

## PART IX

[Part IX](#) of the Indian Constitution is a crucial part added by the 73rd Amendment of the Constitution. The Part includes crucial provisions regarding the establishment of Panchayats and their functioning at three levels, namely, village, intermediate and district. Part IX resulted in widening the scope of Indian democracy by introducing the Panchayati Raj system in the villages. Before the 73rd Amendment, the village administration was part of Article 40 under the Directive Principles. In the Constitutional Assembly, B.R. Ambedkar, chairman of the Drafting Committee, was not keen to have an elected government at the village level. [According to him](#), villages are a den of ignorance, narrow-mindedness and communism. He felt that the highly oppressive caste system in villages would result in upper-caste dominance in electoral politics. Rather than caste eradication, it would strengthen the institution. Though he opposed the direct representative government at the village level, opposition from a considerable number of members led to the inclusion of the Panchayat as a Directive Principle.

Part IX of the Indian Constitution is deeply embedded in the Gandhian philosophy of Gram Swaraj. While for Ambedkar, villages were a den of ignorance, Gandhi believed that the villages are the foundation of India. According to him, India would only gain independence when villages would be self-independent and self-reliant republics. Part IX aims to create a similar kind of structure by ensuring regular elections and providing fiscal resources to the rural local bodies so that they can become self-reliant. The Part also works on philosophy, where development is viewed as from the bottom up rather than trickling down from the upper level to the bottom. This gives the people more freedom to choose what they want and how to do it rather than imposing from a higher authority. Part IX focuses on decentralisation and participatory democracy. Before it, India was a representative democracy. However, Part IX moves away from such a structure and ensures that people act as decision makers in a real sense, as elections at the lower level are not done based on party affiliation.

However, the rural administration and development remained at the mercy of bureaucrats and the policies formed under five-year plans. In 1952, the Government launched the Community Development Programme with the aim of holistic development of rural societies through the participation of the rural population. Village-level workers, known as gram sevaks, formed the link between the administration and the people. A National Extension Programme was launched in 1953 to transfer agricultural technology and information to the farmers. However, all such programs remained subject to the bureaucratic machinery.

In 1957, the [Balwant Rai Committee](#), in its report, suggested the creation of a three-tiered Panchayati Raj structure for rural governance. The recommendations were implemented by the

Rajasthan government, becoming the first state to have the Panchayati Raj system in 1959. States adopted a system that suited their own needs rather than a single type. In 1977, the Ashok Mehta Committee was formed to reconsider the issue of rural governance. It suggested a two-tiered Panchayati Raj system comprising Village Panchayats and Zila Parishad. All these structures, however, remained in the confines of bureaucratic power. The [GVK Rao Committee](#), formed in 1985, gave primacy to the districts and made them primary units of planning. It also made the recommendation to hold regular elections. The L.M. Singhvi Committee, formed in 1986, recommended providing more financial resources and constitutional status to the Panchayats. These recommendations, however, could not be implemented before the 73rd Amendment due to political instability, ambiguity regarding the structure and resistance from the states. The Balwant Rai Committee, while recommending 3 three-tier structure, could not be implemented due to a lack of compulsion. While states like Rajasthan implemented its recommendation, the majority of states ignored it. Ashok Mehta Committee recommended a 2 Tier Structure. However, the fall of the Janata Government resulted in it not getting enacted. The LM Singhvi Committee's recommendation resulted in the 64th Amendment Bill (1989). This, however, could not get passed in the Rajya Sabha due to apprehension shown by the State Government, which felt that it was the encroachment of the Union in the State machinery.

The 73rd Amendment of 1993, on the basis of these committee reports spanning a period of more than three decades, made Panchayats a constitutional body with its own financial resources to provide autonomy.

Part IX of the Constitution includes Articles 243 to 243O, which state all the necessary provisions for the establishment and functioning of the Panchayat at three levels.

**Article 243:** Article 243 titled Definitions explains the terminology used in the context of Part IX. Gram Sabha is defined as a body of people registered in the electoral rolls relating to a village comprised within the area of the Panchayat at the village level. The intermediate level is defined as the level between the village and the district. This intermediate level can be specified by the Governor through notification. Panchayat, by this article, is defined as an institution of self-government for rural areas. Village stands for a village defined by the Governor through notification, and can include groups of villages as well.

**Article 243A:** Article 243A states that a Gram Sabha may exercise the power and functions that a state legislature could empower it by law. While it empowers the Village Panchayats to function and exercise power, the Panchayat is subject to the state Legislature.

Article 243B: Article 243B states that Panchayats at the village, intermediate and district levels should be constituted in every state. Additionally, it also states that there should be no panchayat at the intermediate level in a state with a population of less than 20 lakhs.

Article 243C: Article 243C is an important article that defines the composition of the Panchayats. The State Legislature, by law, can make provisions regarding the composition of Panchayats. The ratio between the population of the Panchayat and the seats allocated should be practicable. The article mandates direct election for filling all the posts in the Panchayat. The chairperson for the intermediate and district levels should be elected indirectly from the members chosen through direct election. The Chairperson for the village level can be selected both directly and indirectly, depending on the laws made by the state.

Article 243D: Article 243D states the provision of reservation for certain communities in the Panchayat elections. The article states that seats should be reserved for the Scheduled Caste and Scheduled Tribe categories adequately to ensure representation. The reserved seats should be in proportion to the population of these categories at the concerned level. Of these reserved seats, 1/3rd of the seats should be reserved for women of these communities. Additionally of the total seats 1/3rd of seats should be reserved for women. These reserved seats should be allotted in rotation to various territorial constituencies of the Panchayat.

Article 243E: Article 243E defines the duration of a Panchayat. According to the Article, a Panchayat can function continuously for 5 years from the date of appointment. The election for a new Panchayat should be done before the expiration of the Panchayat. The Panchayat, however, can be dissolved by the State Legislature on some specific grounds. In such cases, the fresh election should take place within six months of expiration.

Article 243F: Article 243F states the necessary provisions for the disqualification of membership. A person can be disqualified on the same grounds that are applicable for disqualification for membership in the state legislature. An exception to this provision is the age qualification. For the membership of the state legislature, the age requirement is 25 years. However, for Panchayat elections, it is 21 years. Thus, no one can be disqualified on the grounds of age not being 25 years. The article empowers the state legislature to make laws regarding the disqualification of membership of an individual.

Article 243G: Article 243G states that the State Legislature can grant power and authority to the Panchayats to function as self-governing institutions. These functions and powers include the creation of plans for economic development and the implementation of social justice. The article also states that a Panchayat can work on the subjects mentioned in the Eleventh Schedule. The

Eleventh Schedule is often described as a Functional Blueprint for grassroots democracy. It provides the necessary subjects on which the local level governance can work and ensure the development. It is significant because it materialises 'self-governance' which, without it, is largely a philosophical concept. The Eleventh Schedule includes a total of 29 subjects:

1. Agriculture	7. Minor forest produce	13. Roads, Bridges and other means of communication.	19. Adult and non-formal education	25. Women-child development
2. Land Improvement	8. Small-scale industries	14. Rural Electrification	20. Libraries	26. Social welfare
3. Minor irrigation	9. Khadi and cottage industries	15. Non-conventional energy sources	21. Cultural Activities	27. Welfare of weaker sections, particularly SCs and STs
4. Animal Husbandry	10. Rural Housing	16. Poverty alleviation programmer	22. Market and fairs	28. Public distribution
5. Fisheries	11. Drinking Water	17. Education	23. Health and Sanitation	29. Maintenance of community assets.
6. Social Forestry	12. Food and Fodder	18. Vocational training	24. Family welfare	

Article 243H: Article 243H states that the State Legislature can empower the Panchayat to levy, collect and appropriate taxes, tolls and duties, as well as provide taxes, tolls, and duties collected by the State Legislature to the Panchayat for its functioning. The Panchayat can also receive grants-in-aid from the Consolidated Funds of India.

Article 243I: Article 243I includes the provision for the formation of the Finance Commission to review the financial position of the panchayats. According to the article, the Governor of the state should ensure the formation of a finance commission within one year of the commencement of the 73rd Amendment and subsequently, every five years. The Commission could make suggestions regarding the distribution of taxes, tolls and duties between the State Government and the Panchayat, as well as the allocation of taxes, duties that can be assigned to the Panchayat. The Commission can also make recommendations to ensure the financial health of the Panchayat. The

power to appoint members to the Commission is given to the State Legislature. The report of the Finance Commission should be discussed on the floor of the Legislature.

Article 243J: The article states that the State Legislature, by law, should make provisions regarding the maintenance and auditing of the accounts of the Panchayat.

Article 243K: Article 243K makes provision regarding the elections to the Panchayat. The article vests the responsibility of the supervision, direction and conduct of the Panchayat elections on the State Election Commission. The State Election Commissioner should be appointed by the Governor, and on the request of the Commissioner, the Governor should provide employees to conduct elections. The tenure and service of the Commissioner are to be decided by the Governor. To ensure the independence of the Election Commissioner, the disqualification can be done only in the way it is done for a judge of a High Court.

Article 243L: Article 243L states the applicability of provisions of Part IX in Union Territories. According to this article, the provisions of this Part shall apply to UTs as they are applied in states. However, the President, through a public notification, can make necessary exceptions if they feel the need for it in UTs.

Article 243M: Article 243M is a crucial article that identifies the states exempt from Part IX. It states that the provisions would not be applicable in the states of Nagaland, Meghalaya, and Mizoram. However, if the state Legislature of these states deems fit to extend the provisions of Part IX, it can do so by passing a resolution by a majority of 2/3rd in the Legislature. These particular states are exempted due to their unique social structure. The Panchayati Raj model might lead to the destruction of the already present self-governing tribal structure, which suits the requirements of these states. Thus, to maintain the traditional structures that are already well-suited for their local requirements, these states are exempted from Part IX. The hill areas of Manipur, having district councils, and the hill areas of the Darjeeling district in West Bengal are also exempted from this Part as there exist the Darjeeling Gorkha Hill Council. The Parliament can impose Part IX in the Scheduled Areas (5th Schedule) and the Tribal Areas (6th Schedule) with certain modifications and exceptions. However, such laws can be passed without being a Constitutional Amendment. This results in Parliament having a greater degree of power to make laws regarding these areas.

In 2000, through the 83rd Amendment, Clause 3A was added to this article. This stated that the reservation provisions for the Scheduled Castes would not be applicable in the state of Arunachal Pradesh.

Article 243N: Article 243N is regarding the continuance of existing laws and the Panchayat. According to this Article, laws enacted before the 73rd Amendment regarding Panchayat shall cease to exist with the commencement of this Amendment Act. However, those Paanchayats that have been elected before the 73rd Amendment will continue to exist until their duration unless dissolved by the State Legislature.

Article 243O: Article 243O states that the validity of delimitation of constituencies and the allotment of seats in the constituencies in the Panchayat cannot be challenged in court. Additionally, the result of the Panchayat elections shall be challenged through an election petition in the way the State Legislature has decided by law.

Part IX also ensures social justice and women's empowerment by promoting women's representation. While it provides reservation to socially backward categories like SCs, STs and OBCs, at the same time, it aims to lessen the patriarchal grip. 1/3rd of the total seats, as well as the reserved seats of categories, are reserved for women. This reflects the democratic deepening, where women are being allowed to participate actively in the political sphere where they were earlier prohibited due to social norms. However, what remains as a challenge is the Proxy Representation, where the women are elected but all the major power and authority is held by male members of their family.

Some landmark judicial cases have invoked the Constitutional Framework created by the 73rd Amendment, which provides interpretations of Part IX.

*State of UP versus Pradhan Sangh Kshetra Samiti (1995)* is a landmark case that emerged during the implementation of Part IX. Pradhan Sangh Kshetra Samiti challenged the Uttar Pradesh Panchayat Raj (Amendment) Act, 1994, which sought to align with the 73rd Amendment. The Pradhan Kshetra Samiti challenge the aspects that defined villages and the delimitation process. The High Court ruled against the State Government, stating that villages are anthropological units and, rather than being defined by the State Act unanimously should be specified according to the will of the inhabitants. However, the Supreme Court overturned this decision, stating that the villages are administrative and legal units and thus validated the State Act, which combined more than one village in a Gram Sabha. Rather than a narrow definition of villages, it affirmed its broader definition regarding the implementation of Part IX provisions.

*Bhanumati versus State of UP (2010)* is another significant case that dealt with a No-Confidence Motion against the Panchayat Chairperson. In this case, the petitioner challenged the validity of the UP Panchayat Laws (Amendment) Act, 2007, which introduced the procedure of a No-Confidence Motion against the Panchayat Chairperson. The petitioner challenged this,

arguing that this act is inconsistent with the provisions of Part IX as it provides a fixed term of five years. The Supreme Court held that the No-Confidence Motion is constitutionally valid as democratic institutions have to ensure continuous accountability.

*Kishan Singh Tomar versus Municipal Corporation of Ahmedabad (2006)* invoked Articles 243U and 243T, which deal with Municipal and Panchayat elections. The Municipal Elections of Ahmedabad Municipal Corporation were being delayed due to administrative hurdles like delimitation of wards and updating electoral rolls. The Court, in its judgment, held that the Municipal elections should be convened in the interval of 5 years and stated that the provisions made in Article 243I are non-negotiable. It directed that the State Election Commission is an independent body and thus should convene elections every 5 years.

*K Krishnamurthy versus Union of India (2010)* invoked 243D, which provides reservation of seats for some categories. The Petitioner in this case challenged the reservation being given to Other Backwards Castes in Panchayats and Municipalities. The Court, in its Judgement, held that political backwardness is different from social and economic backwardness used for jobs and education. Thus, it validated the reservation being given to OBCs and other categories. However, it limited the reservation to a maximum of 50 %.

*Rajendra Singh Rana versus Swami Prasad Maurya* is a 2007 case that is indirectly related to Part IX. The case deals with the anti-defection law. In 2003, 13 MLAs of the Bahujan Samajwadi Party had defected to the Samajwadi Party. The speaker, however, had accepted the split and did not disqualify the defected MLAs. The Supreme Court, however, in its ruling struck down the decision of the Speaker, stating that a quasi-judicial tribunal like the Speaker cannot make arbitrary decisions and their decisions are subject to judicial review. While these laws don't directly apply to Panchayat elections, District Magistrates at such a level as Presiding Officers act as a quasi-judicial tribunal. The judgment affirms that their decisions are also subject to judicial review.

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