delhi, 2001, pp.13-14.

<sup>iv</sup> Manoranjan Mohanty, 'On the Concept of Empowerment', in Debal K. Singha Roy (ed.), *Social Development and the Empowerment of Marginalized groups: Perspectives and Strategies*, Sage Publications, New Delhi, 2001, p.23.

<sup>v</sup> Debal K. Singha Roy (ed.), *Social Development and the Empowerment of Marginalized groups: Perspectives and Strategies*, Sage Publications, New Delhi, 2001, pp.15.

<sup>vi</sup> Empowerment of Marginalized Groups: A Theoretical Construct; available at- [http://shodhganga.inflibnet.ac.in/bitstream/10603/15828/10/10\\_chapter%202.pdf](http://shodhganga.inflibnet.ac.in/bitstream/10603/15828/10/10_chapter%202.pdf) last accessed on 2<sup>nd</sup> February, 2016

<sup>vii</sup> [https://www.surveymonkey.com/analyze/wAz6WX6YnwCW0ZFHVJ2og\\_2Ft6rR4zNmgclmqZRAjf\\_2FhM\\_3D](https://www.surveymonkey.com/analyze/wAz6WX6YnwCW0ZFHVJ2og_2Ft6rR4zNmgclmqZRAjf_2FhM_3D) ; last accessed on 3<sup>rs</sup> February, 2016.

<sup>viii</sup> [m.timesofindia.com/city/agra/Numero-Unnao-From-DM-to-SP-top-posts-here-are-held-by-women/articleshow/50825778.cms?utm\\_source=facebook.com&utm\\_medium=referral&utm\\_campaign=TOI](http://m.timesofindia.com/city/agra/Numero-Unnao-From-DM-to-SP-top-posts-here-are-held-by-women/articleshow/50825778.cms?utm_source=facebook.com&utm_medium=referral&utm_campaign=TOI) ; last accessed on 2<sup>nd</sup> February, 2016.