

MAPOL 2.4



M.A. POLITICS
SEMESTER - II
REVISED SYLLABUS AS PER NEP 2020

INDIAN CONSTITUTION II

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CONTENTS

Unit No.	Title	Page No.
Module 1 : Working of Institutions		
1.	Challenges to Parliamentary Democracy	1
2.	Rise of Executive: Prime Minister's Office, Chief Minister's Office, Role of Governor	16
3.	Judiciary: Independence, Judicial Review, Intervention, Activism	31
Module 2: Working Of Local Self Government		
4.	73 rd And 74 th Constitutional Amendment Acts	45
5.	Urban Local Self-Government: Current Debates	66
6.	Rural Local Self-Government: Current Debates.....	78

**M.A. POLITICS
SEMESTER - II
REVISED SYLLABUS AS PER NEP 2020
INDIAN CONSTITUTION II
SYLLABUS**

(2 Credits, 30 Hours)

Course objectives:

1. To acquaint students with the functioning of various institutions
2. To trace the evolution and contemporary dynamics in local self-government bodies.

Module 1: Working of Institutions

- a) Challenges to Parliamentary Democracy
- b) Rise of Executive: Prime Minister's Office, Chief Minister's Office Role of Governor
- c) Judiciary: Independence, Judicial Review, Intervention, Activism

Module 2: Working of Local Self Government

- a) 73rd and 74th Constitutional Amendment Acts
- b) Urban Local Self-Government: Current Debates
- c) Rural Local Self-Government: Current Debates

Course Outcomes:

1. Students will be able to understand the role of various organs of the government
2. By the end of the course, students will be acquainted with the functioning of local self-government bodies.

Reading List:

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MODULE 1: WORKING OF INSTITUTIONS CHALLENGES TO PARLIAMENTARY DEMOCRACY

Unit Structure

- 1.1 Objectives
- 1.2 Introduction
- 1.3 Constitutional Framework of Indian Parliamentary Democracy
- 1.4 Challenges to Indian Parliamentary Democracy
- 1.5 Reforming Indian Parliamentary Democracy
- 1.6 Let Us Sum Up
- 1.7 Check Your Progress: Questions
- 1.8 References

1.1 OBJECTIVES

After studying this unit, students will be able to:

- Understand the constitutional architecture of Indian parliamentary democracy by examining its key components, including the relationship between Parliament and the Executive, the role of the President, and the system's distinctive features that set it apart from other parliamentary systems.
- Analyze the intricate relationship between Parliament and the Judiciary in India, focusing on their respective powers, mutual checks and balances, and the evolution of their institutional relationship within the constitutional framework.
- Evaluate the major contemporary challenges facing Indian parliamentary democracy, including the declining quality of legislative proceedings, reduced parliamentary sittings, and erosion of institutional dignity and decorum.
- Examine the critical issue of criminalization in Indian politics through statistical trends, its impact on democratic institutions, and the effectiveness of existing reform measures aimed at addressing this challenge.
- Assess the role and impact of communalism and caste politics on parliamentary democracy, including their influence on legislative processes, political representation, and democratic values.

- Investigate the persistent challenge of inadequate women's representation in Indian politics by analyzing global comparative data, understanding systemic barriers, and evaluating proposed solutions for achieving greater gender parity in political institutions.
- Analyze the emerging digital challenges to parliamentary democracy, including the impact of misinformation, digital divide, and cybersecurity threats, while understanding the need for comprehensive policy responses to address these issues.
- Critically evaluate proposed reform measures for strengthening Indian parliamentary democracy, including suggestions for improving legislative functioning, enhancing representative quality, and modernizing democratic institutions.

1.2 INTRODUCTION

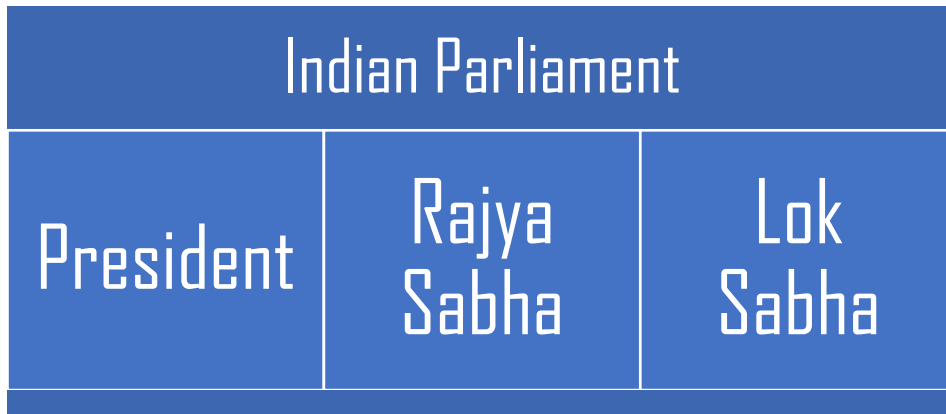
India's parliamentary democracy can be considered as a unique experiment in democratic governance, combining elements of the Westminster model with distinctive features suited to India's diverse sociopolitical landscape. The system operates within a carefully designed constitutional framework that establishes clear relationships between Parliament, the Executive, and the Judiciary, while incorporating fundamental rights and federal principles. This institutional arrangement has served as the backbone of Indian democracy, enabling representation and governance in one of the world's most diverse nations. However, the system faces numerous challenges that test its resilience and effectiveness in meeting contemporary democratic aspirations.

These challenges range from institutional concerns about parliamentary functioning and the quality of legislative processes to deeper societal issues that affect democratic representation and participation. The declining number of parliamentary sittings, increasing criminalization of politics, persistent influence of communalism and caste, inadequate women's representation, and emerging digital challenges collectively threaten the vitality of India's parliamentary democracy. Understanding these challenges is crucial not only for appreciating the complexities of India's democratic journey but also for identifying potential reforms that could strengthen parliamentary institutions and processes. This unit examines these various challenges while considering their implications for the future of Indian democracy and the potential pathways for institutional renewal and reform.

1.3 CONSTITUTIONAL FRAMEWORK OF INDIAN PARLIAMENTARY DEMOCRACY

The Indian parliamentary system is a unique blend of democratic principles, structured within a constitutional framework that is both republican in character and federal in structure. At its core, the Parliament consists of three essential components: the President of India and two Houses - the Rajya Sabha (Council of States) and the Lok Sabha (House of the People).

This bicameral structure operates within a carefully designed system of checks and balances that distinguishes it from other parliamentary democracies worldwide.



Source: Author's visual representation.

A distinctive feature of the Indian parliamentary system is its relationship between the Union Executive and Parliament. The Executive, drawn from both Houses of Parliament, bears collective responsibility to the Lok Sabha, ensuring accountability and democratic oversight. The President of India, as the constitutional head of state, acts on the aid and advice of the Union Council of Ministers, establishing a clear chain of executive responsibility.

However, it is crucial to understand that unlike the British Parliament, the Indian Parliament is not a sovereign body. Its powers are circumscribed by three fundamental constraints. First, it operates within the bounds of a written Constitution, which delineates its authority and functions. Second, the federal structure necessitates a clear distribution of powers between the Union and States, limiting Parliament's jurisdiction to specific areas. Third, the Constitution incorporates a code of justiciable fundamental rights, which acts as a protective barrier against legislative overreach.

The system of judicial review further reinforces these limitations. All legislation passed by Parliament must withstand the test of constitutionality, subject to examination by an independent judiciary. This provision ensures that parliamentary actions align with constitutional principles and safeguard citizens' rights. Additionally, the establishment of a permanent Civil Service provides administrative continuity and expertise in implementing parliamentary decisions.

This intricate balance of powers, responsibilities, and limitations creates a robust democratic framework where Parliament, while being the supreme legislative body, functions within constitutional boundaries. This structure ensures democratic governance while protecting federal principles, fundamental rights, and the rule of law.

1.3.1 Parliament and Judiciary in India

The Indian Constitution establishes a sophisticated system of governance where Parliament and the Judiciary function as two distinct yet

interconnected pillars of democracy. This relationship is characterized by a formal balance of powers, responsibilities, and mutual checks, designed to ensure effective governance while protecting democratic principles and citizens' rights.

At the foundational level, Parliament represents the legislative arm with powers to enact laws, exercise oversight over the Executive, and amend the Constitution when necessary. Its authority extends to legislating on matters related to the Judiciary, including its organization, powers, and the service conditions of judges. Parliament also holds the crucial power to remove judges on grounds of proven misbehaviour or incapacity, though this power is subject to stringent constitutional safeguards. To ensure its effective functioning, Parliament enjoys certain constitutional privileges, including immunity from court proceedings for its members regarding their parliamentary actions and protection against judicial scrutiny of its internal proceedings.

The Judiciary, particularly the higher courts, serves as the guardian of the Constitution with the power to interpret laws and adjudicate disputes. Its role extends beyond mere dispute resolution to include the crucial power of judicial review, enabling it to examine and potentially strike down laws that violate constitutional provisions or exceed Parliament's legislative competence. The Constitution ensures judicial independence through various measures, including the protection of judges' service conditions and restrictions on parliamentary discussion of judicial conduct except in specific circumstances.

This institutional arrangement creates a system of mutual checks and balances. While Parliament can legislate on matters affecting the Judiciary and remove judges under specific conditions, the courts can review parliamentary legislation for constitutional validity. The higher judiciary's role as the Constitution's interpreter means it can effectively check parliamentary overreach, particularly in matters relating to fundamental rights and the federal distribution of powers. However, this relationship is not without its tensions, as both institutions occasionally find themselves at odds over the interpretation and implementation of constitutional provisions.

The Constitution also provides specific mechanisms to maintain institutional autonomy while ensuring accountability. Parliamentary proceedings enjoy immunity from judicial scrutiny regarding procedural matters, and MPs cannot be held liable in courts for their parliamentary speech and votes. Simultaneously, the Judiciary's independence is protected through constitutional provisions that limit Parliament's ability to alter judges' service conditions or discuss their conduct outside prescribed procedures. (PRS Legislative Research, 2016).

This carefully crafted relationship reflects the Constitution's vision of democratic governance where both institutions operate within their designated spheres while serving as checks on each other's powers. The success of this arrangement depends on both institutions respecting

constitutional boundaries while fulfilling their respective roles in upholding democratic values and ensuring good governance. Over the years, this relationship has evolved through various constitutional interpretations and precedents, contributing to the development of India's unique democratic framework.

The effectiveness of this constitutional arrangement lies in its ability to maintain a delicate balance between parliamentary supremacy in lawmaking and judicial authority in constitutional interpretation. While tensions may arise in specific cases, the overall framework has proven resilient in maintaining democratic governance while protecting citizens' rights and constitutional values.

1.4 CHALLENGES TO INDIAN PARLIAMENTARY DEMOCRACY

Flaws of the Parliamentary System in India

“The parliamentary system we borrowed from the British has not worked in Indian conditions. It is time to demand a change. The facts are clear: Our parliamentary system has created a unique breed of legislator, largely unqualified to legislate, who has sought election only in order to wield executive power. It has produced governments dependent on a fickle legislative majority, who are therefore obliged to focus more on politics than on policy or performance. It has distorted the voting preferences of an electorate that knows which individuals it wants to vote for but not necessarily which parties. It has spawned parties that are shifting alliances of selfish individual interests, not vehicles of coherent sets of ideas. It has forced governments to concentrate less on governing than on staying in office, and obliged them to cater to the lowest common denominator of their coalitions. The parliamentary system has failed us.”

Source: (Tharoor, 2020).

1.4.1 Disruptions in Parliamentary Functioning

The functioning of India's parliamentary democracy faces significant challenges, as highlighted by India's present Lok Sabha Speaker Om Birla's observations on the declining quality of legislative proceedings. (Lok Sabha Secretariat, 2025). The deliberate disruption of house proceedings has emerged as a critical concern, undermining the fundamental purpose of the legislature as a forum for constructive debate and discussion. This trend has severely impacted Parliament's ability to fulfil its constitutional mandate of representing citizens' interests and addressing national issues.

A particularly troubling development is the consistent decrease in the number of parliamentary sittings. This reduction directly affects the legislature's capacity to thoroughly deliberate on important matters, scrutinize bills, and hold the executive accountable. The diminishing parliamentary time contradicts the basic principle that legislators should

have adequate opportunities to voice their constituents' concerns and participate in policy-making processes.

The erosion of dignity and decorum within the legislative chambers presents another significant challenge. Parliamentary proceedings require a certain level of gravitas and mutual respect among members to maintain their effectiveness. When these standards decline, it not only affects the quality of debates but also diminishes public faith in democratic institutions. This situation is particularly concerning as it threatens the very essence of parliamentary democracy, which relies on meaningful dialogue and constructive opposition.

These issues collectively point to a deeper crisis in parliamentary functioning, where the institution's ability to serve as an effective forum for democratic discourse and policy-making is increasingly compromised. The situation demands urgent attention and concrete measures to restore the legislature's effectiveness in fulfilling its constitutional responsibilities and meeting public expectations. The quality of parliamentary democracy significantly depends on how these challenges are addressed and resolved through systematic reforms and strengthened institutional mechanisms.

Case Study: Parliamentary Productivity in Winter Session 2024

Overview

The Winter Session of Parliament, spanning from November 25 to December 20, 2024, provides a compelling case study of parliamentary functioning and time utilization in India's legislative bodies.

Session Duration and Working Days

- Total Session Period: 26 days
- Lok Sabha Working Days: 20 days
- Rajya Sabha Working Days: 19 days
- Special Addition: One extra sitting (Saturday) in Lok Sabha for Constitutional discussion

Productivity Analysis

1. Overall Performance
 - Lok Sabha Productivity: 52% of the scheduled time
 - Rajya Sabha Productivity: 39% of the scheduled time
2. Critical Observations
 - First Week Performance: Both Houses recorded less than 10% productivity
 - Additional Working Day: Lok Sabha's special sitting focusing on Constitutional matters

Significance

This case illustrates several key issues in parliamentary functioning:

- Substantial underutilization of scheduled parliamentary time
- Marked difference in productivity between the two Houses
- Particularly low productivity in the initial week
- Need for special sessions to address crucial topics

The case highlights the persistent challenge of time management and productivity in India's parliamentary system, raising questions about the effectiveness of legislative processes and the optimal utilization of parliamentary resources.

Data Source: (PRS Legislative Research, 2024).

1.4.2 Criminalization in Indian Politics

The increasing presence of legislators with criminal backgrounds represents one of the most serious challenges to India's parliamentary democracy. According to the Association for Democratic Reforms (ADR) report, analysis of electoral data from 2009 to 2024 reveals a disturbing upward trend in the criminalization of politics, threatening the integrity and credibility of India's legislative institutions.

The data shows a steady and significant increase in MPs with criminal cases in the Lok Sabha. In 2009, 162 (30%) of MPs had declared criminal cases, which increased to 185 (34%) in 2014, further rose to 233 (43%) in 2019, and reached 251 (46%) in 2024. This represents a concerning 55% increase in parliamentarians with criminal backgrounds over a fifteen-year period. Even more alarming is the rise in serious criminal cases, which include grave offences such as murder, rape, kidnapping, and crimes against women. The percentage of MPs with serious criminal cases has more than doubled, from 14% in 2009 to 31% in 2024, marking a dramatic 124% increase. (Association for Democratic Reforms, 2024, p. 6).

This trend has several implications for parliamentary democracy. First, it undermines the quality of legislative deliberations and decision-making, as representatives with criminal backgrounds may prioritize personal interests over public welfare. Second, it erodes public trust in democratic institutions, potentially leading to voter apathy and cynicism about the political process. Third, it creates a vicious cycle where money and muscle power become increasingly important factors in electoral success, further deterring honest candidates from entering politics.

The criminalization of politics also poses significant challenges to governance and policy implementation. MPs with criminal backgrounds may be more likely to use their position to obstruct law enforcement, influence the judicial process, or protect their illegal activities. This can lead to a weakening of law enforcement mechanisms and a culture of impunity,

ultimately threatening the rule of law that is fundamental to democratic functioning.

However, it also needs to be noted that in Indian politics, the misuse of legal mechanisms to file false or frivolous cases against opponents has become a concerning trend, aimed at either preventing them from contesting elections or tarnishing their public image. Such cases are often politically motivated, leveraging judicial delays to prolong harassment while damaging the credibility of leaders among voters. This not only undermines the principle of free and fair elections but also erodes public trust in democratic institutions. To address this, swift judicial review of such cases and penalties for filing baseless allegations are essential to uphold the integrity of Indian democracy.

Despite various Supreme Court judgments and Electoral Commission guidelines aimed at curbing this trend, the increasing presence of MPs with criminal backgrounds suggests that existing measures have been insufficient. This highlights the urgent need for stronger reforms in electoral processes, political party functioning, and campaign financing. The persistence and growth of this problem indicate a deeper malaise in India's political system that requires comprehensive legislative, judicial, and social reforms to address effectively.

This significant challenge to parliamentary democracy requires immediate attention and concrete action to prevent further erosion of democratic values and institutions. The solution likely lies in a combination of stricter laws, better enforcement, electoral reforms, and increased public awareness and participation in the democratic process.

1.4.3 Communalism: A Challenge to Parliamentary Democratic Values

Communalism poses a fundamental challenge to India's parliamentary democracy by undermining its core principles of secular governance and equal citizenship. The transformation of religious communities into political entities seeking power and privileges based on religious identity sometimes creates deep fissures in democratic functioning and parliamentary processes.

“Communalism is an ideology that starts with a religious identification of communities, but goes beyond that to seek political rights and privileges on religious grounds. A religiously defined community becomes a political community more interested in power and public resources, less in piety or faith. Communalism also functions as nationalism in India and South Asia, though of a particular kind. Because of its oft-made attempt to link religion and nation, communalism seeks to define national loyalty and disloyalty in religious terms. It generates rhetoric and practices that exclude and discriminate on a religious basis. When such communalism is in power, it seriously shapes state behavior, public policy and laws. When not in power, it can still seriously affect the conduct of citizens and organizations. Everyday prejudice and discrimination against ‘religious others’—on the part of the state, non-state organizations or citizens—are typical expressions of communalism.”

Source: (Varshney, 2024).

In the parliamentary context, communal ideology manifests in several destructive ways. When legislators prioritize religious identity over constitutional obligations, it affects the quality and nature of parliamentary deliberations. Policy discussions become coloured by religious considerations rather than focusing on universal public welfare. This distorts the essential purpose of parliament as a forum for addressing citizens' needs regardless of their religious affiliations.

The impact of communalism on parliamentary democracy extends beyond the legislative chambers. When political parties frame their electoral campaigns and policy positions through a communal lens, it creates a divisive political discourse that threatens the inclusive character of democratic institutions. This leads to the marginalization of religious minorities in political representation and policy-making processes, contradicting the constitutional vision of equal citizenship.

The presence of communal ideology in parliamentary politics also affects the quality of legislation. Laws may be proposed, debated, and passed with implicit or explicit religious biases, potentially discriminating against certain communities. This contradicts the fundamental democratic principle that laws should serve all citizens equally, regardless of their religious beliefs. Moreover, when communal considerations influence parliamentary oversight of executive actions, it weakens the legislature's ability to ensure fair and unbiased governance.

Parliamentary democracy requires robust debate, diverse representation, and decision-making based on constitutional principles rather than religious identity. However, communalism creates an environment where religious affiliations overshadow merit and public interest in political discourse and decision-making. This leads to the erosion of democratic values such as equality, secularism, and inclusive citizenship.

The challenge becomes particularly acute when communal ideology influences parliamentary procedures and practices. It can lead to the selective application of rules, biased allocation of speaking time, and discriminatory treatment of legislators based on their religious identity. Such practices fundamentally undermine the democratic character of parliamentary functioning and its role as the supreme representative institution of a diverse nation. Therefore, to preserve the integrity of parliamentary democracy, it is crucial to recognize and address the harmful effects of communalism on legislative processes and democratic institutions. This requires strengthening constitutional safeguards, promoting inclusive political dialogue, and ensuring that parliamentary practices remain firmly grounded in secular democratic principles.

1.4.4 Caste Politics: A Complex Challenge to Democratic Functioning

The relationship between caste and politics in India's parliamentary democracy can be seen as a complex paradox. Initially, the politicization of caste appeared to hold democratic potential by challenging traditional hierarchies and creating new spaces for political participation. This process promised to weaken rigid caste structures while expanding democratic

participation, particularly for historically marginalized groups. (Palshikar, 2024). For instance, the early phase of caste politicization demonstrated some positive developments. It created opportunities for lower-caste groups to enter the political arena, challenge social hierarchies, and participate in democratic processes. This was particularly significant as it suggested a pathway for traditionally excluded communities to gain political representation and voice their concerns in parliamentary forums. (Palshikar, 2024).

However, the evolution of caste politics has taken a more problematic turn in contemporary Indian democracy. Instead of leading to broader democratization, it has often resulted in what scholars term the 'casteization of politics' - where caste identity becomes the primary basis for political mobilization and decision-making. This has several implications for parliamentary democracy:

First, it has led to the emergence of vote bank politics, where political parties cultivate specific caste groups as reliable electoral constituencies rather than addressing broader policy issues. This reduces political discourse to caste calculations rather than substantive policy debates in Parliament.

Second, despite economic liberalization and modernization, caste consciousness has remained deeply entrenched in political processes. Rather than diminishing with economic development, caste identities have been reinforced through political mobilization. This has affected the quality of parliamentary deliberations, where caste considerations often overshadow merit-based policy discussions.

Third, while Dalit political movements were expected to strengthen democratic processes following Ambedkar's vision, they have often been confined to electoral calculations. (Palshikar, 2024). The transformation of caste-based movements into electoral politics has sometimes compromised their potential for broader social transformation.

Therefore, it can be argued that the persistence of caste-based politics poses significant challenges to parliamentary democracy in some ways. It affects candidate selection, policy formulation, and resource allocation, often prioritizing caste interests over broader public welfare and national interest. This has led to the fragmentation of political discourse and the weakening of inclusive democratic processes.

The challenge for Indian democracy lies in balancing legitimate caste-based representation while preventing the reduction of politics to mere caste arithmetic. This requires developing political mechanisms that can address social justice concerns while promoting broader democratic values and inclusive governance.

1.4.5 Inadequate Representation of Women

India's trajectory in women's political representation presents a concerning picture of stagnation and relative decline in global rankings, particularly in

the context of its national legislature. Despite being the world's largest democracy, India's progress in increasing women's presence in the Lok Sabha (Lower House) has been remarkably slow, with women currently occupying only 14% of seats. This performance is particularly striking when compared to global trends - while the worldwide average for women's representation in lower houses nearly doubled from 13.5% to 25.2% between 2000 and 2020, India's growth has been minimal. (Spary, 2024, p. 306).

The country's position in global rankings tells a story of relative regression. As per the data of the Inter-Parliamentary Union's rankings of women in national parliaments, from being ranked 68th in 2000 with 9% women MPs, India has steadily fallen to 151st position as of January 2025. This decline isn't merely about numbers - it reflects India's failure to keep pace with global reforms, particularly the widespread adoption of gender quotas in national legislatures. This is further emphasized by the fact that India lags behind both the world average and several of its neighbouring countries. (Spary, 2024, p. 306).

A critical analysis reveals multiple systemic barriers impeding women's political participation in India. These obstacles span sociocultural, socioeconomic, and institutional dimensions. Perhaps most significantly, political parties serve as powerful gatekeepers in the candidate selection process, and the single-member district electoral system makes competition particularly intense. The statistical evidence is telling - women have never constituted more than 10% of all candidates in any parliamentary election, though notably, when they do contest, they tend to perform disproportionately well. (Spary, 2024, p. 306).

The situation at the state assembly level presents an even more challenging picture. With only two states matching the national parliament's 14% women's representation, and several states never exceeding 10% women in their assemblies, the data challenges assumptions about gradual progress over time. Some states have actually witnessed a decline in women's representation, suggesting that without systematic intervention, mere time passage does not guarantee improvement in gender representation. (Spary, 2024, p. 306). This pattern points to the need for more targeted interventions and structural reforms to address the persistent underrepresentation of women in Indian politics.

1.4.6 Digital Challenges

The advent of digital technologies has fundamentally altered the scenario of political participation and governance mechanisms in India's parliamentary democracy. This change, while offering unprecedented opportunities for civic engagement, has simultaneously introduced complex challenges that warrant careful examination and suitable intervention to preserve democratic integrity.

A primary concern emerges in the form of information disorder within the digital sphere. The exponential growth of social media platforms has facilitated the rapid dissemination of misleading content and fabricated

narratives, significantly impacting public discourse. This phenomenon extends beyond mere misinformation to encompass sophisticated disinformation campaigns that can systematically influence electoral processes and parliamentary functions. The resultant deterioration in the quality of public debate and political decision-making processes poses substantial risks to democratic legitimacy.

The persistence of digital inequity presents another critical challenge to democratic participation. Despite significant technological advancement, a considerable portion of India's population, particularly in rural regions and among socially disadvantaged groups, remains digitally disenfranchised. This technological stratification creates asymmetrical access to democratic processes and civic engagement opportunities, potentially undermining the fundamental principle of inclusive democracy that underpins the parliamentary system.

Furthermore, the increasing digitalization of democratic processes introduces substantial vulnerabilities in terms of cybersecurity. The integration of digital systems into electoral mechanisms and parliamentary operations exposes these crucial democratic institutions to sophisticated cyber threats. These security challenges require the development and implementation of robust protective frameworks to maintain the integrity of democratic processes and institutions.

Addressing these challenges requires a comprehensive policy framework that encompasses multiple dimensions. This includes the establishment of effective regulatory mechanisms for digital platforms, substantial investment in digital literacy programs, and the implementation of advanced cybersecurity protocols. The objective must be to achieve a balanced approach that harnesses technological advantages while preserving the essential principles of parliamentary democracy. Such response is crucial for ensuring the sustained vitality and effectiveness of India's democratic institutions in an increasingly digital era.

1.5 REFORMING INDIAN PARLIAMENTARY DEMOCRACY

Expressing concern over the challenges faced by parliamentary institutions in India, then-Vice President of India M. Venkaiah Naidu in October 2019 unveiled a 15-point reform charter aimed at improving the functioning of Parliament and State Legislatures. He highlighted critical issues such as low attendance in legislative proceedings and poor-quality debates, urging political parties to ensure the attendance of at least 50% of their legislators through a roster system. He emphasized that disruptions caused by a lack of quorum undermine democratic processes and called for greater accountability among legislators. (PIB, GoI, 2019).

The Vice President proposed a review of the Anti-Defection Law to address its ambiguities, such as incentivizing defections, and called for time-bound disposal of defection cases. He also advocated for revising the practice of issuing party whips to allow legislators reasonable freedom of expression

without threatening government stability. Furthermore, Naidu raised concerns about the declining effectiveness of Department-Related Standing Committees, suggesting longer tenures and specialization for members to improve their functioning.

Naidu underscored the need for a detailed pre- and post-legislative impact assessment framework, where legislative proposals would include evaluations of their social, economic, environmental, and administrative impacts. While criticizing the First Past the Post (FPTP) system for electing representatives with less than 50% voter support, he noted it remains the most viable option for India. He rejected proportional representation, citing risks of increased social and political divisions, and reaffirmed the Parliamentary system as a fundamental feature of the Constitution's basic structure.

Highlighting the gradual decline of identity-based voting, Naidu called for a complete shift towards development-oriented electoral preferences. He urged political stakeholders to embrace a new consciousness, prioritizing governance, accountability, and the strengthening of democratic institutions. These reforms, he stressed, are essential for ensuring the continued resilience and relevance of India's parliamentary democracy.

1.6 LET US SUM UP

The unit has explored the multifaceted nature of challenges confronting India's parliamentary democracy, beginning with its constitutional framework and institutional design. We have seen how India's parliamentary system, while inspired by the Westminster model, has developed its own distinct characteristics within a constitutional framework that carefully balances powers between different institutions. The relationship between Parliament and the Judiciary emerges as particularly crucial, characterized by mutual checks and balances that aim to preserve democratic principles while ensuring effective governance.

Our examination revealed several critical challenges that threaten the vitality of parliamentary democracy in India. The declining quality of legislative proceedings, marked by disruptions and decreasing parliamentary sittings, poses a serious concern for democratic deliberation. This is compounded by the alarming trend of criminalization in politics, where data shows a steady increase in legislators with criminal backgrounds, potentially compromising the integrity of democratic institutions. The impact of communalism and caste politics presents another significant challenge, often undermining the secular and inclusive character of parliamentary democracy while affecting the quality of political discourse and policy-making.

The persistent underrepresentation of women in Indian politics emerges as a structural challenge that reflects deeper societal inequities. Despite global progress in women's political participation, India's performance remains concerning, with women's representation in Parliament and state assemblies falling well below international averages. This situation is particularly

striking when viewed against the backdrop of increasing women's representation in other democracies worldwide.

The digital age has introduced new challenges to parliamentary democracy, including the spread of misinformation, digital inequity, and cybersecurity threats. These technological challenges require innovative policy responses that can harness the benefits of digital transformation while protecting democratic processes and institutions. The proposed reforms for strengthening parliamentary democracy, including measures to improve legislative functioning and enhance representative quality, offer potential pathways for addressing these various challenges.

Understanding these challenges is essential for appreciating the complexities of India's democratic journey and identifying ways to strengthen its parliamentary institutions. The future of Indian democracy depends significantly on how effectively these challenges are addressed through systematic reforms and institutional innovations while preserving the core principles of parliamentary democracy enshrined in the Indian Constitution.

1.7 CHECK YOUR PROGRESS: QUESTIONS

1. Explain how the Indian parliamentary system differs from the British Parliament. What are the key constitutional constraints that limit the Indian Parliament's powers?
2. "The relationship between Parliament and Judiciary in India represents a delicate balance of powers." Critically analyze this statement with reference to their respective roles and mutual checks on each other's authority.
3. Examine the trend of criminalization in Indian politics. What are its implications for parliamentary democracy and what measures have been taken to address this challenge?
4. Analyze how communalism poses a challenge to parliamentary democracy in India. How does it affect legislative processes and democratic values?
5. Despite being the world's largest democracy, India's record in women's political representation remains poor. Examine the barriers to women's political participation and suggest measures for improvement.
6. Evaluate the impact of digital transformation on Indian parliamentary democracy. What are the key challenges it presents and how can they be addressed?
7. Compare and contrast how caste politics has both enabled and hindered democratic participation in India's parliamentary system. Support your answer with examples.

8. The declining quality of parliamentary proceedings is a matter of serious concern. Analyze the major issues affecting parliamentary functioning in India and suggest reforms to address them.

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RISE OF EXECUTIVE: PRIME MINISTER'S OFFICE, CHIEF MINISTER'S OFFICE, ROLE OF GOVERNOR

Unit Structure

- 2.1 Objectives
- 2.2 Introduction
- 2.3 Executive Power in India
- 2.4 Prime Minister's Office
- 2.5 Chief Minister's Office
- 2.6 Role of Governor
- 2.7 Let Us Sum Up
- 2.8 Check Your Progress: Questions
- 2.9 References

2.1 OBJECTIVES

After reading this unit, students will be able to:

- Comprehensively understand the constitutional framework governing executive power in India, analyzing its unique parliamentary structure and democratic mechanisms.
- Critically examine the crucial role and constitutional provisions of the Prime Minister's Office (PMO), appreciating its significance in national governance.
- Explore the intricate functions and responsibilities of the Chief Minister's Office within India's federal framework, understanding state-level executive dynamics.
- Analyze the constitutional role of the Governor, evaluating their powers, limitations, and the ongoing discourse surrounding their institutional position.
- Develop a nuanced understanding of the separation of powers in India's governance model, recognizing the complex interactions between different governmental institutions.

2.2 INTRODUCTION

The executive branch can be considered as the dynamic heart of India's democratic governance, transforming constitutional principles into tangible

administrative action. This unit delves into the intricate machinery of executive power, unravelling the complex institutional mechanisms that drive India's governmental processes.

Rise of Executive: Prime
Minister's Office, Chief
Minister's Office, Role of
Governor

India's executive framework emerges from a sophisticated constitutional design that balances multiple competing priorities: democratic representation, administrative efficiency, federal cooperation, and institutional accountability. Unlike rigid governmental models, the Indian system offers remarkable flexibility, allowing executive institutions to adapt to evolving national challenges while maintaining core democratic principles.

The journey of India's executive power is a narrative of continuous transformation. Emerging from the shadows of colonial administrative structures, it has progressively evolved into a robust, responsive mechanism that reflects the nation's democratic aspirations. The constitutional architects crafted an executive framework that goes beyond mere administrative functionality, embedding principles of accountability, transparency, and participatory governance.

This unit will explore three critical dimensions of executive power: the Prime Minister's Office at the national level, the Chief Minister's Office at the state level, and the unique constitutional role of the Governor. Each of these institutional spaces represents a different facet of India's complex governance ecosystem, demonstrating how democratic principles are translated into practical administrative action.

Students are invited to critically examine how these executive institutions interact, balance power, and respond to the dynamic challenges of governance in the world's largest democracy i.e. India. The exploration in this unit will not merely be descriptive but analytical, encouraging a deeper understanding of the constitutional philosophy that underpins India's executive framework.

As we navigate through this unit, we will uncover the delicate balance between centralized leadership and democratic accountability, between constitutional provisions and practical governance, and between institutional powers and democratic checks and balances. Let us now begin to embark on a fascinating journey through the institutional setting of India's executive power – a journey that reveals the sophisticated democratic engineering at the heart of the nation's governance model.

2.3 EXECUTIVE POWER IN INDIA

The executive branch in India represents a critical component of the nation's constitutional architecture, embodying the practical machinery of governance and policy implementation. Rooted deeply in the constitutional framework established by the Constitution of India in 1950, the executive power reflects a sophisticated blend of democratic principles, parliamentary traditions, and responsive governance mechanisms.

2.3.1 Constitutional Framework

The Indian Constitution conceptualizes executive power through a nuanced and balanced approach. Unlike purely presidential systems, India adopts a parliamentary model where executive authority is distributed across multiple levels and institutions. The President of India, technically the head of the executive branch, serves a dual role – as the constitutional head of state and a symbolic representative of national unity.

At the national level, the real executive power resides with the Prime Minister and the Council of Ministers. This structure ensures that while the President holds constitutional legitimacy, the elected representatives through the Prime Minister exercise substantive governmental authority. The constitutional design intentionally creates a system of checks and balances, preventing concentration of power in any single individual or institution.

2.3.2 Separation of Powers

The principle of separation of powers in India is not rigid but flexible, allowing dynamic interaction between legislative, executive, and judicial branches. Unlike strict separation models, the Indian system permits significant overlap and interdependence. For instance, the executive (Council of Ministers) emerges from and remains accountable to the legislative branch (Parliament), creating a collaborative governance mechanism.

The executive's responsibilities encompass:
I. Formulating and implementing national policies
II. Administering governmental departments
III. Representing the nation in international forums
IV. Coordinating between different governmental institutions
V. Ensuring constitutional mandates are fulfilled

2.3.3 Evolution of Executive Roles

Historically, the executive's role in India has transformed dramatically since independence. During the colonial period, executive power was centralized and unaccountable. The post-independence constitutional framework revolutionized this structure by introducing democratic accountability, transparency, and representation. The initial years after 1950 saw a strong centralized executive under Prime Minister Jawaharlal Nehru, who played a crucial role in nation-building. Subsequent decades witnessed gradual decentralization, with increased power to state governments and more robust democratic institutions.

Key transformative moments include: the 73rd and 74th Constitutional Amendments, which empowered local self-governance; economic liberalization in 1991, which redefined the executive's role in economic

management; increased judicial activism providing additional checks on executive power; implementation of Right to Information Act, enhancing governmental transparency; and challenges and contemporary dynamics.

Modern Indian executive power faces complex challenges: managing diversity, addressing socio-economic inequalities, navigating global geopolitical environment, and maintaining democratic credentials. The executive must balance developmental aspirations with constitutional principles, a task requiring nuanced political leadership. The constitutional framework provides remarkable flexibility, allowing the executive to adapt to changing national requirements while maintaining core democratic values. This dynamic nature ensures that executive power remains responsive to people's evolving needs.

2.4 PRIME MINISTER’S OFFICE

The Indian political system is often referred to as a ‘Prime Ministerial Government’ due to the central and vital role of the Prime Minister in the country’s governance. The Prime Minister, as the head of government, plays a crucial role in the administration, decision-making, and overall functioning of the executive branch. This designation reflects the extensive powers and responsibilities vested in the office of the Prime Minister within India’s parliamentary framework.

2.4.1 Role and Importance of the Prime Minister

The Prime Minister is the de facto head of state and is appointed by the President of India. By convention, the leader of the majority party or coalition in the Lok Sabha is appointed to this position. As the chief executive authority, the PM leads the Union Council of Ministers, shapes policy, and represents the government domestically and internationally.

Under Article 75 of the Constitution, the Council of Ministers is appointed by the President on the advice of the Prime Minister. Article 74(1) further mandates that the Council of Ministers, headed by the Prime Minister, shall aid and advise the President. Consequently, the Prime Minister’s guidance directs the functioning of other ministers and the government’s agenda. This concentration of power and influence underscores why India’s system is termed a ‘Prime Ministerial Government.’

2.4.2 Constitutional Provisions Pertaining to the Prime Minister

The office of the Prime Minister is established and governed by several articles in the Indian Constitution:

Article 75(1): The President shall appoint the Prime Minister who, in their opinion, commands the confidence of the majority in the Lok Sabha.
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Article 74(1): The Prime Minister shall be the head of the Council of Ministers.
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Article 75(3): The Council of Ministers shall be collectively responsible to the Lok Sabha.
Article 75(2): The Prime Minister can be removed by a vote of no confidence in the Lok Sabha or by resignation.
Article 84: Requires the Prime Minister to be a citizen of India and a member of either the Lok Sabha or Rajya Sabha.

2.4.3 Appointment, Oath, Term, and Salary

The Constitution does not specify a detailed process for appointing the Prime Minister. However, Article 75 mandates that the President appoints the Prime Minister. By convention, the leader of the majority party in the Lok Sabha is selected. In cases where no party has a clear majority, the President exercises discretion in appointing the leader of the largest party or coalition, who must prove majority support in the Lok Sabha within a stipulated timeframe.

Before assuming office, the Prime Minister takes the oath of office and secrecy administered by the President, pledging allegiance to the Constitution, upholding sovereignty, and faithfully discharging duties without bias. The PM's term is not fixed but is contingent on maintaining the confidence of the Lok Sabha. While the President cannot arbitrarily dismiss the Prime Minister, losing the Lok Sabha's support necessitates resignation. The PM's salary is determined by Parliament and includes perks like housing, allowances, and travel benefits.

2.4.4 Powers of the Prime Minister

The Prime Minister holds significant executive, legislative, diplomatic, emergency, and financial powers. As the head of the Union Council of Ministers, the Prime Minister presides over its meetings, coordinates the functioning of ministries, guides policy formulation, and oversees implementation. Legislatively, the Prime Minister advises the President on summoning and dissolving Parliament, represents government policies, and manages legislative business. In diplomacy, the Prime Minister represents India internationally, negotiates treaties, and fosters foreign relations. During national emergencies, the Prime Minister advises the President on necessary actions.

The Prime Minister recommends appointments to key constitutional positions, including Governors, the Chief Election Commissioner, and the Comptroller and Auditor General, and leads the presentation of the annual budget and economic policies. Regarding the Council of Ministers, the Prime Minister recommends ministerial appointments, allocates portfolios, presides over meetings, and ensures collective responsibility to the Lok Sabha. Acting as the main communication link with the President, the Prime Minister advises on appointments and parliamentary matters. Additionally, the Prime Minister chairs key bodies like NITI Aayog, shapes foreign policy, acts as the government's chief spokesperson, and manages political crises effectively.

2.4.5 Role of the Prime Minister's Office (PMO)

The Prime Minister's Office (PMO) is the administrative body assisting the Prime Minister in managing government functions. Headed by the Principal Secretary to the Prime Minister, the PMO coordinates activities of ministries and departments; advises on policy and administrative matters and oversees critical departments like the Department of Atomic Energy, Department of Space, and the National Security Council.

At the time of India's independence, the idea of a dedicated Prime Minister's Office (PMO) was not firmly established. Drawing from British traditions, where the Prime Minister's office functioned more as a private office, India initially adopted a similar approach. Jawaharlal Nehru, the first Prime Minister, preferred a limited secretariat. His extensive personal knowledge and simultaneous charge of the External Affairs Ministry allowed him to manage affairs with minimal assistance. The PMO remained low-profile during his tenure, with the Principal Private Secretary acting as the primary link between the Prime Minister and the government. (Jha, 2019).

The PMO gained prominence under Lal Bahadur Shastri due to his need for administrative support and assistance in managing governmental affairs. Shastri's tenure saw the appointment of senior officials to streamline operations, emphasizing the importance of the PMO in governance. Under Indira Gandhi, the PMO transformed significantly, emerging as a central hub for policy planning and coordination. This evolution reflected her reliance on professional advice and the need to counter challenges within the cabinet. The PMO during her tenure functioned as a powerful institution, deeply involved in policymaking and strategic planning. (Jha, 2019).

Subsequent Prime Ministers adapted the PMO to their governance styles. During coalition governments, such as those of Morarji Desai, V.P. Singh, and Deve Gowda, the PMO's influence fluctuated, often maintaining a lower profile. However, under strong leadership, like that of A.B. Vajpayee, the PMO regained prominence, serving as a key decision-making center. Vajpayee's approach reflected a concentrated trust in the PMO's ability to handle critical matters, including foreign policy and national security. (Jha, 2019).

The PMO's role under Dr. Manmohan Singh during the coalition-led United Progressive Alliance government saw its influence moderated by other political and advisory bodies. The emergence of the National Advisory Council diluted the PMO's dominance, reflecting the complexities of coalition politics. With Narendra Modi's tenure, the PMO reemerged as a powerful institution, reflective of his leadership style and emphasis on efficiency. Modi's PMO became a hub of decision-making, with clearly defined roles and responsibilities to ensure streamlined governance. The focus on selecting experienced officials and implementing checks and balances underscored the evolving role of the PMO as a central entity in India's governance framework. (Jha, 2019).

This historical trajectory highlights the adaptability of the PMO, shaped by the leadership styles of successive Prime Ministers and the political contexts

of their tenures. The Prime Minister's preeminent role in India's governance, supported by constitutional provisions and conventions, highlights the centralized nature of executive power in the parliamentary framework. The PM's leadership, decision-making, and coordination with the Council of Ministers and Parliament ensure the effective functioning of the government, justifying the designation of the Indian system as a 'Prime Ministerial Government.'

2.5 CHIEF MINISTER'S OFFICE

The Chief Minister and the Council of Ministers form the executive backbone of governance in each state, ensuring effective administration and policy implementation. The Chief Minister, as the elected head of the government, leads the Council of Ministers in India's states and union territories with legislatures, such as Delhi, Jammu and Kashmir, and Puducherry. Operating within the Parliamentary System of Government as outlined in the Indian Constitution, they collectively shape the state's policies and oversee their implementation.

2.5.1 Constitutional Provisions Governing the Chief Minister and Council of Ministers

The Indian Constitution provides a detailed framework for the roles, powers, and responsibilities of the Chief Minister and the Council of Ministers in Part VI:

Article 163: Role of the Council of Ministers - The Council of Ministers, led by the Chief Minister, aids and advises the Governor in performing most of the Governor's functions, except discretionary ones. The Governor's decision regarding the scope of discretionary powers is final, and courts cannot challenge the validity of such actions.

Article 164: Appointment and Composition - This article outlines the appointment and tenure of the Chief Minister and other ministers. They hold office at the pleasure of the Governor and are collectively responsible to the legislative assembly. It also allows for the inclusion of non-legislators as ministers, provided they secure a seat in the legislature within six months.

Article 166: Conduct of Business - This article deals with the procedures for conducting the business of the state government. All executive actions are carried out in the Governor's name, and rules for transaction are framed by the Governor on the advice of the Council of Ministers.

Article 167: Duties of the Chief Minister - The Chief Minister is obligated to inform the Governor of decisions made by the Council of Ministers concerning state administration and legislative proposals. Additionally, the Chief Minister must present matters for Council consideration as required by the Governor.

Article 177: Rights of Ministers - Ministers, including the Chief Minister, can participate in legislative proceedings and committee meetings, even if

they are not members of the particular House. However, they can only vote if they are members of the respective legislative assembly or council.

2.5.2 Appointment of the Chief Minister

The Constitution does not outline a specific procedure for appointing the Chief Minister; however, Article 164 stipulates that the Governor appoints the Chief Minister. By convention, the leader of the majority party in the legislative assembly is chosen for the position. In cases where no party achieves a clear majority, the Governor may exercise discretion to appoint the leader of the largest party or coalition, with the condition that the appointee secures a confidence vote in the assembly within a stipulated time. Additionally, the Chief Minister must be a member of the state legislature or secure a legislative seat within six months of their appointment.

2.5.3 Appointment and Role of the Council of Ministers

The Chief Minister advises the Governor on the appointment of the Council of Ministers. The Governor appoints individuals based on this advice. While ministers are usually members of the legislature, non-legislators may also be appointed, provided they secure a seat within six months. The Council's size is limited to 15% of the legislative assembly's total strength, with a minimum of 12 members, as per the 91st Amendment Act, 2003.

2.5.4 Powers and Functions of the Chief Minister

The Chief Minister plays a significant role in the functioning of the Council of Ministers by recommending the appointment and dismissal of ministers, allocating and reshuffling their portfolios, and presiding over council meetings to guide its decisions. The Chief Minister's resignation or demise leads to the dissolution of the entire Council, whereas similar circumstances involving individual ministers result in vacancies alone. As the principal channel of communication between the Governor and the Council of Ministers, the Chief Minister advises the Governor on significant appointments such as the Advocate General and members of the State Public Service Commission. They also provide updates on state administration and legislative proposals and recommend the summoning, proroguing, or dissolution of the legislative assembly. In the state legislature, the Chief Minister announces government policies and ensures the smooth conduct of legislative business.

The Council of Ministers, headed by the Chief Minister, comprises Cabinet Ministers, Ministers of State, and Deputy Ministers, each performing distinct roles. Cabinet Ministers lead key departments, participate in policymaking, and attend cabinet meetings, while Ministers of State assist them and may independently head departments. Deputy Ministers, in turn, provide administrative support. Additionally, Cabinet Committees, formed as standing or ad hoc bodies by the Chief Minister, address specific issues, draft proposals, and make recommendations, which are subject to cabinet approval. These committees play an essential role in streamlining decision-making and governance.

2.5.5 Collective Responsibility

Under Article 164, the Council of Ministers is collectively accountable to the legislative assembly. A no-confidence motion against the Council requires all ministers, including the Chief Minister, to resign. Ministers must also publicly support cabinet decisions, resigning if they disagree.

2.5.6 Individual Responsibility

Individual ministers hold office at the pleasure of the Governor, but dismissal requires the Chief Minister's recommendation. Unsatisfactory performance or disagreement with Council decisions may lead to resignation or removal.

2.5.7 Oath, Tenure, and Remuneration

Before assuming office, the Chief Minister and the Council of Ministers take an oath of office and secrecy administered by the Governor. The terms of office are not fixed but depend on the confidence of the legislative assembly. Their salaries and allowances are determined by the state legislature, which also provides additional benefits such as housing and travel allowances.

Therefore, it can be said that the Chief Minister and the Council of Ministers are integral to the effective functioning of state governance. While the Chief Minister provides leadership, the Council collectively ensures the implementation of policies and administration of the state. Their roles, defined by constitutional provisions and parliamentary conventions, uphold the democratic framework of governance in India.

2.6 ROLE OF GOVERNOR

2.6.1 Important Constitutional Provisions

The constitutional provisions governing the role of Governors in India represent a sophisticated mechanism of executive governance. Article 153 fundamentally establishes the institutional framework by mandating a Governor for each state, with the unique provision that a single individual can be appointed to govern multiple states simultaneously. (The Constitution of India, 2024). This flexibility allows for administrative optimization and specific placement of the governor's leadership.

Article 155 delineates the appointment process, vesting the President with the exclusive power to appoint Governors through a formal warrant. (The Constitution of India, 2024). This centralized selection mechanism ensures that the executive maintains significant control over state-level representational roles, reflecting the nuanced federal structure of Indian governance.

Article 156 introduces a critical tenure condition, stipulating that Governors serve "during the pleasure of the President." (The Constitution of India, 2024). This provision implies a remarkable degree of executive discretion,

allowing for potential removal without necessitating specific constitutional grounds. It underscores the hierarchical relationship between central and state executive leadership.

The pardoning powers outlined in Article 161 represent a significant judicial-executive interface. (The Constitution of India, 2024). This provision empowers Governors to exercise clemency mechanisms within their state's legislative jurisdiction, including pardons, reprieves, sentence remissions, and commutations. Such powers provide a crucial mechanism for humanitarian considerations within the judicial system.

Article 163 delineates the discretionary powers of Governors, which are particularly consequential during political uncertainties. These powers include appointing chief ministers in fractured mandate scenarios, managing no-confidence motions, recommending presidential rule during constitutional breakdowns, and reserving legislative bills for presidential consideration. (The Constitution of India, 2024). These provisions serve as critical constitutional safeguards to maintain governmental stability.

Article 361 provides absolute legal immunity to Governors, exempting them from judicial accountability for official actions. (The Constitution of India, 2024). This provision ensures that the governor's decisions can be executed without the constant threat of legal challenges, thereby maintaining the institutional integrity of the office.

Collectively, these constitutional articles establish a complex governance framework that balances central authority, state-level representation, and institutional flexibility. They reflect the founders' vision of a dynamic federal system capable of adapting to diverse political scenarios while maintaining constitutional propriety and democratic principles.

The provisions simultaneously empower and constrain the Governor's role, creating a nuanced mechanism for executive intervention, crisis management, and maintaining the constitutional equilibrium. They represent a sophisticated approach to governance that allows for strategic leadership while preventing potential institutional overreach.

Contemporary discourse increasingly scrutinizes these provisions, particularly regarding the potential for political manipulation and the need for more transparent, non-partisan governor's office functioning. However, the constitutional framework remains a testament to the intricate design of India's democratic governance model.

2.6.2 Issues Relating to the Post of Governor

The post of Governor in India is fraught with complex institutional challenges that sometimes undermine the constitutional essence of this very important role. The appointment process has been systematically compromised by political affiliations, with ruling parties frequently selecting Governors who are either former politicians or bureaucrats with clear partisan backgrounds. This practice fundamentally challenges the intended non-partisan nature of the constitutional office.

The arbitrary removal mechanism represents another significant institutional weakness. Unlike other constitutional positions, there exist no codified, transparent procedures for Governor removal, which enables politically motivated dismissals, particularly during central government leadership transitions. This discretionary power transforms the Governor from a constitutional representative to essentially an agent of the central government.

One of the most contentious areas involves the Governor's discretionary powers, particularly concerning the President's Rule recommendations. These recommendations, theoretically based on an objective constitutional assessment of state machinery failure, have often been influenced by political considerations, personal biases, and partisan motivations rather than genuine constitutional exigencies.

The ambiguous distinction between constitutional and statutory roles creates persistent governance tensions. The Governor's dual responsibilities as a constitutional figurehead and statutory chancellor lead to frequent conflicts, exemplified by instances like unilateral university vice-chancellor appointments that bypass established governmental processes.

The appointment of Chief Ministers during fractured mandate scenarios has become another arena of potential political manipulation. The advent of coalition governments, party splits and mergers, shifting alliances, and instances of defection often lead to complex and uncertain political scenarios. These situations provide the Governor with the opportunity to exercise discretion judiciously when selecting the Chief Minister. However, the Governor's office is frequently criticized for being leveraged by the central government as a tool to influence state politics for partisan advantage. (Joy, 2018).

Procedural powers like assembly convening, dissolution, and legislative bill assent have similarly been susceptible to political interpretation. The absence of defined timelines for bill assent provides Governors substantial discretionary space to potentially obstruct state legislative processes, thereby undermining state governmental autonomy.

These systemic issues collectively suggest a gradual erosion of the Governor's constitutional role from an impartial, supervisory constitutional functionary to an increasingly politicized administrative position. The ongoing challenges necessitate comprehensive institutional reforms to restore the original constitutional vision of gubernatorial neutrality and effectiveness.

The contemporary governance sphere demands a reevaluation of the governor's appointment mechanisms, clearer delineation of discretionary powers, and robust accountability frameworks to ensure that the office remains true to its foundational constitutional principles of maintaining democratic integrity and federal balance.

2.6.3 Landmark Judgements on Governor's Office

The role of the Governor in India has been clarified through various Supreme Court rulings over the years. In *Shamsher Singh vs. State of Punjab* (1974), the Supreme Court emphasized that the Governor must act in accordance with the aid and advice of the Council of Ministers led by the Chief Minister. While Article 154(1) vests the executive power of the State in the Governor, it clearly states that this power must be exercised as per the Constitution.

The landmark judgment in *SR Bommai vs. Union of India* (1994) dealt with the Governor's role under Article 356, especially the dismissal of State Governments. The Court ruled that determining a State Government's majority must be tested on the floor of the House and not based on the Governor's subjective judgment.

In *Rameshwar Prasad vs. Union of India* (2006), the Court declared the Governor's decision to dissolve a State Assembly unconstitutional when it was found to be mala fide and whimsical. The judgment reaffirmed that such conduct is open to judicial review.

Later, in *BP Singhal vs. Union of India* (2010), the Supreme Court ruled that the removal of Governors cannot be arbitrary, capricious, or based on unreasonable grounds. This decision underscored the need for fairness and constitutional propriety in dealing with the tenure of Governors.

The case of *Nabam Rebia vs. Deputy Speaker* (2016) further curtailed the discretionary powers of the Governor. The Court held that the Governor cannot act unilaterally or go against the advice of the State Cabinet in summoning the State Legislature under Article 174. It concluded that the Governor's actions, such as deciding legislative sessions or agendas, must align with constitutional standards and be made in consultation with the Council of Ministers.

2.6.4 Recommendations of Various Commissions

Over the years, various commissions have provided recommendations to improve the functioning and role of Governors in India. The Administrative Reforms Commission (1969) suggested that Governors should be non-partisan individuals with significant experience in public life or administration.

The Sarkaria Commission (1988) made several key recommendations. For the appointment of Governors, it proposed consulting the Chief Minister, appointing eminent persons from outside the State, and ensuring they are detached figures without recent political affiliations or ruling party membership. Regarding removal, it suggested Governors should serve a full term of five years unless their conduct raised doubts about morality, dignity, or constitutional propriety, and recommended consulting the State Government before removal. For Article 356, the Commission advised that its use should be rare and restricted to severe crises like political instability,

internal subversion, or failure to comply with constitutional directives. (Sarkaria, 1988).

The National Commission to Review the Working of the Constitution (2002) proposed forming a Committee comprising the Prime Minister, Home Minister, Speaker of the Lok Sabha, and the Chief Minister of the respective State to select Governors.

The Second Administrative Reforms Commission (2008) emphasized the need for the Inter-State Council to establish clear guidelines for Governors when exercising discretionary powers.

The Punchhi Commission (2010) provided comprehensive recommendations, including granting Governors a fixed five-year term and replacing the "doctrine of pleasure" with an impeachment process by the State Legislature. It reiterated the Sarkaria Commission's criteria for non-political appointments and recommended that Governors no longer serve as university chancellors. Additionally, it proposed amending Articles 355 and 356 to enable the Union Government to impose its rule on specific troubled areas within a State for a limited period, rather than taking over the entire State.

2.7 LET US SUM UP

This unit explored the intricate domain of executive power in India, revealing a sophisticated constitutional mechanism that balances democratic principles with effective governance. The executive framework, rooted in the Constitution of 1950, represents a dynamic system that adapts to changing national requirements while maintaining core democratic values.

The Prime Minister's Office emerged as the central strategic hub of national administration, embodying the executive's transformative potential. Constitutionally empowered yet democratically accountable, the PMO coordinates complex governmental functions, shapes national policies, and represents India's interests both domestically and internationally. Its evolution reflects the broader transformation of India's governance model from a centralized colonial structure to a responsive democratic institution.

At the state level, the Chief Minister's Office provides a parallel administrative mechanism, ensuring governance responsiveness to regional dynamics. Constitutional provisions carefully delineate the roles and responsibilities, creating a federal framework that balances local aspirations with national objectives. The intricate relationship between the Chief Minister, the Council of Ministers, and the Governor illustrates the nuanced interplay of democratic institutions.

The Governor's role, often controversial yet constitutionally critical, represents a unique mechanism of oversight and intervention. Landmark judicial interpretations have continuously refined the understanding of gubernatorial responsibilities, highlighting the ongoing negotiation between constitutional provisions and practical governance.

The executive power's journey since independence demonstrates remarkable institutional adaptability. From Jawaharlal Nehru's centralized leadership to contemporary governance models, the executive has transformed to address complex national challenges. Constitutional amendments, economic liberalization, and increased transparency mechanisms have progressively reshaped its functioning.

Ultimately, the executive power in India represents more than an administrative structure. It embodies a profound democratic experiment, balancing strong leadership with institutional accountability, and navigating diverse political spheres while maintaining constitutional integrity. The system continues to evolve, reflecting the dynamic nature of India's democratic governance.

Therefore, at the end of the Unit, we can confidently say that governance is not a static framework, but a living, breathing mechanism of democratic representation and national aspiration. Hence, as per societal needs, changes are required for efficiency and public welfare.

2.8 CHECK YOUR PROGRESS: QUESTIONS

1. Explain the constitutional basis for the appointment of the Prime Minister in India.
2. Describe the key functions of the Prime Minister's Office (PMO).
3. What are the primary constitutional provisions governing the role of a Governor?
4. Discuss the concept of collective responsibility in the Council of Ministers.
5. How have constitutional amendments and political developments shaped the executive's role in India?
6. Examine the complex relationship between the Governor and the State Government. Discuss the constitutional provisions and landmark judicial interpretations that define the Governor's discretionary powers.
7. Compare and contrast the roles of the Prime Minister at the national level and the Chief Minister at the state level. How do their constitutional powers and responsibilities differ?

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JUDICIARY: INDEPENDENCE, JUDICIAL REVIEW, INTERVENTION, ACTIVISM

Unit Structure

- 3.1 Objectives
- 3.2 Introduction
- 3.3 Historical Overview of Indian Judiciary
- 3.4 Indian Judiciary: Present Scenario
- 3.5 Judicial Independence
- 3.6 Judicial Review
- 3.7 Judicial Intervention
- 3.8 Judicial Activism
- 3.9 Let Us Sum Up
- 3.10 Check Your Progress: Questions
- 3.11 References

3.1 OBJECTIVES

Dear learners, after studying this Unit, you will be able to:

- Trace the historical evolution of the Indian judicial system from ancient to contemporary times
- Analyze the present structure and functioning of the Indian judiciary at various levels
- Evaluate the concept and significance of judicial independence in India's constitutional framework
- Understand the scope and application of judicial review in the Indian context
- Examine the nature and impact of judicial intervention in governance
- Assess the role and implications of judicial activism in India's constitutional democracy
- Comprehend the relationship between different organs of government in the context of judicial powers
- Analyze landmark cases that have shaped India's judicial landscape

3.2 INTRODUCTION

The Indian judiciary has been seen as a fundamental and one of the most important pillars of India's democratic framework, which also serves as the guardian of the Indian Constitution and protector of citizens' rights. This

Unit examines the multifaceted role of the Indian judiciary, focusing on four critical aspects: independence, judicial review, intervention, and activism. The Indian judicial system, unique in its unified structure yet federal in operation, has evolved from ancient dharmic principles through colonial influences to its current constitutional form.

The judiciary's role extends beyond mere dispute resolution; it encompasses constitutional interpretation, rights protection, and ensuring checks and balances in governance. The Unit explores how judicial independence, guaranteed through various constitutional provisions, enables courts to function effectively without external pressures. It delves into the concept of judicial review, a powerful tool through which courts examine the constitutionality of laws and executive actions. The Unit also analyzes judicial intervention in governance matters and the emergence of judicial activism, particularly through Public Interest Litigation (PIL).

Understanding these aspects is crucial for comprehending the judiciary's role in maintaining constitutional democracy, protecting fundamental rights, and ensuring social justice. Through examination of landmark cases and constitutional provisions, this Unit provides insights into how the Indian judiciary has shaped the nation's legal and social landscape while balancing its powers with other governmental branches.

3.3 HISTORICAL OVERVIEW OF INDIAN JUDICIARY

The Indian judicial system's historical trajectory can be traced through distinct epochs, each contributing to its contemporary framework. The foundational period, dating back to approximately 1500 BCE, was characterized by Vedic jurisprudence, where legal principles were derived from dharmic texts, notably the Manusmriti and other Dharmashastras. A significant early contribution to jurisprudential theory emerged through Kautilya's Arthashastra (circa 300 BCE), which integrated legal principles with practical governance. The medieval period witnessed a crucial transformation with the introduction of Islamic rule, leading to the integration of Sharia law with indigenous legal traditions. The Fatawa Alamgiri, compiled during the Mughal era, exemplified this juridical synthesis, creating a pluralistic legal framework that accommodated both Islamic and traditional Indian legal principles. (The Supreme Court of India, 2023, pp. 49-50).

The colonial era marked a crucial transition in India's legal evolution, particularly with the introduction of English common law through the British East India Company. A significant milestone was the Regulation Act of 1773, which established the Supreme Court of Judicature at Calcutta, followed by similar establishments in Madras (1800) and Bombay (1823). The post-1857 period saw substantial restructuring, notably through the Indian High Courts Act of 1861, which led to the establishment of High Courts in various provinces and abolishing the earlier Supreme Courts. The pre-independence period saw the establishment of the Federal Court of India in 1937 under the Government of India Act, 1935, though appeals to the Privy Council in London continued. The post-independence era marked the culmination of this evolutionary process with the establishment of the Supreme Court of India on January 26, 1950, as mandated by the newly

adopted Constitution. The Supreme Court's inauguration on January 28, 1950, in the Chamber of Princes, attended by distinguished jurists, politicians, and legal professionals, symbolized the transition from colonial to sovereign judicial authority. (The Supreme Court of India, 2023, pp. 49-50).

Such historical progression reflects the gradual development of India's judicial system from ancient religious-based jurisprudence through medieval syncretism and colonial modernization to its current status as an independent, constitutional judiciary. The Indian judicial system's evolution demonstrates remarkable adaptability, incorporating elements from various legal traditions while maintaining its distinctive character and independence.

3.4 INDIAN JUDICIARY: PRESENT SCENARIO

The Indian judicial system is characterized by its unified and hierarchical structure, distinguishing it from federal systems like the United States. At its apex stands the Supreme Court of India, established on January 26, 1950, with the commencement of the Constitution. The Supreme Court serves multiple crucial functions: it acts as the guardian of fundamental rights through its original jurisdiction under Article 32, serves as the final interpreter of constitutional and legal matters, and functions as the highest appellate court in civil, criminal, and constitutional cases. Its decisions are binding on all courts throughout India, and it has exclusive jurisdiction over Center-State and inter-State disputes.

The Supreme Court of India, established as the apex judicial body, exercises three primary types of jurisdiction: original, appellate, and advisory, underlined by Articles 131, 132-134, and 143 of the Indian Constitution, respectively. (The Supreme Court of India, 2023, pp. 61-63). Its original jurisdiction empowers it to adjudicate disputes between the central government and states, or among states, making it a crucial forum for resolving federal conflicts. The appellate jurisdiction enables the Court to hear appeals against judgments from lower courts in civil, criminal, and constitutional matters, ensuring consistency and fairness in judicial interpretation. Additionally, under its advisory jurisdiction, the President of India may seek the Supreme Court's opinion on significant questions of law or fact that bear public importance. Such jurisdiction mandates the Court to play a significant role in upholding constitutional values, maintaining legal order, and providing guidance on complex legal issues.

Table 1

Constitutional Provision/Acts	Sanctioned Strength of Judges
Article 124, Constitution of India	Chief Justice + 7 Judges = 8
Act No. 55/1956	Chief Justice + 10 Judges = 11
Act No. 17/1960	Chief Justice + 13 Judges = 14
Act No. 48/1977	Chief Justice + 17 Judges = 18

Constitutional Provision/Acts	Sanctioned Strength of Judges
Act No. 22/1986	Chief Justice + 25 Judges = 26
Act No. 11/2009	Chief Justice + 30 Judges = 31
Act No. 37/2019	Chief Justice + 33 Judges = 34

Source: Annual Report, (The Supreme Court of India, 2023, p. 52).

As shown in Table 1, the compositional structure of India's apex judicial body has undergone significant expansion since its establishment, reflecting the growing judicial needs of the nation. Initially conceived with a modest bench strength of eight judges at its inception, the Supreme Court has evolved into a substantially larger institution, now operating with a sanctioned strength of thirty-four judges, including the Chief Justice of India. This progressive augmentation of judicial strength has been implemented through systematic legislative interventions, primarily through amendments to the Supreme Court (Number of Judges) Act, 1956. This Act serves as the primary legislative instrument for determining the court's numerical composition, demonstrating the legislature's responsive approach to the expanding judicial requirements of India's growing democracy. The current configuration is of thirty-four judges, comprising the Chief Justice of India and thirty-three associate judges, showing a significant institutional expansion from its original composition.

Below the Supreme Court are the High Courts, which serve as the highest courts of civil and criminal appeal within their respective states or group of states. The Constitution grants High Courts significant powers, including contempt authority, writ jurisdiction, and supervisory control over subordinate courts. To ensure uniformity and independence, the Constitution places the organization and appointment of High Court judges under central control, with appointments made by the President of India. India has 25 High Courts, each serving as the highest judicial authority within its respective state or group of states and union territories. These include the Allahabad High Court, Andhra Pradesh High Court, Bombay High Court, Calcutta High Court, Chhattisgarh High Court, Delhi High Court, Gauhati High Court, Gujarat High Court, Himachal Pradesh High Court, Jammu & Kashmir and Ladakh High Court, Jharkhand High Court, Karnataka High Court, Kerala High Court, Madhya Pradesh High Court, Madras High Court, Manipur High Court, Meghalaya High Court, Orissa High Court, Patna High Court, Punjab and Haryana High Court, Rajasthan High Court, Sikkim High Court, Telangana High Court, Tripura High Court and Uttarakhand High Court. (The Supreme Court of India, 2023). Each High Court exercises jurisdiction over its respective region, with its powers and responsibilities defined by the Indian Constitution and relevant laws. These courts play a critical role in interpreting laws, addressing civil and criminal cases, and safeguarding citizens' constitutional rights at the regional level.

The lower judiciary, while under state legislative control regarding its constitution and organization, maintains its independence through

constitutional safeguards. The appointment of District Judges is made by the Governor based on High Court recommendations, and recruitment to other judicial positions must follow rules made in consultation with the High Court. Importantly, Article 235 places the administrative control of subordinate courts under the High Court, ensuring judicial independence at all levels.

The Indian judicial system reflects the country's unique federal structure, which Dr. Ambedkar described as capable of being both unitary and federal according to circumstances. Unlike the American system with its dual court structure, India maintains a single integrated judiciary that has jurisdiction over both central and state laws. (Kachwaha, 1998). This centralization is further reinforced by the uniformity of laws provided through the Legislative Lists, with many crucial legal areas placed in the Concurrent List, allowing both Parliament and State Legislatures to legislate on them. This unified judicial system effectively serves India's diverse yet integrated political structure, balancing the needs for both central authority and regional autonomy.

3.5 JUDICIAL INDEPENDENCE

The existence of an independent judiciary constitutes an indispensable prerequisite for any democratic system founded on constitutional principles. Within constitutional democracies, the judiciary's paramount responsibility encompasses constitutional interpretation and arbitration of constitutional disputes. This role necessitates absolute insulation from both overt and subtle forms of legislative or executive interference. The judiciary's functional independence is particularly crucial in this constitutional adjudicatory capacity. Should judicial institutions become subordinate to legislative or executive control, the concept of the rule of law would be rendered illusory, as there would be no independent mechanism to evaluate the constitutional legitimacy of legislative and executive actions. This imperative for judicial independence is further underscored by the judiciary's function as the constitutional arbitrator of legislative and executive measures.

The Indian Constitution establishes robust mechanisms to ensure judicial independence at the apex court level, particularly through stringent provisions governing the removal of Supreme Court judges and their post-retirement conduct. The constitutional framework incorporates a sophisticated system of checks and balances, specifically designed to shield the judiciary from potential external pressures or undue influence. The removal procedure for Supreme Court judges is deliberately complex and demanding, requiring a convergence of both legislative houses through a supermajority. This process necessitates not only a majority of the total membership but also a qualified majority of two-thirds of members present and voting in each house of Parliament. Furthermore, the grounds for removal are strictly limited to proven misbehaviour or incapacity, establishing a high threshold for judicial accountability while protecting against arbitrary dismissal. (The Supreme Court of India, 2023, p. 51). Such

procedural complexity serves as a crucial safeguard against potential political interference with judicial independence.

Another significant constitutional provision strengthening judicial independence is the prohibition on post-retirement legal practice by Supreme Court judges. This restriction, which prevents former judges from appearing before any court or legal authority within India, serves multiple purposes. First, it eliminates potential conflicts of interest that might arise from the prospect of future legal practice influencing judicial decision-making. Second, it maintains the dignity and impartiality of the judicial office by preventing the commercialization of judicial expertise post-retirement.

These constitutional safeguards reflect the framers' recognition of judicial independence as a cornerstone of democratic governance and the rule of law in India. By establishing such robust protections, the Constitution ensures that Supreme Court judges can discharge their duties without fear or favour, thereby maintaining the integrity and credibility of India's highest judicial institution. This framework of judicial independence aligns with international best practices while addressing India's specific constitutional needs and democratic aspirations.

The interplay between judicial independence and accountability is fundamentally shaped by the historical context of institutional dynamics. Constitutional doctrine evolves based on assessments of which institutional threats pose the gravest concerns. In India's experience, the erosion of judicial independence during Indira Gandhi's tenure catalyzed the judiciary's enhanced involvement in judicial appointments. Through successive jurisprudence concerning judicial appointments, the principle of judicial independence became enshrined as a fundamental component of the Indian Constitution's Basic Structure. For instance, in 2015, the Supreme Court's ruling in *Supreme Court Advocates-on-Record Association vs. Union of India*, which invalidated the Ninety-ninth Constitutional Amendment Act, 2014, reaffirms this foundational principle. Additionally, the National Judicial Appointments Commission Act, 2014, was also declared unconstitutional and void. The Court's decision suggests an implicit calculation that maintaining the collegium system, despite its acknowledged limitations, was preferable to implementing the framework proposed by the Ninety-ninth Amendment. (Srikrishna, BN, 2016).

3.6 JUDICIAL REVIEW

Judicial review in India is a fundamental pillar of constitutional governance, usually defined as the courts' power to examine whether laws and executive actions align with the Indian Constitution. This power stems primarily from Article 13 of the Indian Constitution, while Articles 32 and 226 provide the mechanism for enforcing fundamental rights. The concept emerged from British colonial rule but has evolved significantly through India's constitutional journey.

Judicial review is a legal process through which a judge examines the legality of a decision or action taken by a public authority. Rather than focusing on the outcome or substance of the decision, judicial review assesses whether the law was correctly applied and if proper procedures were followed during the decision-making process. The court's role is not to replace the decision with one it deems more appropriate; its primary concern is ensuring legal compliance and procedural fairness. Consequently, a public body may arrive at the same decision again, provided it adheres to lawful processes. (The Public Law Project , 2006, p. 1).

Judicial review focuses on evaluating the lawfulness of actions and decisions taken by public bodies, typically challenged on three primary grounds: illegality, irrationality, and unfairness.

1. Illegality arises when a public body either fails to correctly understand or exceeds its legal powers. An action may be deemed unlawful if the decision-maker oversteps their authority or exercises power inappropriately. Common forms of illegal activity include refusing to act under a mistaken belief of legal constraints, misusing discretionary powers, improperly limiting discretion by rigidly applying local policies, considering irrelevant factors or ignoring relevant ones, and failing to comply with the Human Rights Act 1998. Each of these reflects instances where legal limits or requirements are misapplied or disregarded.
2. Irrationality is established when a decision is so unreasonable that it becomes indefensible or “perverse.” Such challenges are rare and difficult, often overlapping with claims of illegality or procedural unfairness.
3. Unfairness pertains to the procedural aspects of decision-making, ensuring the right to a fair hearing and impartiality (the rule against bias). Recent jurisprudence has expanded this notion to encompass the concept of ‘legitimate expectations,’ where public bodies are prevented from unjustifiably renegeing on promises or assurances made. (The Public Law Project , 2006, pp. 1-2).

The Indian judiciary exercises extensive oversight through judicial review, encompassing legislative enactments and executive decisions. This comprehensive authority enables courts to invalidate legislation that contravenes constitutional provisions and safeguard citizens' fundamental rights through the issuance of various writs. The constitutional framework delineates five distinct writs: Habeas Corpus, which mandates the presentation of unlawfully detained individuals; Mandamus, which compels public officials to execute their legally prescribed duties; Prohibition, which restrains lower courts and tribunals from transcending their jurisdictional boundaries; Certiorari, which empowers higher courts to nullify orders issued by subordinate judicial bodies; and Quo Warranto, which facilitates investigation into the legitimacy of public office appointments. These judicial instruments collectively form a robust mechanism for upholding

constitutional principles and ensuring administrative accountability within the Indian legal system.

The historical development of judicial review in India has been shaped by several landmark cases. In *Golaknath v. State of Punjab* (1967), the Supreme Court initially held that Parliament could not amend the Constitution to remove fundamental rights. This was further refined in the landmark *Kesavananda Bharati v. State of Kerala* case (1973), which established the 'basic structure doctrine', limiting Parliament's power to amend the Constitution. The *Minerva Mills* case (1980) reinforced this principle, emphasizing that constitutional amendments cannot destroy the Constitution's basic structure.

In the landmark adjudication of *Maneka Gandhi v. Union of India* (1978), the Supreme Court of India significantly expanded the ambit of judicial review by interpreting Article 21's right to personal liberty to encompass international travel rights, thereby establishing a crucial precedent against arbitrary governmental restrictions. This judgment exemplified the judiciary's role in broadening constitutional protections through interpretative jurisprudence. Subsequently, in *Vishaka v. State of Rajasthan* (1997), the apex court further demonstrated its approach to judicial review by recognizing workplace sexual harassment as an infringement of women's fundamental rights. The court's proactive stance led to the formulation of comprehensive guidelines for workplace harassment prevention and redressal, effectively fulfilling its role as the guardian of constitutional rights in the absence of specific legislation. These judgments collectively illustrate the Indian judiciary's expansive approach to judicial review, wherein the courts not only interpret constitutional provisions liberally but also formulate guidelines to protect fundamental rights, thereby functioning as a crucial check on executive and legislative actions.

India's judicial review system operates across various domains, with courts applying different levels of scrutiny depending on the subject matter. In reviewing administrative actions, courts examine whether decisions are reasonable and proper, based on principles of illegality, procedural impropriety, and irrationality. When it comes to policy decisions, courts generally maintain restraint, intervening only when policies are arbitrary, discriminatory, lack connection to their intended purpose, or are made in bad faith. Economic policies receive particular deference from courts, acknowledging the complex nature of economic decisions and the need for flexibility in economic legislation. Courts primarily ensure these policies are not clearly arbitrary or violative of fundamental rights. Similarly, in matters of price fixation, courts limit their intervention to checking if there is a rational basis for the determination. When dealing with expert opinions, courts typically defer to technical decisions made by specialists in their respective fields. (Chauhan, 2018).

The review of subordinate legislation follows more structured grounds, including lack of legislative competence, violation of fundamental rights or the Constitution, exceeding statutory authority, and manifest arbitrariness. In government contract cases, courts focus on examining the decision-

making process rather than reviewing specific contract terms. For disciplinary proceedings, judicial review concentrates on the process rather than the decision itself, with courts ensuring decisions are not perverse or unreasonable while refraining from acting as an appellate authority. (Chauhan, 2018).

In essence, it can be said that such a comprehensive framework demonstrates that while Indian courts possess significant power of judicial review, they exercise it with careful restraint and within established boundaries. The system strikes a balance between ensuring constitutional compliance and respecting the expertise and authority of other branches of government. This approach has helped maintain the delicate equilibrium between judicial oversight and governmental autonomy, particularly in technical and policy matters, while ensuring the protection of fundamental rights and constitutional principles.

3.7 JUDICIAL INTERVENTION

The relationship between judicial intervention and legislative authority in India shows a complex dynamic of constitutional powers and institutional boundaries. The Indian Parliament has frequently criticized the judiciary for what it perceives as overreach of constitutional powers through various interventions in policy matters. Several landmark cases illustrate this tension. In *Prakash Singh v. Union of India* (2006), the Supreme Court intervened in police administration by directing the Union and State governments to establish various Commissions and Boards to ensure independent police functioning and separate investigation work from law and order duties. Similarly, in *Vineet Narain v. Union of India* (1998), the Court utilized Articles 32 and 142 of the Constitution to issue directives aimed at enhancing transparency and accountability in the Central Bureau of Investigation (CBI).

Some instances of judicial intervention have intensified the debate over the judiciary's role in governance. In *Swaraj Abhiyan-(I) v. Union of India* (2016), the Supreme Court directed the Ministry of Agriculture to revise the Drought Management Manual and ordered the establishment of a National Disaster Mitigation Fund within three months. This directive prompted concerns from then-Finance Minister Arun Jaitley about judicial review of budgetary matters, particularly given the existence of two similar funds and the implications for the Appropriation Bill. The Court's intervention extended to educational policy through its ruling on the National Eligibility-cum-Entrance Test (NEET) for medical admissions, sports administration through reforms in the Board for Control of Cricket in India (BCCI), and judicial appointments through the landmark NJAC judgment of 2015, where it struck down the National Judicial Appointments Commission Act as unconstitutional. (Jaswal & Singh, 2017, pp. 9-11).

However, the judiciary has acknowledged the need for self-regulation and restraint. This principle was notably articulated in *Divisional Manager, Aravali Golf Course v. Chander Haas* (2008), where the Supreme Court emphasized that judges must recognize their limitations and avoid

attempting to run the government. The Court stressed the importance of maintaining the constitutional separation of powers, noting that each state organ - legislature, executive, and judiciary - must respect the others' domains and avoid encroachment. This acknowledgement reflects the ongoing effort to balance necessary judicial intervention for protecting constitutional rights with respect for democratic governance structures.

3.8 JUDICIAL ACTIVISM

Judicial activism in India can be seen as a significant evolution in the country's constitutional jurisprudence, characterized by the courts' proactive approach in protecting fundamental rights and ensuring social justice. The concept, as defined by Black's Law Dictionary, refers to judicial decision-making where judges allow their personal views about public policy to guide their decisions, often leading to findings of constitutional violations and a willingness to deviate from precedent. In the Indian context, judicial activism is fundamentally rooted in the constitutional powers granted to the Supreme Court and High Courts under Articles 32, 226, and 142 of the Indian Constitution.

The foundation of judicial activism lies in the court's power of judicial review, established through Article 13, read with Articles 32 and 226, which enables the higher judiciary to declare any legislative, executive, or administrative action void if it contravenes the Constitution. This power has been recognized as a basic structure of the Indian Constitution, as affirmed in *L. Chandra Kumar v. Union of India* (1997). The Supreme Court's jurisdiction under Article 32, which provides for the enforcement of fundamental rights, has been particularly instrumental in advancing judicial activism, with the Court interpreting this provision liberally to protect rights even against private entities performing public functions.

A significant transformation in judicial activism occurred with the shift from traditional locus standi to Public Interest Litigation (PIL), making the judicial process more participatory and democratic. This shift replaced the traditional paradigm of private law adjudication with a new polycentric and legislative approach. Notable cases such as *People's Union for Democratic Rights v. Union of India* (1982) established that PIL is distinct from traditional adversarial justice, aimed at promoting public interest and bringing justice to socially or economically disadvantaged sections of society.

Public Interest Litigation (PIL) can be initiated through various mechanisms to address issues of broader public concern and uphold constitutional rights. It may be commenced in the following ways: (i) by a *suo motu* petition initiated pursuant to an order from the Chief Justice or a Judge of the Supreme Court; (ii) through an order by the Chief Justice or a Judge designated by the Chief Justice, based on a letter or representation submitted; (iii) via an order of the Supreme Court that designates a petition as a Public Interest Litigation; or (iv) through the formal presentation of a petition directly before the Supreme Court. (The Supreme Court of India, 2023, p. 63). Each of these pathways reflects the Court's commitment to

ensuring justice and addressing matters that impact public welfare or involve violations of fundamental rights.

Judiciary: Independence,
Judicial Review, Intervention,
Activism

Following the Emergency period in India, the Supreme Court began addressing issues that showcased government apathy and institutional neglect affecting vulnerable populations. This marked the rise of PIL, wherein the court, through its power of 'suo motu' jurisdiction, initiated action independently. Rooted in constitutional principles and further established by judicial pronouncements, this approach stems from the judiciary's duty to safeguard fundamental rights and uphold the ideals enshrined in the Preamble. The concept of 'suo motu' jurisdiction, known in the U.S. as 'sua sponte,' allows courts to address jurisdictional questions and legal issues that go beyond initial pleadings, thus ensuring justice is done. While courts routinely utilize such power to maintain judicious proceedings, the higher courts in India, including the Supreme Court, go beyond basic judicial action to fulfill their constitutional mandate and ensure justice administration. Articles 32 and 226 empower the Supreme Court and High Courts to issue orders for protecting rights, while Section 15 of the Contempt of Courts Act, 1971, grants them the authority to act against actions threatening judicial dignity and justice. (Jha, 2024).

Historically, the Supreme Court has used suo motu jurisdiction in cases concerning humanitarian crises, environmental issues, urgent incidents necessitating strong intervention, and upholding judicial dignity. Notable examples include interventions during the COVID-19 pandemic for proper medical care and supply distribution, halting tree felling in Aarey forest, and addressing Delhi's air pollution. Suo motu action also addressed violence in Manipur, setting up a judicial panel and transferring cases for investigation to the CBI. Instances of protecting the judiciary's dignity include sentencing a Calcutta High Court judge for contempt and expunging remarks by a Punjab and Haryana High Court judge. The Court has also extended limitation periods during COVID, issued criminal trial guidelines, and facilitated bail reviews. Over time, suo motu jurisprudence has seen the Supreme Court acting more as a facilitator and supervisor, often enlisting High Courts, amicus curiae, and state machinery to identify and implement solutions for comprehensive justice. (Jha, 2024).

The Supreme Court's activist approach has led to significant developments in fundamental rights jurisprudence. Through liberal interpretation of the 'right to life and personal liberty' under Article 21, the Court has recognized various rights including prisoners' rights, environmental rights, and the right to education. Landmark cases such as *Mohini Jain v. State of Karnataka* (1992) and *J.P. Unnikrishnan v. State of A.P.* (1993) exemplify how judicial activism has expanded the scope of fundamental rights, ultimately leading to constitutional amendments and new legislation. (Jaswal & Singh, 2017, p. 8).

However, judicial activism has not been without controversy, particularly regarding the separation of powers. Critics, including parliamentarians, have accused the judiciary of overreaching its constitutional authority. Cases, such as the NJAC judgment (2015) and directives on drought

management, have sparked debates about judicial intervention in policy matters. The Supreme Court, while asserting its role in protecting fundamental rights and ensuring justice, has acknowledged in cases like *Divisional Manager, Aravali Golf Course v. Chander Haas* (2008) that judges must exercise restraint and respect the separation of powers. (Jaswal & Singh, 2017, p. 8).

Nevertheless, judicial activism remains a vital feature of India's constitutional democracy, particularly through the court's power under Article 142 to ensure complete justice. This activism has been crucial in providing legal assistance to marginalized groups, developing environmental jurisprudence, and expanding the scope of fundamental rights. The balance between judicial activism and restraint continues to evolve, shaped by the imperative to protect constitutional values while respecting democratic governance.

3.9 LET US SUM UP

The Unit extensively covered the multifaceted aspects of India's judiciary, beginning with its historical evolution from ancient Vedic jurisprudence through medieval Islamic influences to the colonial period and finally its establishment as an independent constitutional entity in 1950. The discussion encompasses the present judicial framework, highlighting its unified hierarchical structure comprising the Supreme Court, High Courts, and subordinate judiciary, with particular emphasis on the Supreme Court's expansion to 34 judges through various legislative amendments.

A significant portion of the Unit examined the concept of judicial independence, detailing constitutional safeguards such as stringent removal procedures for judges and post-retirement restrictions. The material elaborates on the crucial power of judicial review, stemming from Articles 13, 32, and 226, which enables courts to examine legislative and executive actions based on principles of illegality, irrationality, and unfairness. The discussion of landmark cases such as *Kesavananda Bharati* and *Minerva Mills* illustrates how judicial interpretation has shaped fundamental constitutional doctrines.

The Unit further explored judicial intervention through notable cases like *Prakash Singh* and *Vineet Narain*, demonstrating the judiciary's role in governance while maintaining constitutional balance. The evolution of judicial activism, particularly through Public Interest Litigation and the expansion of fundamental rights interpretation under Article 21, receives detailed attention. The development of *suo motu* jurisdiction and its application in addressing various social issues, from environmental concerns to public health crises, is thoroughly examined.

The Unit concludes by addressing contemporary challenges and developments in the judicial system, including debates over judicial overreach and the ongoing effort to balance activism with constitutional principles. Throughout the Unit, emphasis is placed on how the Indian judiciary has emerged as a robust institution that not only resolves disputes

but actively participates in ensuring social justice and constitutional governance, making it an essential pillar of Indian democracy while maintaining its independence and integrity.

Judiciary: Independence,
Judicial Review, Intervention,
Activism

Hopefully, this comprehensive Unit would have helped you in developing a thorough understanding of the Indian judiciary's role, powers, and evolution within the constitutional framework, preparing you to analyze and appreciate its significance in India's democratic system.

3.10 CHECK YOUR PROGRESS: QUESTIONS

1. Describe the hierarchical structure of the Indian judiciary. Explain the role of Supreme Court, High Courts and subordinate courts.
2. What are the five types of writs available under the Indian Constitution? Explain each with a simple example.
3. Explain any three constitutional provisions that ensure the independence of the judiciary in India.
4. Trace the evolution of the Indian judiciary from the colonial period to the post-independence era. What major changes were brought about after independence?
5. What is judicial review? Explain its importance in the Indian constitutional system with the help of any two landmark cases.
6. What is Public Interest Litigation (PIL)? How has it made the judicial system more accessible to common people?
7. Explain the concept of judicial activism with the help of two recent examples.
8. Describe the composition of the Supreme Court of India. How has the strength of judges increased from 1950 to the present?

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MODULE 2: WORKING OF LOCAL SELF-GOVERNMENT 73rd AND 74th CONSTITUTIONAL AMENDMENT ACTS

Unit Structure

- 4.0 Learning Outcome
- 4.1 Introduction
- 4.2 Evolution of Panchayati Raj system
- 4.3 73rd and 74th Constitutional Amendment Acts
- 4.4. Analysis
- 4.5 Let Us Sum Up

4.0 LEARNING OUTCOME

After studying this unit, you will be able to:

- Recognize the background of local governance revival.
- Understand the 73rd and 74th Constitutional Amendments.
- Discuss the key features of the 73rd and 74th Constitutional Amendments
- Describe the functioning of local governance in different states.

4.1 INTRODUCTION

Local self-government has been a part of India's society for a long time. Its form may have changed, but the idea of people managing their own communities has always existed. In ancient times, villages were governed by the Gram Sabha, which worked through an executive body called the Panchayat. This system helped small communities manage their daily affairs.

During British rule, the Panchayati system changed. It was used by the British to serve their own interests rather than those of the local people. After India gained independence, the Panchayati Raj system was re-established to give more power to the people at the local level. Mahatma Gandhi always dreamed of Gram Swaraj, where villages would become self-sufficient and people would participate directly in decision-making. His vision aimed to empower villages as the foundation of democracy.

The 73rd and 74th Constitutional Amendments marked a significant turning point in India's democratic governance by institutionalizing local self-

governments at the rural and urban levels. The ineffectiveness of centralized planning and governance systems in addressing local issues and fostering growth at the grassroots level highlighted the necessity for local governance. These amendments aimed to empower local bodies by devolving powers and responsibilities, thereby strengthening democratic processes.

In the contemporary governance landscape, local self-government has emerged as a cornerstone of participatory democracy. The integration of initiatives such as the Smart Cities Mission, Digital India, and the Gram Panchayat Development Plan (GPD) underscores the necessity of decentralization in fostering sustainable development and effective governance at the grassroots level.

Historically, India's centralized governance model faced significant inefficiencies in addressing local developmental needs. Scholarly analyses (e.g., Sharma, 1987) suggest that bureaucratic delays, lack of grassroots participation, and the inability to implement region-specific policies necessitated a shift towards democratic decentralization. The 73rd and 74th Amendments were therefore framed as constitutional mechanisms to rectify these governance shortcomings and strengthen participatory democracy.

The constitutional basis for local self-government in India is derived from Article 40, which directs the state to organize village Panchayats as units of self-governance. This directive principle laid the groundwork for the 73rd and 74th Amendments, which later provided a concrete framework for decentralized governance.

Democratic decentralization, a core principle of these amendments, involves transferring decision-making authority to democratically elected local bodies. Unlike participatory techniques that emphasize public involvement in decision-making, democratic decentralization grants representative authority to elected bodies, ensuring broader community participation in governance (Dutta 2009). This shift plays a vital role in enhancing democracy by enabling citizens to have a direct say in matters that affect their daily lives.

A key aspect of democratic decentralization is the establishment of long-term local government institutions, ensuring that power and decision-making remain at the grassroots level beyond temporary initiatives or ad hoc solutions (Aziz & Arnold 1997). The amendments provided a constitutional framework for the creation of Panchayati Raj Institutions (PRIs) in rural areas and Municipalities in urban areas, granting them substantial powers and responsibilities in planning, implementation, and resource allocation.

The political dimension of decentralization is particularly significant, as it restructures the state in a democratic manner. It establishes a mechanism for accommodating diverse interests, negotiating conflicts, and allocating resources in line with public decisions (Venkatesu 2016). However, effective political power-sharing requires the willingness of higher-level

executives to recognize the legitimacy and empowerment of local bodies (Bhat 2019).

Furthermore, democratic decentralization encourages public participation through institutional frameworks that engage citizens in governance processes. Local governments are expected to leverage the social capital of non-governmental organizations and community-based groups to fulfill their functions in a transparent and accountable manner (Cohen & Peterson 1999). The 73rd and 74th Amendments thus represent a transformative step toward inclusive and participatory governance, fostering local democracy and strengthening the overall democratic structure of the country. In this unit, we will understand the evolution of the Panchayati Raj system, the 73rd Amendment, the 74th Amendment, and their key features.

4.2 EVOLUTION OF PANCHAYATI RAJ SYSTEM

The Panchayati Raj system, integral to India's rural self-governance, has evolved significantly over centuries. Historically, village panchayats functioned as elected councils with both executive and judicial powers. However, foreign dominations, notably during the Mughal and British eras, diminished their significance. Post-independence, the Indian Constitution's Article 40 mandated the establishment of village panchayats, leading to various committees being formed to strengthen this system.

Key Committees and Their Contributions:

1. **Balwant Rai Mehta Committee (1957):** Established to evaluate the Community Development Programme and National Extension Service, it recommended a three-tier Panchayati Raj system:

- Gram Panchayat: Directly elected at the village level.
- Panchayat Samiti: Indirectly elected at the block level, serving as the executive body.
- Zila Parishad: Indirectly elected at the district level, acting as the advisory and supervisory body.

The committee emphasized planning and development as primary objectives and suggested that the District Collector chair the Zila Parishad.

2. **Ashok Mehta Committee (1977):** Formed to rejuvenate the declining Panchayati Raj system, it proposed:

- Two-tier System: Replacing the existing structure with:
- Zila Parishad: At the district level, functioning as the executive body responsible for district planning.
- Mandal Panchayat: Comprising a group of villages.

The committee also advocated for granting these institutions compulsory taxation powers to bolster financial autonomy.

3. G.V.K. Rao Committee (1985): Recognizing bureaucratic hindrances in grassroots development, it recommended:

- Positioning Zila Parishad as the principal body overseeing district-level development programs.
- Assigning specific planning, implementation, and monitoring roles to district and lower Panchayati Raj levels.
- Creating the role of District Development Commissioner as the chief executive officer of the Zila Parishad.
- Ensuring regular elections for Panchayati Raj institutions.

4. L.M. Singhvi Committee (1986): Aimed at revitalizing Panchayati Raj institutions, it suggested:

- Constitutional recognition of Panchayati Raj institutions.
- Guaranteeing free and fair elections through constitutional provisions.
- Reorganizing villages to make Gram Panchayats more viable.
- Enhancing financial resources for village panchayats.

A persistent challenge that has hindered the efficacy of Panchayati Raj Institutions (PRIs) is their limited fiscal autonomy. Despite constitutional provisions, the inability of PRIs to generate independent revenue through taxation mechanisms has perpetuated their reliance on state and central government grants. This dependency has, in many instances, constrained their decision-making capabilities and hindered the realization of truly autonomous local governance.

- Establishing judicial tribunals in each state to address election-related disputes and other functional matters of Panchayati Raj institutions.

73rd Constitutional Amendment Act of 1992:

The 72nd Amendment of 1992 was made to reserve seats for Scheduled Tribes in Tripura's State Assembly. The 73rd Amendment of 1992 added Part IX to the Constitution, which includes Articles 243 to 243(O). It also introduced the Eleventh Schedule, listing 29 subjects that Panchayats can handle.

This amendment was made to follow Article 40 of the Constitution, which says that the government should create village Panchayats and give them enough power to function as self-governing bodies. Because of this, States and Union Territories have made their own Panchayati Raj laws.

Today, the Panchayati Raj system exists in almost all States and Union Territories, except in Nagaland, Meghalaya, and Mizoram. It is also not applicable in Delhi and Chandigarh among Union Territories (Lok Sabha, 2024).

By bringing Panchayati Raj institutions under the justiciable part of the Constitution, the Act mandated states to adopt this system, ensuring independent and regular elections. The Act's provisions are bifurcated into:

- **Compulsory Provisions:** Mandatory for state laws, including the establishment of new Panchayati Raj systems.
- **Voluntary Provisions:** Left to the discretion of state governments.

This Amendment marked a transformative step towards grassroots democracy, transitioning from representative to participatory governance.

The evolution of the Panchayati Raj system underscores India's commitment to decentralized governance and empowering rural communities.

4.3 73rd AND 74th CONSTITUTIONAL AMENDMENT ACTS

Decentralization refers to the transfer of power, authority, and responsibility from central government to lower levels of government. India is not an exception to the global trend of decentralization. The concept of decentralized governance in India can be traced back to ancient times when village panchayats played a significant role in local administration.

During the British colonial period, the system of local self-governance was weakened due to the centralization of administrative powers. However, efforts to revive local governance began in the 19th century with the introduction of Municipal Corporations. The first notable step was taken in 1882 when Lord Ripon introduced local self-governance for municipalities.

After independence, the Indian government recognized the importance of decentralized governance for democratic development and rural empowerment. The Community Development Programme (1952) was one of the first initiatives aimed at involving rural communities in local development.

The most significant step came in 1959 with the introduction of the Panchayati Raj System, following the recommendations of the **Balwant Rai Mehta Committee (1957)**. The committee proposed a three-tier structure of local governance:

- Village Level (Gram Panchayat)
- Block Level (Panchayat Samiti)
- District Level (Zilla Parishad)

Despite these efforts, the Panchayati Raj Institutions (PRIs) remained weak due to inadequate financial resources, lack of autonomy, and limited political will.

To strengthen democratic decentralization, the Government of India introduced the 73rd and 74th Constitutional Amendment Acts in 1992, which came into effect on 1st June 1993.

The 73rd Constitutional Amendment Act of 1992

It marked a pivotal shift in India's governance by institutionalizing Panchayati Raj Institutions (PRIs) as the foundation of decentralized administration. This amendment aimed to empower local self-governments, ensuring grassroots participation in democracy and development.

The concept of local self-governance in India is not new; village panchayats have existed since ancient times. However, post-independence, these bodies lacked formal recognition and authority. The Balwant Rai Mehta Committee in 1957 recommended the establishment of a three-tier Panchayati Raj system to promote democratic decentralization. Despite these recommendations, PRIs remained ineffective due to inadequate powers and irregular elections. The need for a constitutional mandate became evident, leading to the 73rd Amendment.

Salient Features of the 73rd Amendment

Constitutional Status: The amendment granted constitutional recognition to PRIs, making their establishment mandatory in all states and Union Territories (secforuts.mha.gov.in)

1. Three-Tier Structure:

- Village Level (Gram Panchayat): The primary unit of local governance.
- Intermediate Level (Panchayat Samiti): Covers a block or taluka.
- District Level (Zila Parishad): Encompasses the entire district.

This structure ensures administrative efficiency and local participation.

Empirical evidence shows that decentralized planning systems, like Kerala's People's Plan Campaign, have greatly improved local governance. In this model, around 40% of the state budget is allocated to local government bodies, known as Panchayati Raj Institutions (PRIs). This approach demonstrates how distributing financial resources to local levels can encourage community participation in development and make decision-making more democratic. When implemented effectively, such financial devolution empowers local

governments and ensures that development plans address the real needs of the people.

73rd and 74th Constitutional
Amendment Acts

2. Gram Sabha: Defined as a body consisting of persons registered in the electoral rolls of a village within the panchayat area, the Gram Sabha serves as a deliberative body to decentralized governance.
3. Direct Elections: All members of the panchayats at every level are to be elected directly by the people, ensuring accountability and transparency.
4. Reservation of Seats: Seats are reserved for Scheduled Castes (SCs), Scheduled Tribes (STs), and women (not less than one-third of the seats) to promote inclusive representation.
5. Fixed Tenure: Each panchayat has a tenure of five years. Elections must be conducted before the expiry of the term or within six months of dissolution.
6. Powers and Responsibilities: State legislatures are to endow panchayats with necessary powers and authority to function as institutions of self-government, including the preparation of plans for economic development and social justice.
7. Financial Autonomy: States are mandated to constitute State Finance Commissions every five years to review the financial position of panchayats and recommend measures to improve their financial status (Ministry of Panchayati Raj, <https://panchayat.gov.in/en/document/73rd-constitutional-amendment-act-1992/>)

Challenges in Implementation:

- The limited taxation authority of Panchayats has restricted their ability to generate sustainable revenue streams.
- The prevalence of political interference in Gram Sabha deliberations has, in several instances, diluted the democratic ethos of these institutions.
- Bureaucratic reluctance to devolve authority to elected representatives has created institutional friction, thereby impeding the seamless execution of development initiatives.

The financial powers of Panchayati Raj Institutions (PRIs) are guided by Article 243H, which empowers states to authorize Panchayats to levy, collect, and appropriate taxes. Furthermore, Article 243-I mandates the establishment of a State Finance Commission every five years to review the financial status of Panchayats and recommend measures for resource devolution.

Reservation of Seats and Offices

The 73rd Amendment Act, 1992 provides reservation of seats in Panchayati Raj Institutions (PRIs) to ensure representation of weaker sections and women. Seats are reserved for Scheduled Castes (SCs) and Scheduled Tribes (STs) in proportion to their population in the Panchayat area. Additionally, one-third of the total seats are reserved for women, including seats reserved for SCs and STs. The Act also reserves one-third of the chairperson positions at each level of the Panchayat for women. State Legislatures can also provide reservation for backward classes in seats and chairperson positions based on their population.

Duration and Election Procedure

Every Panchayat has a fixed term of five years. If a Panchayat is dissolved before completing its term, elections must be held within six months. The law ensures that Panchayats cannot be dissolved before their term ends by simply changing the rules.

All members of a Panchayat are elected through direct elections from different areas within the Panchayat. However, the State Legislature may allow chairpersons of lower-level Panchayats and members of the State Legislature and Parliament to be part of higher-level Panchayats. These members can vote in Panchayat meetings but cannot contest or vote in chairperson elections.

The State Election Commission manages the entire election process, including preparing voter lists and conducting elections. The State Election Commissioner is appointed by the Governor and can only be removed like a High Court Judge. This guarantees free, fair, and unbiased elections.

Powers and Functions

One of the key provisions of the 73rd Amendment Act is to give powers and functions to the Panchayati Raj Institutions (PRIs). The Act allows State Legislatures to give Panchayats the necessary powers to function as self-governing institutions. These powers include making plans and implementing schemes for economic development and social justice. The 11th Schedule of the Constitution lists various subjects on which Panchayats can work.

Table No. 1. Articles Related to the Panchayati Raj System (Articles 243–243(O))

No.	Article	Description
1.	Article 243	Definition of terms related to Panchayati Raj.
2.	Article 243A	Powers of the Gram Sabha (village assembly).
3.	Article 243B	Structure of Panchayati Raj institutions at different levels.
4.	Article 243C	Composition of Panchayats at different levels.

No.	Article	Description
5.	Article 243D	Reservation of seats for Scheduled Castes (SCs), Scheduled Tribes (STs), and women.
6.	Article 243E	Duration of Panchayats (5-year term).
7.	Article 243F	Qualifications and disqualifications for Panchayat members.
8.	Article 243G	Powers, authority, and responsibilities of Panchayats.
9.	Article 243H	Powers to impose and collect taxes, duties, tolls, and fees .
10.	Article 243I	State Finance Commission for distributing financial resources to Panchayats.
11.	Article 243J	Audit of Panchayat accounts .
12.	Article 243K	Elections to Panchayats , conducted by the State Election Commission.
13.	Article 243L	Application of Part IX to Union Territories .
14.	Article 243M	Exemptions and exceptions for certain states , such as Nagaland, Meghalaya, Mizoram, and Sixth Schedule areas.
15.	Article 243N	Continuance of existing laws and Panchayati Raj institutions until new laws are made.
16.	Article 243O	Bar on interference by courts in Panchayat-related elections.

These articles **establish and regulate the Panchayati Raj system**, ensuring **local self-governance** in rural areas. (Government of India, 1992).

Table No. 2. Eleventh Schedule – 29 Subjects of Panchayati Raj

No.	Subject
1	Agriculture and agricultural extension
2	Land improvement, land reforms, and soil conservation
3	Irrigation, water management, and watershed development
4	Animal husbandry, dairying, and poultry
5	Fisheries (fish farming)
6	Social forestry and farm forestry (tree planting)
7	Minor forest produce (small forest resources)
8	Small-scale industries, including food processing
9	Khadi, village, and cottage industries (handmade goods)

No.	Subject
10	Rural housing (homes in villages)
11	Drinking water supply
12	Fuel and fodder (firewood and animal feed)
13	Roads, bridges, ferries, and communication systems
14	Rural electrification (electricity supply in villages)
15	Non-conventional energy sources (solar, wind energy)
16	Poverty alleviation programs (helping the poor)
17	Education (primary and secondary schools)
18	Technical and vocational training (job skills)
19	Adult and non-formal education (learning for adults)
20	Libraries (reading and study centers)
21	Cultural activities (festivals, traditions)
22	Markets and fairs (local business hubs)
23	Health and sanitation (hospitals, dispensaries, clean surroundings)
24	Family welfare (family health programs)
25	Women and child development (support for women and children)
26	Social welfare (help for disabled and mentally challenged people)
27	Welfare of weaker sections (SCs, STs, and marginalized groups)
28	Public distribution system (ration shops for essential goods)
29	Maintenance of community assets (parks, roads, public spaces)

These subjects empower local governments to manage **rural development, social welfare, infrastructure, and economic activities** for self-governance.

To make it easier to understand, these subjects can be grouped into five categories:

- **Economic Development:** This includes agriculture, irrigation, animal husbandry, fisheries, small-scale industries, social forestry, and poverty alleviation programmes.
- **Education:** Panchayats can promote education by managing primary and secondary schools, libraries, technical training, and non-formal education.
- **Health:** Panchayats are responsible for health and sanitation services, including family welfare programmes.

- **Welfare of Weaker Sections:** Panchayats can implement welfare programmes for women, children, handicapped people, and SC/ST communities. They also ensure the proper working of the public distribution system.
- **Infrastructure Development:** This includes rural roads, housing, drinking water supply, electricity, markets, and community asset maintenance.

Many of these activities directly benefit weaker sections of society, especially through poverty alleviation programmes, land reforms, and the public distribution system. These powers help Panchayats play a significant role in rural development.

Finance and Audit

The 73rd Amendment Act provides guidelines on the financial management of Panchayati Raj Institutions (PRIs). According to Article 243H, the State Legislature has the power to allow Panchayats to collect taxes, duties, tolls, and fees. The state government can also assign certain taxes to Panchayats under specific conditions.

Panchayats receive grant-in-aid from the Consolidated Fund of the State to help them carry out their responsibilities. This system ensures that funds are allocated fairly and not on an ad-hoc basis.

To review the financial situation of Panchayats, Article 243I makes it mandatory for the Governor to set up a State Finance Commission every five years. The Commission recommends how to distribute state taxes between the government and Panchayats, what taxes Panchayats can collect, and the amount of grants they should receive from the state government.

Additionally, Article 280(3) requires the Central Finance Commission to suggest ways to increase the financial resources of Panchayats based on the recommendations of the State Finance Commission. This creates a connection between the finances of the Central Government, State Government, and Panchayats.

Each State Legislature is responsible for making rules on how Panchayats should maintain and audit their accounts to ensure proper financial management (eGyankosh).

The 73rd Amendment Act, 1992 marked a significant step in strengthening Panchayati Raj Institutions (PRIs) by granting them constitutional status and ensuring their uniform structure across India. It introduced a three-tier system at the village, block, and district levels, making elections mandatory every five years under the supervision of the State Election Commission. The amendment also enhanced the financial autonomy of PRIs through the establishment of the State Finance Commission, which recommends the allocation of funds. Before this amendment, PRIs had no constitutional backing, with only a mention in Article 40 of the Directive Principles of

State Policy. The amendment addressed this gap by providing legal recognition to PRIs, making them the third tier of governance alongside the central and state governments. However, it creating a separate Panchayat List under the Seventh Schedule would have further solidified their authority.

Despite the structural framework, the amendment left certain powers to the discretion of state governments, such as defining the size of panchayats and the powers of the Gram Sabha. Though the Gram Sabha is a mandatory institution for public participation, most state governments have only assigned it a ceremonial role rather than granting it substantial decision-making authority. The amendment also aimed to ensure regular elections, but some states, like Orissa and Uttar Pradesh, failed to comply, requiring court intervention. Additionally, reservation policies for marginalized groups were not uniformly implemented, especially in states like Punjab and Uttar Pradesh.

A significant challenge to the effective functioning of PRIs is the contentious relationship between local bureaucrats and elected representatives. The lack of clear roles often results in bureaucratic resistance to decentralization, hampering the smooth implementation of development programs. Cooperation between the administration and PRIs is essential for the devolution of powers and efficient service delivery. The amendment entrusted states with the responsibility of devolving functions, functionaries, and resources, but in practice, this process remains slow and inconsistent. Only a few states, such as West Bengal, Karnataka, Gujarat, and Maharashtra, have made notable progress in empowering PRIs by transferring crucial responsibilities like healthcare, education, and rural development.

While the 73rd Amendment Act aimed to democratize decentralization and enhance public participation in governance, its implementation has been uneven across states. Financial dependence on state governments, weak Gram Sabhas, and bureaucratic resistance continue to hinder the full empowerment of PRIs. The success of democratic decentralization depends on the political will of state governments, the cooperation of bureaucracy, and continuous policy reforms to ensure greater participation and accountability at the grassroots level.

The 74th Constitutional Amendment Act, 1992

The 74th Constitutional Amendment Act, 1992 is a significant step in strengthening municipal governance in India. It gave constitutional recognition to urban local bodies, making them an essential part of the three-tier system of government. This amendment aimed to bring political power closer to urban citizens, giving them more say in local decision-making.

In earlier you have learned about the evolution of Panchayati Raj Institutions (PRIs) in rural India, which became the third tier of rural governance. Similarly, efforts to set up urban local self-governments began during the British period. However, it took several years of discussions to give them a constitutional status.

The 74th Amendment Act was passed in 1992 to reform and revitalize the municipal system. It provided the framework for transferring powers and responsibilities to municipalities under Part IX-A of the Indian Constitution. This unit explains the background, key features of the Act, its similarities with rural decentralization, and the present situation of urban local governance in India (eGyankosh).

The Constitution of India has made detailed provisions to protect democracy in Parliament and State Legislatures, which has helped these institutions grow stronger. However, there was no clear constitutional mandate for urban local self-government. While the Directive Principles of State Policy mentioned village panchayats, there was only an indirect reference to municipalities in Entry 5 of the State List, making local self-government the responsibility of state governments.

Due to the absence of constitutional protection, urban local bodies became weaker over time. This happened because, Municipalities were frequently dissolved or suspended for indefinite periods. Governments often nominated members instead of holding elections, which affected their democratic nature. The state governments took over many functions and revenues assigned to urban bodies. There was insufficient representation for weaker sections of society. The decline of urban local bodies led to increasing public demand for a constitutional guarantee to protect their powers, similar to rural panchayats.

The first attempt to reform urban local governance was made in 1989 by the then Prime Minister Shri Rajiv Gandhi. He believed that power should rest with the people in a democracy. His government introduced the 64th Amendment Bill for rural panchayats and the Nagarpalika Bill (65th Amendment) for urban decentralization in the Lok Sabha. However, both bills failed to pass in the Rajya Sabha due to a lack of majority.

Later, the V.P. Singh Government (1990) introduced a combined bill for both panchayats and municipalities, but the bill could not be discussed as the government collapsed. Finally, the P.V. Narasimha Rao Government reintroduced the bills separately. The 73rd Amendment for panchayats was passed first, followed by the 74th Amendment for municipalities. The 74th Amendment Act became law on 1st June 1993, marking an important step in strengthening urban local self-governments .

Features of the 74th Amendment Act

The 74th Constitutional Amendment Act, 1992 introduced Part IXA in the Indian Constitution, which defines the governance of urban areas through Municipalities. This part includes Articles 243P to 243ZG and the Twelfth Schedule, which lists 18 subjects under the jurisdiction of Municipalities. It categorized municipalities into three types based on the size and nature of the urban area:

- **Nagar Panchayats:** These are for transitional areas, where rural regions are gradually developing urban characteristics.

- **Municipal Councils:** These bodies govern smaller urban areas with moderate populations and economic activities.
- **Municipal Corporations:** These are for larger urban areas with significant populations and higher economic importance.

State governments have the authority to determine the type of municipality for each area, considering factors like population size, population density, revenue generation, employment in non-agricultural sectors, and economic significance.

Urban local bodies are typically divided into wards, with each ward represented by an elected councilor. Smaller municipalities have ward populations ranging from 1,500 to 6,000, while larger cities may have wards with populations between 30,000 and 2 lakh, making it difficult for residents to interact with their representatives. To address this issue, the amendment mandated the creation of Ward Committees in cities with populations of 3 lakh or more. These committees aim to bridge the gap between citizens and elected representatives, promoting greater public participation. States may also set up Ward Committees in cities with less than 3 lakh population if required.

Reservation of Seats and Offices

To ensure fair representation of marginalized communities, the amendment introduced a reservation system in urban local bodies:

Scheduled Castes (SC) and Scheduled Tribes (ST): Seats are reserved in proportion to their population in the municipal area. One-third of these reserved seats are exclusively designated for SC/ST women.

Women: At least one-third of the total seats in every municipality are reserved for women, including the seats reserved for SC/ST women.

The reservation for the office of Chairpersons in municipalities for SC, ST, and women is left to the State Legislature, which decides both the number of reserved positions and the selection process. This provision aims to ensure greater political representation and participation of underprivileged groups in urban governance.

Duration and The election Procedure

The municipality's term is fixed for five years. If the municipality is dissolved before completing its term, fresh elections must be conducted within six months. All members of the municipality are elected directly from different areas called wards. Apart from elected members, some individuals are also included in the municipality. These include experts in municipal administration without voting rights, Members of Parliament and State Legislatures with voting rights, and Chairpersons of various committees with voting rights. To ensure that elections are conducted in a free and fair manner, each state must establish a State Election Commission to supervise and manage the election process.

Powers and Functions

73rd and 74th Constitutional
Amendment Acts

Municipalities are given powers and responsibilities to work as self-governing bodies in cities. The State Legislature decides what duties municipalities should perform to promote economic development and social justice. They also guide how Wards Committees and other committees will function.

Earlier, municipalities mainly provided basic civic services like water supply, sanitation, and roads. But now, their role has expanded to include local development planning and poverty reduction programs.

Table No. 3. Articles Related to Urban Governance (Articles 243P–243ZG)

Article	Description
Article 243P	Defines terms related to urban governance
Article 243Q	Specifies the types of Municipalities: Nagar Panchayat, Municipal Council, and Municipal Corporation
Article 243R	Composition of Municipalities
Article 243S	Constitution and functions of Wards Committees
Article 243T	Reservation of seats for Scheduled Castes (SCs), Scheduled Tribes (STs), and women
Article 243U	Term of Municipalities (5 years)
Article 243V	Qualifications and disqualifications of members
Article 243W	Powers, authority, and responsibilities of Municipalities
Article 243X	Power to levy and collect taxes, fees, and duties
Article 243Y	State Finance Commission for financial recommendations to Municipalities
Article 243Z	Audit of Municipal accounts
Article 243ZA	Elections to Municipalities, conducted by the State Election Commission
Article 243ZB	Application of Part IXA to Union Territories
Article 243ZC	Exemption of certain areas, such as Scheduled and Tribal Areas
Article 243ZD	District Planning Committee (DPC) for planning at the district level
Article 243ZE	Metropolitan Planning Committee (MPC) for planning in metropolitan areas
Article 243ZF	Continuance of existing laws until new laws are made
Article 243ZG	Bar on interference by courts in Municipality-related elections

Table No. 4. Twelfth Schedule (18 Subjects Under Urban Local Governance)

No.	Subjects
1	Urban planning, including town planning
2	Regulation of land use and construction of buildings
3	Planning for economic and social development
4	Roads and bridges
5	Water supply for domestic, industrial, and commercial purposes
6	Public health, sanitation, conservancy, and solid waste management
7	Fire services
8	Urban forestry, protection of the environment, and promotion of ecological aspects
9	Safeguarding the interests of weaker sections, including SCs and STs
10	Slum improvement and upgrading
11	Urban poverty alleviation
12	Provision of urban amenities such as parks, gardens, and playgrounds
13	Promotion of cultural, educational, and aesthetic aspects
14	Burials and burial grounds, cremations, and cremation grounds
15	Cattle pounds and prevention of cruelty to animals
16	Regulation of slaughterhouses and tanneries
17	Vital statistics, including registration of births and deaths
18	Public amenities, including street lighting, parking spaces, and bus stops

Source: Government of India, 1992

These provisions help local governments manage urban areas efficiently.

Finance and Audit

The State Legislature decides rules about taxes, grants, and funds for municipalities through laws. These laws specify:

- Taxes, duties, and fees that municipalities can collect directly.
- Taxes collected by the State Government, where a share is given to municipalities.
- Grants-in-aid from the State Government to support municipalities.
- Rules for creating municipal funds and managing money transactions.

To ensure proper financial management, every five years, a State Finance Commission reviews the financial position of municipalities and recommends:

- How tax revenue should be shared between the State Government and municipalities.
- The share each type of municipality will receive.
- Which taxes or fees municipalities can collect?
- Grants to be given from the State's Consolidated Fund.
- Steps to improve the financial health of municipalities.

The Governor must present these recommendations with an explanation before the State Legislature.

Additionally, the Central Finance Commission suggests ways to increase state funds to support municipalities, creating a link between local, state, and central governments. This system ensures regular evaluation of municipal finances based on their growing responsibilities.

The Act also empowers the State Legislature to set rules for maintaining and auditing municipal accounts, promoting transparency and accountability.

Planning

District Planning Committee (DPC)

The District Planning Committee (DPC) is set up under Article 243ZD to create a common development plan for both rural and urban areas within a district. The committee combines the plans made by Panchayats and Municipalities to ensure balanced development across the district. At least four-fifths of the DPC members are elected from the Panchayats and Municipalities based on the population ratio between rural and urban areas. The State Legislature decides how the committee is formed and how the Chairperson is selected.

Metropolitan Planning Committee (MPC)

A Metropolitan Planning Committee (MPC) is established under the Act for cities with a population of 10 lakhs or more. These cities often include the main city along with nearby towns and villages. The committee prepares a draft development plan for the entire metropolitan area, ensuring coordinated growth. At least two-thirds of MPC members are elected from Municipalities and Panchayats based on the population ratio. The committee also consults other institutions and organizations specified by the Governor. The draft plan is submitted to the State Government for approval, ensuring the orderly development of the region.

4.4 ANALYSIS

Decentralization is pivotal for fostering effective and equitable governance, necessitating the establishment of democratic local institutions endowed with substantial discretionary authority. The 73rd and 74th Constitutional Amendments of India, enacted in 1992, marked a significant stride in this direction by granting constitutional status to rural and urban local bodies, respectively. These amendments mandated the creation of a three-tier system of Panchayats at the village, intermediate, and district levels, and Municipalities in urban areas, thereby institutionalizing local self-governance.

The essence of democracy flourishes when authority is decentralized, making governance more relevant and accessible to the average citizen. In a vast nation like India, where a substantial portion of the population remains illiterate, participatory democracy through local bodies like Panchayats becomes indispensable. These institutions facilitate grassroots participation, ensuring that change is achieved through willing cooperation and voluntary consent rather than coercion.

To strengthen the efficacy of decentralized governance, it is imperative to institutionalize comprehensive capacity-building initiatives for local representatives. Moreover, the establishment of mechanisms for financial devolution, coupled with stringent accountability frameworks, is essential to fostering a truly participatory and autonomous local governance structure.

Future policy efforts should prioritize enhancing financial autonomy for local bodies through dedicated revenue streams, such as municipal bonds and land value taxation. Furthermore, digital governance tools, including e-Gram Swaraj and GIS-based planning for urban municipalities, should be expanded to improve transparency and efficiency. A robust legislative framework that ensures the devolution of '3Fs'—Functions, Functionaries, and Funds—can further solidify the impact of democratic decentralization.

To ensure effective decentralization, adherence to Article 280(3), which requires the Central Finance Commission to recommend measures for augmenting the financial resources of Panchayats and Municipalities, is crucial. Further constitutional reforms could focus on expanding the scope of the Eleventh and Twelfth Schedules to include emerging governance areas such as digital governance and climate resilience.

Despite the constitutional mandate, the devolution of functions to local bodies has been inconsistent across states. For instance, while the 12th Schedule of the Constitution enumerates 18 specific functions to be devolved to Urban Local Bodies (ULBs), the extent of actual devolution varies. In Karnataka, ULBs have complete control over only three of these functions, and in states like Punjab, Jharkhand, and Goa, Panchayati Raj Institutions (PRIs) possess limited autonomy.

A comparative analysis of state-level governance frameworks reveals stark disparities in the devolution of powers to Panchayati Raj Institutions (PRIs). For instance, states such as Karnataka and West Bengal have successfully institutionalized functionary and financial devolution, whereas states like Jharkhand and Punjab exhibit a pronounced bureaucratic centralization that undermines the autonomy of PRIs. Addressing these disparities necessitates a robust policy framework that standardizes decentralization across states while ensuring local adaptability.

Legal developments, including landmark cases such as *Kishan Rao v. Karnataka Panchayat Board* (2001), have reinforced the constitutional mandate for decentralized governance. Additionally, policy initiatives like the Kerala Panchayati Raj Act (1994) and Maharashtra's participatory planning model demonstrate how state-specific legal frameworks influence the effectiveness of local governance structures. Integrating these legal and policy perspectives provides a more nuanced understanding of decentralization in India.

Article 243G grants State Legislatures the power to endow Panchayats with the necessary authority to function as self-governing institutions. This provision is significant because it determines the extent to which states can decentralize power, resulting in variations in governance effectiveness across different regions.

The Constitution's 73rd Amendment Act, 1992 primarily focuses on transferring power to Panchayati Raj Institutions (PRIs) and empowering weaker sections of society, especially Scheduled Castes (SCs), Scheduled Tribes (STs), and women. Its goal is to promote self-governance at the village level and strengthen democracy at the grassroots.

The Gram Sabha plays a vital role in this system, allowing every eligible voter in the village to participate in decision-making. The Panchayats at village, block (intermediate), and district levels are given specific tasks to deliver services at their respective levels. The Gram Sabha not only encourages community involvement but also acts as a platform for social audit, ensuring transparency in the functioning of Panchayats.

Improving the socio-economic conditions of villages is possible only when local people, especially those from weaker sections, actively participate in the decision-making process.

Nevertheless, these amendments have laid the foundation for a democratic society where local self-governance is a reality. The hope is that India's democracy will continue to evolve, serving as a distinctive example for the rest of the world in embracing decentralization and participatory governance.

4.5 LET US SUM UP

This unit explored the background, significance, and impact of the 73rd and 74th Constitutional Amendments, which aimed to strengthen local governance in India. These amendments granted constitutional recognition

to Panchayati Raj Institutions (PRIs) and Urban Local Bodies (ULBs), promoting decentralized decision-making and increased public participation. We examined the historical background of local governance reforms, the key provisions of these amendments, and their implementation across different states. The discussion highlighted how these reforms have empowered local governments, improved service delivery, and strengthened democracy at the grassroots level. However, challenges persist in ensuring effective governance and financial autonomy for these institutions. In the upcoming units, we will explore the historical evolution of local governance in greater detail, along with the ongoing debates on urban and rural self-governance, addressing both the achievements and challenges in sustaining decentralized democracy in India.

Check Your Progress

1. What are the main features of the **73rd Amendment Act**?
2. What is the main purpose of the Constitution (74th Amendment) Act, 1992?
3. Discuss the evolution of the Panchayati Raj system.

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URBAN LOCAL SELF-GOVERNMENT: CURRENT DEBATES

Unit Structure

- 5.0 Objectives
- 5.1 Introduction
- 5.2 Historical Context
 - 5.2.1 Evolution of Urban Local Governance
 - 5.2.2 Constitutional Status of Urban Local Bodies (ULBs)
- 5.3 Constitutional Provision and Legislative Framework
 - 5.3.1 Overview of 74th Constitutional Amendment Act, 1992
 - 5.3.2 Functioning List for Urban Local Bodies (ULBs)
 - 5.3.3 ULBs: Structure, Role and Responsibilities
 - 5.3.4 Municipal Finance
- 5.4 Current Debates on Urban Local Self-Government
 - 5.4.1 Women leadership in local self-government
 - 5.4.2 Decentralization and Autonomy
 - 5.4.3 Financial autonomy vs dependence
 - 5.4.4 Multiplicity of Authorities and Overlapping Jurisdictions
 - 5.4.5 Resource Disparities Between Larger and Smaller Cities
 - 5.4.6 Capacity and Competence of ULBs
 - 5.4.7 Inadequate Public Participation in Urban Governance
 - 5.4.8 Sustainable Urban Development and Environmental Challenges
- 5.5 Conclusion
- 5.6 Glossary
- 5.7 References
- 5.8 Exercise

5.0 OBJECTIVES

- To provide a comprehensive overview of Urban Local Self-Government (ULSG) in India, including its historical evolution and constitutional framework.
- To explore current debates surrounding ULSG, focusing on issues such as decentralization, citizen participation, financial independence, and accountability.

- To analyze case studies that illustrate both successful practices and challenges faced by Urban Local Bodies across different states.

5.1 INTRODUCTION

Urban Local Self-Government (ULSG) in India is a vital component of the country's democratic structure, enabling localized governance and empowering citizens to participate in decision-making processes that affect their urban environments. It is provisioned for accountability, efficiency, transparency and inclusive representation. Established through the 74th Constitutional Amendment Act of 1992, ULSG encompasses various forms of Urban Local Bodies (ULBs), such as Municipal Corporations and Municipalities, which are tasked with managing essential services like sanitation, public health, and urban planning (Prasad, 2006). This tiered framework of government not only facilitates the decentralization of power but also enhances accountability and responsiveness in governance.

The significance of ULSG within the Indian democratic context is profound. As a third tier of government at the local level beneath the central and the state, ULSGs promote participatory democracy by allowing citizens to engage directly with local governance issues. This engagement fosters a sense of ownership among residents regarding their community's development and encourages active civic participation (Maheshwari, 2024). Moreover, ULSGs play a crucial role in addressing urban challenges, particularly in rapidly urbanizing regions, by providing tailored solutions that reflect the unique needs of local populations. By examining these aspects, this unit aims to contribute to a deeper understanding of Urban Local Self-Government's role in promoting sustainable urban development and effective governance in India.

5.2 HISTORICAL CONTEXT

5.2.1 Evolution of Urban Local Self-Governance

The roots of Urban Local Governance in India can be traced back to ancient civilizations, notably the Indus Valley Civilization, which exhibited early forms of urban planning and community organization. During this period, evidence of advanced drainage systems, town planning, and administrative practices reflect the foundational aspects of urban governance (Sharma, 2020).

The formal establishment of local governance structures, however, began during British rule, with the creation of the first Municipal Corporation in Madras in 1688. This marked a significant step towards organized urban administration, although it primarily served colonial interests rather than local self-governance (Nanda, 2020). During the late 19th century, urban governance began to evolve with Lord Ripon's Resolution of 1882, which advocated for local self-government through elected bodies, thereby laying the groundwork for future municipal governance. This landmark resolution, often referred to as the Magna Carta of local self-government in India,

emphasized greater autonomy for local institutions. By 1885-86, there were 749 self-governing municipalities across the country (Sahoo, 2022).

The Royal Commission on Decentralisation in 1907 further emphasized the need for local administration, leading to increased powers for municipal bodies. Despite these developments, local governance largely remained under the control of colonial administrators until India's independence, moreover, the number decreased to 713 in 1913-14 (Sahoo, 2022). The Government of India Act of 1935 introduced a more structured approach to governance, establishing provincial autonomy and recognizing local bodies' role in administration (Nanda, 2020).

Post-independence, urban local governance underwent several transformations, reflecting India's commitment to decentralization and participatory democracy. The establishment of the Community Development Programme in 1952 and the Balwant Rai Mehta Committee report of 1957 laid the foundation for the development of decentralized governance, influencing subsequent urban reforms. However, the recognition of local government was limited to Part IV of the Constitution, within the Directive Principles of State Policy, giving it a non-enforceable entity (Sahoo, 2022).

5.2.2 Constitutional Status of Urban Local Bodies (ULBs)

The most significant transformation of local government occurred with the 74th Constitutional Amendment Act in 1992, which provided constitutional recognition to Urban Local Bodies (ULBs) and mandated the establishment of a three-tier system of governance at the urban level in each state (Nanda, 2020). This Act ensured the operation of the institution within a defined legal framework. The Act introduced Part IX-A to the Constitution, specifically addressing municipalities and outlining their governance structure.

The amendment aimed to enhance democratic participation, empower local authorities, and ensure that urban planning and development are responsive to the needs of citizens. It also made provisions for the devolution of powers and responsibilities to ULBs, including functions related to urban planning, regulation of land use, water supply, and public health (Nanda, 2020). By institutionalizing regular elections and strengthening local accountability, the 74th Amendment established a robust framework for decentralized governance in India.

5.3 CONSTITUTIONAL PROVISION AND LEGISLATIVE FRAMEWORK

5.3.1 Overview of the 74th Constitutional Amendment Act, 1992

As the preceding section has described, the 74th Constitutional Amendment Act, 1992, marked a significant turning point in the governance structure of India by providing constitutional recognition to local self-governments in urban areas. The Act came into effect in June 1993. The 74th Amendment

established a framework for Urban Local Bodies (ULBs), aiming to enhance democratic participation at the grassroots level. These amendments mandated the establishment of ULBs in all states and Union Territories, ensuring that local governance is not only a right but also a responsibility of the state (Government of India, 1992).

The significance of these amendments lies in their role in decentralizing power and promoting participatory democracy. They empowered citizens by ensuring regular elections to local bodies, thus facilitating greater accountability and effectiveness in governance (Nanda, 2020). Furthermore, the amendments included provisions for financial autonomy, enabling municipalities to generate resources through taxes and grants, thereby reducing their dependence on state governments. As a result, ULBs emerged as critical institutions for implementing urban policies and addressing local development challenges (Sahoo, 2022).

5.3.2 Functioning List for Urban Local Bodies (ULBs)

The 74th Amendment Act outlines the structure and functions of ULBs through Article 243P to Article 243Z. Article 243W mandated the devolution of 18 functions to ULBs. They are:

- 1) Urban planning, including town planning
- 2) Regulation of land use and construction of buildings
- 3) Planning for economic and social development
- 4) Roads and bridges
- 5) Water supply for domestic, industrial and commercial process
- 6) Public health, sanitation conservancy and solid waste management
- 7) Fire services
- 8) Urban forestry, protection of environment and promotion of ecological aspects
- 9) Safeguarding the interests of the weaker sections of society, including the physically handicapped and mentally unsound
- 10) Construction of roads and bridges
- 11) Provision of urban amenities and facilities such as parks, gardens and playgrounds
- 12) Promotion of cultural, educational and aesthetic aspects
- 13) Burial and burial grounds, cremation and cremation grounds and electric crematoriums
- 14) Cattle ponds, prevention of cruelty to animals
- 15) Regulation of slaughter houses and tanneries

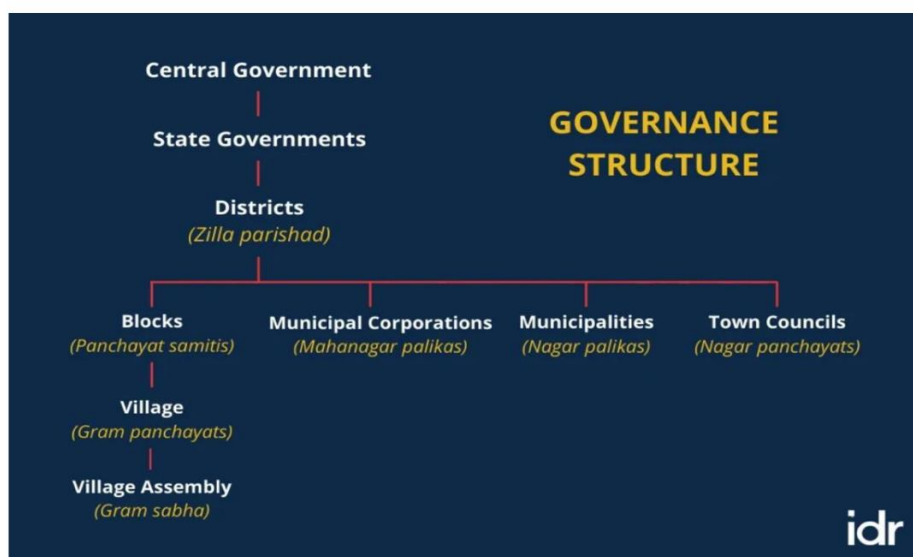
- 16) Public amenities including street lighting, parking spaces, bus stops and public conveniences
- 17) Vital statistics including registration of births and deaths

5.3.3 Types of ULBs: Structure, Role and Responsibilities

The 74th Amendment Act, 1992 mandates that each state shall constitute ULBs as per its own laws, which must adhere to the constitutional framework. The Act specifies that ULBs are to be governed by elected representatives for a tenure of five years and provides for the establishment of a State Election Commission to oversee direct elections for these bodies (Government of India, 1992). The Act provides for the reservation of one-third of the total number of seats for women, including Scheduled Castes (SC) and Scheduled Tribes (STs), thereby promoting gender equality in local governance. Urban local bodies are granted the power to legislate and implement schemes for economic development and social justice. This includes responsibilities related to urban planning, infrastructure development, and public services. Today there are over 4500 ULBs in India (Kumar & Gosh, 2024). The Act arranged ULBs into three tier governance structure based on population size of the areas of urban habitation. They are:

- A) **Municipal Corporations (Nagar Nigam):** These are established for large urban areas or cities with population exceeding 10 lakhs (1 million). They have greater powers and responsibilities compared to other types of ULBs. Municipal Corporations responsibility includes comprehensive urban planning, infrastructure development, public health management, waste management, and regulation of land use. Some Municipal Corporations are Mumbai, Delhi, Bengaluru, Chennai, Hyderabad, etc.
- B) **Municipal Councils (Nagar Palika or simply municipalities):** These govern smaller urban areas or towns with population range of 25,000 – 10 lakhs. E.g. Aligarh, Shimla, Mangalore, and other medium-sized cities. They function similarly to municipal corporations but operate on a smaller scale. Municipalities focus on maintaining civic amenities like sanitation, street lighting, and public health services within smaller population jurisdictions.
- C) **Nagar Panchayats (Town Councils):** These are set up for transitional areas that are shifting from rural to urban status with a population between 10,000 – 25,000, though this can vary slightly by state. They address the unique challenges faced by these developing areas. They are tasked with managing basic services during the transition from rural to urban status, including water supply, sanitation, and infrastructure development tailored to emerging urban needs (see Figure 1).

Figure 1: Structure of Urban Local Self-Government in India



Source: India Development Review

Additionally, there are other forms such as Town Area Committees, Ward Committees, and Cantonment Boards that cater to specific needs within urban governance (Aijaz, 2011).

5.3.4 Municipal Finance

The Act empowers ULBs to levy taxes and assign revenue-generating powers to local governments. It mandates the establishment of State Finance Commissions for equitable fund-sharing. And municipal finance is subject to state-level legislation, which varies across India. States decide the tax rates, revenue-sharing mechanisms, and borrowing limits for ULBs. The Act provides for revenue and expenditure for ULBs (Rao & Bird, 2010).

A) Revenue sources for ULBs

1. Tax Revenue

Urban local bodies have the authority to levy the following taxes:

- **Property Tax:** The primary source of revenue for most ULBs, levied on buildings and land.
- **Taxes on Goods and Services:** Includes entertainment tax, advertisement tax, and local service charges.
- **Octroi (now abolished in most states):** Previously a significant source, replaced by GST compensation grants.
- **Professional Tax:** Levied on individuals engaged in professions, trades, or employment.
- **Water Tax and Sewerage Tax:** Levied for specific municipal services.

2. Non-Tax Revenue

- Fees and User Charges: Collected for water supply, solid waste management, parking, and other services.
- Rentals: Income from municipal properties such as markets, shops, and community halls.
- Fines and Penalties: Collected for violations of municipal rules.
- Licenses and Permits: Charges for trade licenses, building permits, etc.

3. Grants and Transfers

- Devolution from State Finance Commissions (SFCs):
 - As mandated by Article 243Y, SFCs recommend the distribution of funds between states and ULBs.
 - Transfers include untied grants, tied grants, and compensation for abolished taxes (e.g., octroi).
- Central Finance Commission (CFC) Transfers:
 - As per Article 280, a portion of central revenues is allocated to ULBs through CFC recommendations.
 - Example: The Fifteenth Finance Commission allocated ₹1.21 lakh crore to local bodies for 2021–26 (Fifteenth Finance Commission, 2020).

4. Borrowing and Municipal Bonds

- ULBs are allowed to borrow from financial institutions, issue municipal bonds, and access capital markets for long-term infrastructure projects.
- Example: Cities like Pune and Ahmedabad have successfully issued municipal bonds.

B) Provisions of Expenditure for ULBs

1. Municipal expenditures are categorized into revenue expenditure (maintenance of services) and capital expenditure (infrastructure development).
2. ULBs are mandated to allocate funds for functions listed in the Twelfth Schedule, such as urban planning, roads, water supply, waste management, and slum improvement.

5.4 CURRENT DEBATES ON URBAN LOCAL SELF-GOVERNMENT

5.4.1 Women leadership in local self-government

Women's leadership in local self-government has seen significant growth since the implementation of the 73rd and 74th Constitutional Amendments,

which mandated one-third reservation of seats for women in local governments. Today, India boasts one of the highest rates of women's participation globally, with 1.45 million women elected to local government positions (rural and urban), accounting for 44.4% of all elected seats (Kumar & Gosh, 2024). Furthermore, 20 states have taken progressive steps to increase this reservation to 50% in rural and urban local bodies.

Despite these advancements, deeply rooted social norms still limit women's potential as leaders. Barriers such as reliance on muscle power and insufficient backing from political structures hinder their effective participation. Additionally, women leaders have expressed concerns about the rotational system for chairperson roles, which changes every five years. They argue that this system disadvantages them, as it deprives them of the time needed to overcome historical marginalization, build leadership experience, and fully deliver on their responsibilities (Kumar & Gosh, 2024).

5.4.2 Decentralization and Autonomy

Decentralization is a key principle of urban governance, intended to empower Urban Local Bodies (ULBs) by devolving decision-making powers from central and state governments. The 74th Constitutional Amendment Act (1992) sought to enhance ULB autonomy by mandating the transfer of responsibilities, but significant constraints imposed by state governments persist. As a result, many ULBs function primarily as service delivery agencies rather than empowered self-governments (Nanda, 2020). Challenges such as bureaucratic red tape, weak institutional capacities, and lack of political will hinder their ability to exercise autonomy effectively (Aijaz, 2011).

Political interference exacerbates these challenges, as state governments often undermine ULBs by appointing municipal commissioners with executive powers that overshadow elected representatives. In cities like Delhi and Chennai, such interference has led to inconsistent policies and delayed service delivery, prioritizing political agendas over community needs (Chakrabarty, 2016). Limited powers of mayors and councilors further weaken local governance, with municipal commissioners often wielding more authority, resulting in administrative overlaps and delays (Indian Express, 2024).

To strengthen decentralization, state control over administrative functions must be reduced, institutional capacities improved, and elected officials empowered to make decisions that address local issues effectively.

5.4.3 Financial autonomy vs dependence

The financial autonomy of Urban Local Bodies (ULBs), as envisioned by the 74th Constitutional Amendment Act, 1992, remains limited. While ULBs have the authority to levy taxes and collect fees, they remain heavily dependent on state governments and central grants (Chakrabarty, 2016). States often retain control over lucrative revenue sources like stamp duties, leaving ULBs with insufficient capacity to fund urban services. Even

revenue sources such as property tax are underutilized due to inefficiencies in assessment and collection (Mohanty, 2019).

ULBs face a mismatch between their responsibilities under the Twelfth Schedule and their fiscal resources, leading to inadequate service delivery (Nallathiga, 2021). Conditional grants from schemes like AMRUT and Smart Cities Mission further constrain local decision-making. This financial dependence undermines local accountability and autonomy. To strengthen ULBs, reforms are needed to broaden taxation powers, enforce timely state transfers, and improve resource mobilization through innovative mechanisms like municipal bonds and public-private partnerships.

5.4.4 Multiplicity of Authorities and Overlapping Jurisdictions

Urban governance in India is fragmented due to multiple agencies, such as development authorities, parastatals, and municipal bodies, performing overlapping functions. For example, in Delhi, the Municipal Corporation, Delhi Development Authority (DDA), and state government often clash over responsibilities like land use and infrastructure development, leading to delays and inefficiencies. Similarly, in Mumbai, the Brihanmumbai Municipal Corporation (BMC) and the Mumbai Metropolitan Region Development Authority (MMRDA) have overlapping jurisdictions, causing accountability issues. This lack of coordination undermines urban planning and service delivery. A unified governance framework could enhance efficiency and accountability (Chakrabarty, 2016).

5.4.5 Resource Disparities Between Larger and Smaller Cities

Urban governance in India is marked by significant resource disparities between larger metropolitan cities and smaller towns. Megacities like Mumbai and Bengaluru attract substantial funding through central schemes like Smart Cities Mission and foreign investments, enabling robust infrastructure development. In contrast, smaller towns such as Bareilly or Jabalpur often face limited financial resources and administrative focus, struggling with inadequate basic services like water supply and sanitation. This disparity undermines equitable urban development and exacerbates regional inequalities. Bridging this gap requires equitable resource allocation and capacity-building programs tailored to the needs of smaller urban areas (Mohanty, 2019).

5.4.6 Capacity and Competence of ULBs

Many Urban Local Bodies (ULBs) in India face challenges due to a lack of technical expertise, skilled personnel, and institutional capacity. For instance, ULBs in cities like Patna and Varanasi struggle with managing urban infrastructure, leading to poor service delivery and inefficient use of resources. The lack of urban planning professionals and technical staff hinders the implementation of sustainable projects, such as waste management and affordable housing. To address these issues, ULBs need capacity-building programs, enhanced training for officials, and better recruitment strategies to improve urban governance (Nallathiga, 2021).

5.4.7 Inadequate Public Participation in Urban Governance

The 74th Constitutional Amendment encourages participatory governance through mechanisms like ward committees and citizen engagement, but these remain largely ineffective in many cities. In places like Ahmedabad and Indore, while ward committees are legally mandated, they are often inactive due to lack of awareness, inadequate resources, and weak institutional support. This limits citizens' influence on urban planning and decision-making. Strengthening these participatory channels is essential for inclusive urban governance, ensuring that local needs and priorities are effectively addressed. Efforts to improve awareness, capacity-building, and institutionalize citizen engagement are key to overcoming these barriers (Mohanty, 2019).

5.4.8 Sustainable Urban Development and Environmental Challenges

Urban Local Bodies (ULBs) in India are increasingly responsible for addressing climate change, waste management, and urban sustainability. However, many ULBs lack the resources and technical expertise to implement effective environmental policies. For instance, cities like Jaipur and Patna struggle with waste segregation and recycling due to inadequate infrastructure and public awareness. Despite initiatives like the Swachh Bharat Mission, ULBs often face challenges in managing waste sustainably. Strengthening the capacity of ULBs through technical training, financial resources, and public-private partnerships is crucial to tackling these environmental challenges and achieving sustainable urban development (Nallathiga, 2021).

5.5 CONCLUSION

This unit provides a comprehensive overview of Urban Local Self-Government (ULSG) in India, highlighting its historical evolution, constitutional framework, and current debates associated with it. The 74th Constitutional Amendment Act of 1992 marked a significant milestone by granting constitutional status to Urban Local Bodies (ULBs) and promoting decentralized governance. Despite these advancements, ULBs face challenges such as limited financial autonomy, bureaucratic constraints, and overlapping jurisdictions with other authorities. The essay underscores the need for enhanced financial independence, capacity building, and reduced political interference to empower ULBs effectively. Additionally, it emphasizes the importance of citizen participation and sustainable urban development to address the unique needs of urban populations. By addressing these issues, ULSGs can play a pivotal role in fostering participatory democracy, ensuring efficient service delivery, and promoting sustainable urban growth in India.

5.6 GLOSSARY

Urban Local Bodies (ULBs): Local government institutions in urban areas, including Municipal Corporations, Municipal Councils, and Nagar Panchayats, responsible for providing essential services and governance.

74th Constitutional Amendment Act: A significant amendment to the Indian Constitution in 1992 that granted constitutional status to ULBs and aimed to decentralize power to enhance local governance.

Decentralization: The process of transferring decision-making powers and responsibilities from central and state governments to local authorities to promote autonomy and efficiency in governance.

Municipal Finance: The financial management of ULBs, including revenue generation through taxes, fees, grants, and borrowing, as well as expenditure on urban services and infrastructure.

Participatory Democracy: A system of governance that encourages direct involvement of citizens in decision-making processes, fostering a sense of ownership and accountability in local governance.

State Finance Commissions (SFCs): Bodies established to recommend the distribution of financial resources between state governments and ULBs to ensure equitable fund allocation.

Sustainable Urban Development: Development that meets the needs of the present urban population without compromising the ability of future generations to meet their own needs, focusing on environmental sustainability, efficient resource use, and inclusive growth.

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5.8 EXERCISE

- What are the primary sources of revenue for Urban Local Bodies?
- Discuss five current debates surrounding Urban Local Self-Government in India.
- List any ten functions that are mandated to be devolved to ULBs under Article 243W of the 74th Constitutional Amendment Act.
- What are the three types of ULBs and what role to they play in local government?



RURAL LOCAL SELF-GOVERNMENT: CURRENT DEBATES

Unit Structure

- 6.0 Objectives
- 6.1 Introduction
- 6.2 Historical background of Rural Local Self-Governance
 - 6.2.1 Traditional systems
 - 6.2.2 Colonial Era
 - 6.2.3 Post-independence developments
- 6.3 73rd Constitutional Amendment Act (1992) and Legislative Framework
- 6.4 Key Provisions of the 73rd Constitutional Amendment
 - 6.4.1 Decentralisation through Three-Tier Panchayati Raj System
 - 6.4.2 Regular elections
 - 6.4.3 Reservation for Marginalized Groups
 - 6.4.4 Constitution of State Election Commission
 - 6.4.5 Constitution of State Finance Commission
- 6.5 State-Level Legislative Implementation
 - 6.5.1 Diverse Approaches to Decentralization
 - 6.5.2 Impact on Governance Efficiency
 - 6.5.3 Autonomous District Councils in Northeast India
- 6.6 Finance of Panchayati Raj Institutions (PRIs)
 - 6.6.1 Sources of Revenue
 - 6.6.2 Challenges
- 6.7 Current Debates on Rural Local Self-Governance
 - 6.7.1 Autonomy and State Oversight
 - 6.7.2 Effectiveness in Development
 - 6.7.3 Representation and Inclusion
 - 6.7.4 Unified Governance Debate
 - 6.7.5 Role of Technology in Governance
 - 6.7.6 Bureaucratic Dominance Over Elected Representatives
 - 6.7.7 Financial Constraints
 - 6.7.8 Weak Institutional Capacity
- 6.8 Conclusion
- 6.9 Glossary
- 6.10 References
- 6.11 Exercise

After reading this unit, you should be able to:

- Understand the Historical Evolution of rural local self-governance in India, from traditional systems to post-independence developments.
- Analyze the 73rd Constitutional Amendment and legislative framework that delineates the structure and functions of Panchayati Raj Institutions (PRIs).
- Engage with Current Debates and challenges surrounding rural local self-governance, such as autonomy, effectiveness in development, representation, and financial constraints.

6.1 INTRODUCTION

“Greater the Power of Panchayats the better for the people”

- Mahatma Gandhi

Rural local self-government in India, formally known as the panchayat is a cornerstone of democratic decentralization, allowing communities to directly engage in governance and decision-making processes. Through local bodies elected by residents of villages and rural areas, this system empowers communities to manage their affairs, fostering ownership and accountability. It transforms India’s traditional representative democracy into a participatory model, ensuring that local voices influence the development agenda (Johnson, 2003).

The 73rd Constitutional Amendment Act of 1992 represents a watershed moment in India’s governance. By institutionalizing the Panchayati Raj system as the third tier of government, the amendment provided constitutional recognition to rural local self-government (Datta & Sodhi, 2021). It aimed to strengthen grassroots democracy by devolving powers to local bodies, ensuring effective governance. Additionally, it mandated the reservation of seats for women and marginalized communities, promoting inclusivity and social justice within rural governance (Rajput, 2019).

This essay explores the evolution, governance structure, and contemporary debates surrounding rural local self-government in India. It traces the historical progression from traditional village councils to the modern Panchayati Raj institutions. The analysis will then examine the structure set by the 73rd Amendment, focusing on the roles of Gram Panchayats, Panchayat Samitis, and Zilla Parishads. Finally, the essay engages with ongoing debates about autonomy, service delivery, representation, and the challenges faced by these institutions in fulfilling their intended roles (Srivastava, 2024). Through this examination, the essay aims to highlight the transformative potential of rural self-governance in promoting democratic participation and sustainable development.

6.2 HISTORICAL BACKGROUND OF RURAL LOCAL SELF-GOVERNMENT IN INDIA

6.2.1 Traditional Systems

In pre-colonial India, the village governance system was primarily based on the Panchayat in most of the rural polity, where a council of elders is responsible for maintaining order and resolving disputes within the community. The Panchayat system was integral to the self-sufficient economies of villages, where local resources were collectively managed, and decisions were made through consensus. Ancient texts such as the Vedas highlight the importance of village assemblies, known as **Sabhas**, which played a crucial role in governance by deliberating on social, economic, and religious matters. These assemblies were directly aligned with the local population's needs and values, ensuring that governance remained rooted in the community (Johnson, 2003).

The structure of traditional Panchayats varied across regions but typically included a headman, or **Sarpanch**, supported by a council of elders. These councils were tasked not only with judicial functions but also with administrative and political functions and duties such as tax collection and public works. This decentralized system encouraged community participation and collective responsibility, enabling villagers to maintain autonomy over their affairs (Rajput, 2019). The autonomy of village governance was central to the social fabric of rural India, where decisions were shaped by the collective will of the community.

6.2.2 Colonial Era

The onset of British colonial rule brought sweeping changes to India's local governance. The British administration prioritized centralized control, which significantly weakened the traditional Panchayat system that had long governed rural affairs. British policies, such as the **Permanent Settlement**, restructured land ownership patterns, diminishing the power and authority of local councils (Srivastava, 2024). The British viewed traditional Panchayats with suspicion, often seeing them as impediments to efficient governance and central authority.

Despite these challenges, the British acknowledged the potential of Panchayats for administrative efficiency and began to incorporate them into their governance structure. The **Royal Commission on Decentralization** (1909) recognized the need for local self-governance and suggested reforms that included the establishment of village Panchayats. However, these reforms were minimal and largely served colonial interests, rather than empowering local communities (Johnson, 2003). As a result, by the time India gained independence in 1947, traditional systems of rural governance had been severely undermined, and a fragmented structure of governance persisted, which required significant revitalization to support democratic processes at the grassroots level.

6.2.3 Post-Independence Developments

Following independence, there was a renewed focus on re-establishing local self-governance as a mechanism to foster democratic principles and rural development. Early efforts, such as the community development programs initiated in the 1950s, aimed at mobilizing rural populations for collective action in areas like agriculture, healthcare, and education. However, these initiatives often lacked adequate institutional backing and failed to empower local bodies effectively (Rajput, 2019). The rural population greatly varied in demographic and geographic concentration with respective attendant lifestyles, higher level of poverty prevalence, and the focus was more on access rather than productivity in the initial years.

The **Balwant Rai Mehta Committee** (1957) played a crucial role in revitalizing the local self-governance system. It recommended a **three-tier Panchayati Raj system** consisting of **Gram Panchayats** (village level), **Panchayat Samitis** (block level), and **Zila Parishads** (district level). This structure was designed to enhance participatory governance by ensuring that local bodies had clearly defined powers and responsibilities for planning and implementing development programs (Srivastava, 2024). Subsequent committees, including the **Ashok Mehta Committee** (1977), further emphasized the need to strengthen these institutions. Despite these recommendations, progress was slow due to administrative inertia and political resistance.

The Planning Commission appointed the G .V. K. Rao Committee (1985) to look into various aspects of Panchayati Raj Institutions (PRIs). The Committee's major suggestions were, the PRIs at the district, Taluk, and Village level should be assigned local planning work, implementation, and monitoring of rural development programmes. The Rajiv Gandhi government set up L. M Singhvi Committee in 1986 to study the problems faced by Panchayati raj institutions. The Singhvi Committee's significant recommendation was that local self-government should be given constitutional status (Srivastava, 2024).

The transformative moment for rural local self-governance came with the **73rd Constitutional Amendment Act** of 1992. This landmark legislation granted constitutional status to Panchayati Raj institutions, institutionalizing the structure and authority of local governance bodies. The amendment also mandated regular elections to ensure the democratic functioning of these bodies, marking a significant shift in the governance landscape of rural India (Rajput, 2019). The amendment sought to address the historical challenges of decentralized governance, promoting inclusivity, accountability, and autonomy at the grassroots level.

The historical evolution of rural local self-government in India reflects a journey from autonomous traditional governance, through colonial disruption, to post-independence efforts at revitalization. The 73rd Amendment was a decisive step in formalizing the framework of rural local self-governance, paving the way for more inclusive and participatory governance. Understanding this historical context is essential for analyzing

the current debates and challenges surrounding rural governance in India (Johnson, 2003).

6.3 73RD CONSTITUTIONAL AMENDMENT ACT (1992) AND LEGISLATIVE FRAMEWORK

The Panchayati Raj system in India was formally inaugurated on October 2, 1959, by then Prime Minister Jawaharlal Nehru in Nagaur, Rajasthan. Despite its implementation across various states, the system faced significant challenges, including a lack of constitutional status, irregular elections, inadequate representation of marginalized communities such as Scheduled Castes, Scheduled Tribes, and women, insufficient devolution of powers, and financial constraints (Mathew, 1994; Singh & Sharma, 2007). These limitations hindered the establishment of Panchayati Raj Institutions (PRIs) as viable and effective instruments of grassroots governance.

Efforts to address these issues began with the introduction of the 64th Amendment Bill by the Rajiv Gandhi Government in July 1989, which failed to pass the Rajya Sabha due to political opposition. Subsequently, the National Front Government introduced the 74th Amendment Bill, which also failed to become an Act following the dissolution of the Ninth Lok Sabha (Mathew, 1994). It was during the tenure of Prime Minister P.V. Narasimha Rao that the 73rd Constitutional Amendment Act, 1992, was enacted. The Act came into effect on April 24, 1993, granting constitutional status to the Panchayati Raj system. This date is now celebrated as National Panchayati Raj Day (Singh & Sharma, 2007).

The 73rd Amendment introduced a robust framework for rural local self-governance by adding Part IX to the Constitution. This framework, detailed in Articles 243 to 243-O, defined the powers, functions, and responsibilities of PRIs (Mathew, 1994).

6.4 KEY PROVISIONS OF THE 73RD CONSTITUTIONAL AMENDMENT

6.4.1 Decentralisation through Three-Tier Panchayati Raj System

The amendment mandated a three-tier structure comprising Gram Panchayats (village level), Panchayat Samitis (block level), and Zila Parishads (district level). Each tier was assigned distinct responsibilities, fostering a hierarchical framework for decentralized governance. In decentralized governance, powers are shared between elected representatives in Panchayati Raj institutions and bureaucratic officials, which facilitates local decision-making (Singh & Sharma, 2007).

6.4.2 Regular elections

The amendment ensured that there is election to the local government bodies (both panchayat and municipalities) at the expiration of every five

years. It gives all the grassroot adult residents starting from the village, as designated cornerstone of participatory democracy.

6.4.3 Reservation for Marginalized Groups

To promote inclusivity, the amendment mandated the reservation of seats for women (one-third of the total) and Scheduled Castes and Scheduled Tribes at all levels of PRIs. This provision aimed to enhance the participation and representation of historically marginalized groups in local governance.

6.4.4 Constitution of State Election Commission

At the expiry of every fifth year, the states are mandated to constitute a State Election Commission to conduct election of the local government bodies (Government of India, 1992).

6.4.5 Constitution of State Finance Commission

After every five years, the states are required to constitute a State Finance Commission whose role is to recommend how to distribute financial resources between the state government and its local bodies.

6.5 STATE-LEVEL LEGISLATIVE IMPLEMENTATION

While the 73rd Amendment provided a constitutional framework, its implementation varied significantly across states due to differing legislative and administrative approaches.

6.5.1 Diverse Approaches to Decentralization

States such as Kerala and West Bengal have embraced decentralization by granting PRIs substantial financial and administrative autonomy. These states have established strong grassroots governance with active community participation. In contrast, other states exhibit bureaucratic dominance, limiting the effectiveness of PRIs (Mathew, 1994).

6.5.2 Impact on Governance Efficiency

States that have effectively devolved powers to PRIs demonstrate improved service delivery, increased accountability, and enhanced community engagement. Conversely, states with limited devolution face challenges, including bureaucratic interference, inadequate funding, and weak institutional capacity (Assam State Finance Commission, 2020).

6.5.3 Autonomous District Councils in Northeast India

The Sixth Schedule of the Constitution provides special provisions for Autonomous District Councils (ADC) in some of the Northeast states, recognizing the unique governance needs of tribal communities. These councils enjoy autonomy over land use, resource management, and local administration, reflecting the region's cultural and governance diversity.

(Stuligross, 1999). Under the 73rd Constitutional Amendment Act of 1992, Tripura was provided with the ADC for local government in its tribal areas.

The 73rd Constitutional Amendment Act of 1992 marked a transformative step in rural local self-governance in India. By granting constitutional recognition to PRIs, it established a foundation for participatory democracy. However, the effectiveness of this framework is contingent upon state-level implementation that reflects local needs and priorities. Context-sensitive governance remains critical to fully realizing the potential of this landmark legislation (Mathew, 1994).

6.6 FINANCE OF PANCHAYATI RAJ INSTITUTIONS (PRIS)

6.6.1 Sources of Revenue

The financial sustainability of Panchayati Raj Institutions (PRIs) in India relies on a mix of revenue sources, including taxation powers, grants from state governments, and allocations from central finance commissions. Recent data indicates that approximately 80% of PRI revenues are derived from central government grants, while state government contributions account for around 15%. Notably, self-generated revenue by PRIs constitutes only 1.1% of their total income, primarily collected through local taxes and fees (Reserve Bank of India, 2024).

State Finance Commissions (SFCs), established under Article 243-I of the Constitution, play a pivotal role in financial devolution to PRIs. SFCs are mandated to assess the financial positions of Panchayats every five years and recommend measures for resource distribution between state governments and local bodies. This mechanism is crucial for promoting fiscal autonomy and ensuring adequate funding for PRIs to fulfil their responsibilities effectively (Mathew, 1994).

6.6.2 Challenges

Despite the framework for revenue generation, PRIs face significant challenges in achieving financial autonomy. Limited fiscal powers and the underutilization of revenue-generating mechanisms restrict their ability to mobilize independent funds. Over 95% of PRI revenues come from grants provided by higher levels of government, which limits their financial flexibility and responsiveness to local needs (Reserve Bank of India, 2024).

The delayed constitution and inefficient functioning of SFCs further exacerbate these issues, leading to insufficient and untimely resource allocation. This dependency on external funding diminishes local ownership of development initiatives, thereby weakening the overall effectiveness of PRIs in addressing community-specific challenges (Mathew, 1994).

Although the financial framework for PRIs includes provisions for grants and limited taxation powers, achieving fiscal autonomy remains a persistent

challenge. Strengthening the institutional mechanisms for financial devolution and enhancing local revenue generation capacities are critical for ensuring the sustainability and effectiveness of rural local self-governance in India.

6.7 CURRENT DEBATES ON RURAL LOCAL SELF-GOVERNANCE

6.7.1 Autonomy and State Oversight

The tension between autonomy and state control remains a critical challenge for Panchayati Raj Institutions (PRIs) in India. Despite the 73rd Constitutional Amendment granting PRIs the status of self-governing institutions, state governments continue to exercise substantial control over their decision-making processes. This lack of genuine autonomy has often relegated PRIs to functioning as extensions of state governments rather than independent local governance bodies. Consequently, grassroots democracy is undermined, limiting the ability of PRIs to effectively address community-specific needs (Mathew, 1994).

6.7.2 Effectiveness in Development

The effectiveness of PRIs in implementing development programs and Sustainable Development Goals (SDGs) varies significantly across states due to uneven devolution of powers and resources. States such as Kerala, which have embraced decentralization, demonstrate better service delivery and community engagement. In contrast, states with limited fiscal and administrative autonomy for PRIs struggle to bridge the gap between policy and implementation. This disparity highlights the need for consistent and meaningful devolution of powers to improve local development outcomes (Divi et al., 2024).

6.7.3 Representation and Inclusion

Although reservation policies have enhanced the representation of women and marginalized groups in PRIs, meaningful participation remains constrained. Many women representatives are often sidelined in decision-making or confined to issues perceived as “women’s concerns.” There are increasing number of women leadership in PRIs across the length and breadth of the country. However, public discourse suggest that there are societal norms becoming stereotypical of women leadership in local government. There have been ample examples where women sarpanch are represented by their husbands or her nearest of male kin. In popular practice and parlance, it had been termed as “*Sarpanch Pati*” (Sarpanch’s Husband). Such societal norms continue to impede constitutional empowerment for inclusive democracy in many parts of the country (Rao, 2022). However, social barriers, such as entrenched patriarchal norms and limited capacity-building initiatives, further hinder their active participation. Consequently, the intended inclusivity of reservation policies is yet to translate into substantial empowerment for these groups (Singh & Srivastava, 2022).

6.7.4 Unified Governance Debate

The idea of merging rural and urban governance into a unified district-level government has gained attention as a potential strategy to streamline resource allocation, infrastructure, and improve service delivery for the changing demographic shift (Panwar, 2024). Proponents argue that viewing administration through rural and urban classification could only stifle governance. However, critics warn that such integration risks neglecting the distinct needs and cultural identities of rural communities, which are best served through localized governance structures.

6.7.5 Role of Technology in Governance

Technological integration in PRIs has emerged as a promising approach to improving transparency, accountability, and service delivery. Digital platforms enable efficient communication between PRIs and citizens, fostering participatory governance. However, challenges such as digital illiteracy and inadequate infrastructure remain significant barriers to equitable access. Addressing these issues is critical to ensuring that technological advancements benefit all communities, particularly those in rural areas (Government of India, 2023).

6.7.6 Bureaucratic Dominance Over Elected Representatives

A significant challenge to the effective functioning of Panchayati Raj Institutions (PRIs) is the persistent dominance of bureaucratic structures over elected representatives (Divi et al., 2024). Although the 73rd Constitutional Amendment envisioned local self-governance as a decentralized and community-driven process, the reality often diverges from this ideal. Administrative officials frequently overshadow elected representatives in decision-making, with priorities shaped more by bureaucratic preferences than by grassroots needs. This dynamic weakens the participatory essence of PRIs and reduces their responsiveness to community-specific challenges. The resulting marginalization of elected representatives not only undermines the principles of grassroots democracy but also fosters disillusionment among both representatives and their constituents (Singh & Srivastava, 2022).

6.7.7 Financial Constraints

Financial sustainability remains a critical bottleneck for PRIs, limiting their operational capacity and effectiveness. Heavily reliant on state and central government grants, PRIs often face delays and inconsistencies in fund disbursement. For example, during the period 2019–2022, local bodies in states such as Uttar Pradesh and West Bengal experienced prolonged delays in receiving funds under the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA). The reliance on external funding not only constrains local autonomy but also leads to underutilization of development funds, further hampering the implementation of grassroots initiatives. The 15th Finance Commission has emphasized the need for timely fund disbursement and greater fiscal autonomy to enhance the financial independence of PRIs, yet systemic inefficiencies persist (Government of India, 2023).

6.7.8 Weak Institutional Capacity

The institutional capacity of PRIs to plan and implement development initiatives remains a critical weakness. Many Gram Panchayats lack the necessary human resources, technical expertise, and infrastructural support to effectively execute Village Development Plans (VDPs) (MoPR, 2018). According to the National Institute of Rural Development and Panchayati Raj, fewer than 20% of Gram Panchayats currently possess functional VDPs, reflecting the widespread inadequacy of planning frameworks at the village level (MoPR, 2024). This lack of institutional capacity is further compounded by the absence of robust feedback mechanisms between PRIs and higher levels of governance, making it challenging to align local initiatives with broader developmental goals (Divi et al., 2024). Strengthening institutional frameworks and enhancing capacity-building measures are essential for enabling PRIs to fulfil their mandate as vehicles for rural development (Mathew, 1994).

6.8 CONCLUSION

The evolution of rural local self-governance in India reflects a journey from traditional village councils to the institutionalized Panchayati Raj system, significantly shaped by the 73rd Constitutional Amendment Act of 1992. This amendment marked a transformative step by granting constitutional status to Panchayati Raj Institutions (PRIs), thereby promoting decentralized governance and grassroots democracy. The three-tier structure comprising Gram Panchayats, Panchayat Samitis, and Zila Parishads was designed to empower local bodies with distinct responsibilities, fostering participatory governance.

Despite these advancements, PRIs face several challenges, including limited autonomy, financial constraints, and bureaucratic dominance. The effectiveness of PRIs varies across states, with some embracing decentralization more effectively than others. Representation and inclusion have improved through mandated reservations for women and marginalized groups, yet meaningful participation remains constrained by social barriers.

Current debates focus on the balance between autonomy and state oversight, the role of technology in governance, and the potential for unified rural-urban governance. Addressing these challenges requires consistent devolution of powers, enhanced financial autonomy, and capacity-building initiatives to strengthen institutional frameworks. By overcoming these hurdles, PRIs can fulfil their mandate as vehicles for rural development, ensuring sustainable and inclusive growth at the grassroots level.

6.9 GLOSSARY

- **Panchayati Raj Institutions (PRIs):** Local self-government bodies at the village, block, and district levels in rural India, established under the 73rd Constitutional Amendment.

- **Gram Sabha:** A body consisting of all adult residents of a village, which plays a crucial role in participatory democracy by approving development plans and monitoring Gram Panchayat activities.
- **Decentralization:** The process of distributing or delegating power from central authorities to local or regional levels of government.
- **Autonomous District Councils:** Special governance bodies in Northeast India that enjoy autonomy over land use, resource management, and local administration, as provided under the Sixth Schedule of the Constitution.

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Rural Local Self-Government:
Current Debates

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6.11 EXERCISE

- Describe the historical evolution of rural local self-governance in India, highlighting key developments from the pre-colonial period to post-independence.
- Explain the key provisions of the 73rd Constitutional Amendment Act of 1992 and their significance in strengthening grassroots democracy in India.
- Discuss the current debates on the autonomy and effectiveness of Panchayati Raj Institutions (PRIs) in India. How do these debates impact the functioning of PRIs?
- Analyze the financial challenges faced by Panchayati Raj Institutions (PRIs) and suggest measures to enhance their financial autonomy and sustainability.
