

LAW RELATED TO PANCHAYAT RAJ IN MAHARASHTRA - I

Unit Structure

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1.1 OBJECTIVES

- To study the historical background of Panchayat Raj system
- To study Provisions regarding Gram Panchayat administration in Gram Panchayat Act, 1958
- To understand the important elements of this Act.

1.2 INTRODUCTION

From ancient times the cohesive rural society and the system that controls it has existed in the rural areas. India was ruled by the British for 150 years. India finally became independent on August 15, 1947 and the democratic system started in the country.

The country was governed by elected representatives. However, as all power is concentrated at the central and state level, the rulers noticed that there were huge obstacles in the development of the people of the country. How to overcome this obstacle and involve the general public in the development process? For this, the government appointed various central and state level committees and called for their reports. First of all, democratic decentralization was preferred by almost all the committees, so the government started the experiment of Panchayat Raj by giving priority to democratic decentralization. Today, almost all the states in India have adopted Panchayat Raj.

In the 21st century, the Panchayat Raj system has gained an important place in terms of democratic decentralization and increasing public participation. The Gram Panchayat is the lowest level in the Panchayat Raj system and is also the foundation of the Panchayat Raj system. With this in mind, Gram Panchayats have an important place in the Panchayat Raj system. Mahatma Gandhi was aware of the philosophy that India was created from villages and the development of villages is the development of the country. So Mahatma Gandhi gave the slogan 'People go back to villages'.

In the Indian democratic system, Panchayat Raj institutions are undergoing significant changes over time. This is a positive thinking of the democratic system and this thinking has accelerated the process of rural development in the 21st century. The provisions of the Panchayat Raj system in Maharashtra are mentioned in the Mumbai Gram Panchayat Act of 1958 and the Maharashtra State Zilla Parishad and Panchayat Samiti Act of 1961.

From this point of view, it will be important to study both these laws for rural development. Also, the 73rd Amendment Bill was passed in 1992 to make Panchayat Raj for the people. According to the bill, both the above laws have been amended. Due to the 73rd Amendment, radical changes have taken place in the Panchayat Raj. All the above reviews have been taken in this case.

1.3. HISTORICAL BACKGROUND OF PANCHAYAT RAJ

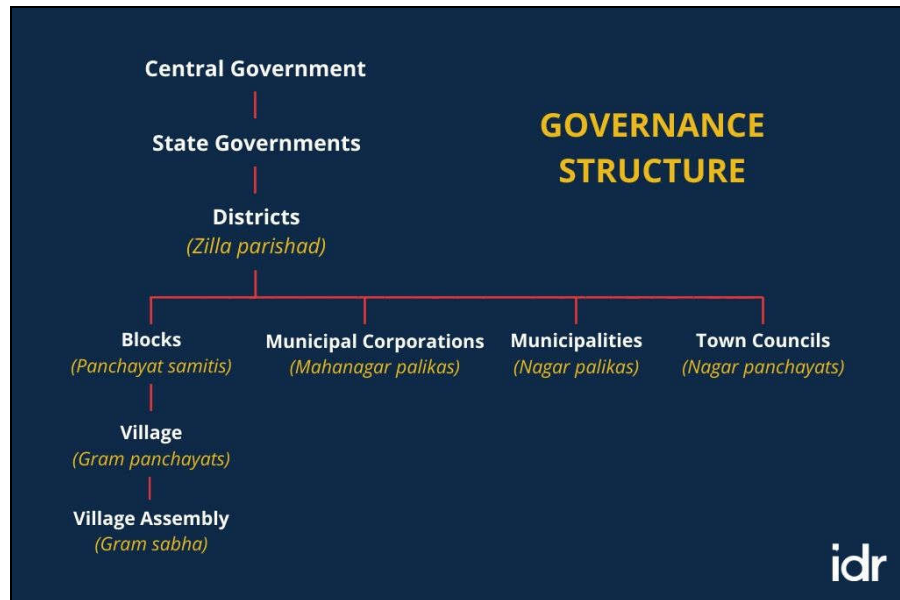
The post-independence state of Mumbai was reorganized on October 17, 1956 as a bilingual state. It includes Gujarati speaking communities like Kutch, Saurashtra, Mumbai, Konkan, Western and North Maharashtra as well as Marathi speaking Marathwada region of Hyderabad state and Vidarbha or Vahada region of Madhya Pradesh. The Kannada-speaking regions of Belgaum, Bijapur, Kanda and Dharwad were separated and annexed to the state of Mysore (Karnataka). The agitation started for the formation of a United Maharashtra with Mumbai and for the formation of Gujarat.

The then Chief Minister of the bilingual state of Mumbai, Yashwantrao Chavan, convinced the Central Government of its role in creating a united Maharashtra. As a result, on May 1, 1960, the state of Maharashtra was established for Marathi speakers.

Prior to the formation of the State of Maharashtra, efforts were made to bring about social development in India through democratic principles and economic planning. The National Planning Board clarified the principles of social development in the first Five Year Plan. Social development is a process or a public welfare program that helps people to develop on their own strength and means; a process that primarily changes the norms and traditional way of life of rural society. The Social Development Program and the National Extension Services Project were launched by the Central

Government on October 2, 1952 in India to achieve social development. The previous objective was to involve and encourage the general public in development work. For this, ad hoc committees were set up at taluka, district and state level. Initially these programs were a success. Later, due to the failure of both these important programs, a committee was appointed on January 16, 1957 under the chairmanship of Balwantrai Mehta. In this committee, Shri Thakur Fulsing, B. G. Rao and D. P. Singh were members. The committee submitted its report on November 24, 1957. The committee said in its report that "the needs and aspirations of the local department should be met by the local people who are passionate about the program and they should oversee the work. We will not be able to awaken local aspirations and entrepreneurship in the field of development work, unless we provide adequate financial support and authority to this organization by funding or creating the right representative body to achieve these things." For this, the Balwantrai Mehta Committee suggested to the Central Government that there should be a three-tier structure of Gram Panchayat, Development Group and Zilla Parishad. The recommendations of the Balwantrai Mehta Committee were accepted by the Central Government and approved in the Standing Committee of the National Development Council. In this way, the new term 'Panchayat Raj' was adopted to popularize democratic decentralization. Rajasthan was the first state to start experimenting with Panchayat Raj system. The first Prime Minister of India, the late Pt. Jawaharlal Nehru, on the auspicious occasion of Mahatma Gandhi's birthday on 2nd October, 1959 started Panchayat Raj at Nagaur in Rajasthan.

As per the recommendation of Balwantrai Mehta Committee, for democratic decentralization and Panchayat Raj formation in the State of Maharashtra, a committee was appointed under the chairmanship of the then Revenue Minister Shri. Vasantrao Naik on June 27, 1960. Rural Development Minister (Shri Bhagwantrao Gathe), Education Minister (Daulatrao Desai), Finance Secretary (Shri. Madhukarrao Yardi), Secretary, Department of Co-operation and Rural Development (Mr. Dinkarrao Sathé), Deputy Development Commissioner (Mr. P.G. Salvi), etc. were the members present in the committee. The committee submitted a report with a total of 296 recommendations on 15th March 1961. In this report, the committee presented its basic recommendations and formulated the three-tier structure of Panchayat Raj. These include Gram Panchayat at village level, Panchayat Samiti at taluka level and Zilla Parishad at district level. The Vasantrao Naik Committee recommendations were approved by both the Houses of the Legislature of Maharashtra on September 8, 1961, with some minor changes. Its implementation started on 1st May 1962, the second anniversary of the State of Maharashtra and the State of Maharashtra was established. By 15th August 1962, Zilla Parishad and Panchayat Samiti elections were completed and the Panchayat Raj system was functioning in Maharashtra. According to the Mumbai Gram Panchayat Act, 1958, Gram Panchayats were already established earlier.



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1.4. HISTORICAL BACKGROUND OF GRAM PANCHAYAT

From the Vedic period, the village administration function 'Gram Sabha' was held in a democratic manner. In the Gram Sabha, the chiefs used to come together and take decisions regarding the village. The head of the village was called 'Gramini'. In the Gram Sabha, the chiefs used to come together and take decisions regarding the village. The Gram Panchayat is mentioned in Ramayana-Mahabharata, Smriti Granth, Buddhist Jatak Katha, Ancient Inscriptions, Kautilya Arthashastra. During the Maurya Empire, Gram Panchayats were developed in Yadav-era Maharashtra and controlled the lives of the people of that village. In other words, it is clear that Gram Panchayats in India have a very old history. The Gram Panchayat has been an India-wide institution since ancient times. Indian self-sufficient villages depended on this. During the last period of the Mughal Empire and during the rule of the British East India Company in India, the functions and powers of the Gram Panchayats were reduced and weakened.

In 1832, Sir Charles Merckel said of the Gram Panchayat and the village, "The rural community was a small republic. They had all the necessities they needed. They were independent of any foreign relations. One dynasty after another came to power, one revolution followed another, but the rural community survived."

In 1871, Sir Henry Maine, the British administrator of India, also stated that "Indian villages had organized and empowered bodies working to maintain civil order, settle disputes and protect the people. The rural police system also existed." In short, the Gram Panchayat (Gram Sabha), the oldest body in the world controlling the economic and political life of the rural community, existed in India and alternatively in Maharashtra.

1.5. MUMBAI GRAM PANCHAYAT ACT, 1958.

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This Act may be called the Bombay Village Panchayat Act, 1958. It extends to the whole of the State of Maharashtra except the areas within the limits of a municipal corporation, municipalities, or cantonment established by or under any law for the time being in force.

1.5.1. Introduction.

The Mumbai Gram Panchayat Act, 1958 was first published in English in the Gazette of the Government of Mumbai on 23rd January 1959 with the consent of the President of India. It was initiated in order to establish a Gram Panchayat for each village or village group and to act as a component of local self-government and rural development. The Gram Panchayats in the State of Maharashtra have been set up to provide them with the power and authority they need to make it possible and for many other things.

Article 40 of the Constitution of India directs the state governments to establish Gram Panchayats and give them the necessary powers and authority to enable them to function as a component of Swarajya. There is no doubt that if the powers conferred on the Gram Panchayat under the Mumbai Gram Panchayat Act, 1958 are properly utilized and the government financial assistance and other tax revenue received from it are properly utilized, the villages will be improved.

The first law was enacted in 1920 to establish Gram Panchayats in the former Mumbai province. However, the purpose of the Gram Panchayat Act of 1920 was to give the people of some small areas a fair chance to provide water supply, health, public facilities and other useful things in such areas so that they could look after the local self-government. The Mumbai Government enacted the Mumbai Gram Panchayat Act, 1933 with the objective of further enhancing the powers of the Gram Panchayat. The law gives Gram Panchayats the right to impose taxes, the right to vote for women and some rights related to civil and criminal laws. The Mumbai Gram Panchayat Act, 1958 was passed to give more power and authority to the Gram Panchayats. The Mumbai Gram Panchayat Act, 1958 has been passed by amending the rules relating to the composition and administration of Gram Panchayats in the State of Mumbai. From Section No. 1 to Section 188, since the establishment of Gram Panchayat, information about its structure and function has been given. All those clauses can be summarized as follows.

1.5.2. Preliminary Provisions.

- Section 1 – Section 1 explains about the short title of the Act. This Act may be called the Mumbai Gram Panchayat Act, 1958.
- Section 2 - Pursuant to Section 2, the scope and commencement of the Mumbai Gram Panchayat Act, 1958 is applicable to the entire State of Maharashtra except for the area within the boundaries of the Corporation, Municipality or Camp established under it.

- Section 3 - Under Section 3, the Mumbai Gram Panchayat Act 1958 has been explained.

1.5.3. Establishment and composition of gram sabha, panchayats.

- Section 4 – Declaring a village under Section 4, to divide / consolidate the Gram Panchayats or to establish an independent Gram Panchayat for that particular local area. Similarly, there are provisions regarding village inquiry system, Gram Panchayats etc. under the previous law.
- Section 5 - Section 5 provides for the establishment of a Gram Panchayat in each village. According to Article 40 of the Constitution of India, the state government has to establish Gram Panchayats.
- Section 6 - Section 6 has been omitted from the Mumbai Gram Panchayat Act, 1958.
- Section 7 - Under Section 7, provision has been made for Gram Sabha meetings. The Gram Panchayats will meet six times a year and if the Sarpanch, Deputy Sarpanch or members make any mistake in convening such a meeting and are found guilty at first sight, action will be taken under this section. There are also provisions regarding disqualification action against the Sarpanch, additional meeting, chairman of the meeting, meeting of the gram sabha, notice of the meeting, his rights and duties, etc.
- Section 8 - Pursuant to Section 8, sub-clauses are given in respect of Panchayat Accounts, Duties of Gram Sabha, Meeting at the beginning of the year, Proceedings of the meeting, Record of Gram Sabha, Report of the previous year, etc.
- Section 8A - The rights and duties of the Gram Sabha are included (each Gram Sabha) and changes of the year 2003 were included under Section 3 of the Maharashtra Act No.3.
- Section 9 - Panchayats have been established under this section. Provisions have been made regarding corporate bodies, names of Panchayats, currency, property acquisition rights, claims in the name of Panchayats, etc.
- Section 10 - The composition of the Gram Panchayat under Section 10 shall be minimum 07 and maximum 17 members as prescribed by the State Government. Also, provisions have been made regarding the reserved seats, Scheduled Castes, Scheduled Tribes, Backward Classes, Women Members Reserved seats, Term, departments and members.
- Section 10-1A – It provides for submission of Caste Certificate and Validity Certificate (Exchange of Certificate of Certificate and its Verification) by a person contesting election for a reserved seat.

- Section 10-A - This section contains provisions relating to the conduct of Gram Panchayat elections, preparation of voter lists, as well as additional powers of the State Election Commissioner, etc.
- Section 11 - Pursuant to Section 11 of Mumbai Gram Panchayat Act 1958, it provides for the filling up of vacancies by the Election and State Election Commission, election dates, election procedures and rules.
- Section 12 - Under section 12, the list of voters will be prepared, there are provisions in this regard.
- Section 13 - This section provides for the right to vote and to be elected, the eligibility of the voter, the eligibility of the candidate. If a person is elected to more than one seat in the Gram Panchayat, all the seats will become vacant if he does not resign from all the seats except one by a written notice signed by him and sent to the State Election Commission within the prescribed period.
- Section 14 – This section provides for the type of person who will not be a member of the Panchayat or will not be eligible to be a member. Ex: criminal, maniac, ZillaParishad or PanchayatSamiti members, foreign nationals, having more than two children, tax collectors, etc.
 - Any person with disqualification arising out of various convictions and corruption under section 14A of the Act
 - Any person disqualified by the State Election Commission under Section 14B.
- Section 15 (Determination of validity of elections) - provides for the ruling on the validity of any election by a candidate or any person eligible to vote in the election of a member of the Panchayat and the procedure for conducting a judicial inquiry into the validity of the election.
- Section 15A provides for prohibition of courts from interfering in election matters.
- Section 16 - This section provides for inability to continue as a member.
- Section 17 - Excluded (Section 11 of Maharashtra Act No. 36 of 1965)
- Section 18 - Section 18 prohibits campaigning in or near the polling station.
- Section 19 – In this there is provision for punishment for misconduct at or near the polling station.
- Section 20 - Punishable for misconduct at the polling station.
- Section 21 - provides for the secrecy of voting.

- Section 22 - This section provides that election officials, etc., shall not work for the candidates or shall not bear the power of voting.
- Section 23 (Breaches of official duty in connection with elections) - Section 23 provides for breach of official duties in connection with elections.
- Section 24 (Removal of ballot papers from polling stations to be an offence) - Any person who fraudulently takes or attempts to take a ballot paper from a polling station or commits any such act is a crime. It is a crime to move a ballot paper from a polling station.
- Section 25 (Other offences and penalties thereof) - provides for other offenses and punishment.
- Section 26 (Prosecution in certain offences) - This section provides for prosecution in cases of specific offenses.
- Section 27 (Term of office of members) - It contains the terms of the members i.e. term of office of members, provision regarding by-election.
- Section 28 (Commencement of term of office) - Under Section 28, there is a provision as to when and how the term should start.
- Section 29 - Section 29 provides for the dispute between the members regarding resignation.
- Section 30 - Under Section 30, there are provisions regarding election of Sarpanch, ineligibility to hold office as Sarpanch, reserved seats for Sarpanch, reserved seats for Scheduled Castes and Scheduled Tribes, reserved seats for backward classes, reserved seats for women, term of reserved seats.
- Section 30-1A - provides for submission of caste certificate and validity certificate by a person contesting for the reserved post of Sarpanch.
- Section 30-A - Provision is made in this regard for the election of Sub-Panchayat in the Gram Panchayat.
- Section 31 - Section 31 provides for tenure of Sarpanch and Deputy Sarpanch.
- Section 32 - Section 32 is omitted.
- Section 33 provides for the election of Sarpanch and Deputy Sarpanch.
- Section 33-A provides for the payment of hospitality allowance to the Sarpanch.
- Section 34 provides for resignation of Sarpanch or Deputy Sarpanch.

- Section 35 provides for no-confidence motion against the Sarpanch and Deputy Sarpanch after giving notice to the Tehsildar not to attend any meeting of the Panchayat at that time and not less than one-third of the total number of members have the right to vote.
- Section 36 provides for the time and place of the meeting of the Panchayat and the procedure of the meeting.
- Section 37 provides for modification or revocation of resolutions passed by the Panchayat.
- Section 38 deals with the executive powers of the Panchayat and the functions of the Sarpanch and Deputy Sarpanch.
- Section 39 provides for removal of Sarpanch or Deputy Sarpanch, giving them an opportunity to inquire and present their case, disqualification of election, appeal court fee.
- Section 39A - The Government has the power to direct an inquiry under this section.
- Section 40 provides for the absence of Panchayat members in absentia.
- Section 41 - Excluded.
- Section 42 provides for re-election of selected members.
- Section 43 provides for filling up of vacancies.
- Section 44 - There is provision for non-obstruction of Panchayat function due to vacancy.

1.5.4. Administrative rights and duties.

- Section 45 - There are provisions regarding the administrative powers and duties of the Panchayat under Section 45.
- Section 45A - has been omitted.
- Section 46 - Provision is made in this regard for the transfer of responsibility for carrying out or maintaining the organization or functions of the organization.
- Section 47 - There is provision in this regard for the right of the State Government to transfer the execution of other works assigned by the State Government.
- Section 48 provides for other duties.
- Section 49 provides for Rural Development Committees.
- Section 49A contains provisions regarding Beneficiary Level Sub-Committee.
- Section 50 provides for joint committees of two or more local bodies.

- Section 51 - Village open space, waste plots, vacant plots, Gurucharan plots, public roads, roads, bridges, ditches, dams, fences, wells, river basins, ponds, streams, lakes, canals, trees or any other property subject to such terms and conditions as the State Government may deem fit can be handed over to the Panchayat.
- Section 52 provides for control over construction of buildings. Such permission may be granted or denied with or without conditions.
- Section 53 - Public Roads under Section 53; there are provisions for barriers and encroachments on open space.
- Section 54 - The owner of any land or area shall be specified by written notice to the Panchayat from time to time. There is provision in this regard. There is provision for numbering seats.

1.5.5. Special provisions for gram sabha and panchayat in scheduled areas.

- Section 54 A - Pursuant to Section 54 A, there are provisions regarding the rights and duties of the Gram Sabha in the Scheduled Area.
- Section 54 B provides for the rights and duties of a Panchayat in a Scheduled Area.
- Section 54 C - Under Section 54 C, provisions have been made for Gram Sabha meetings.
- Section 54 D - There is a provision to table a no-confidence motion against the Sarpanch and Deputy Sarpanch in the Gram Sabha of the Gram Panchayat.

1.5.6. Panchayat - its assets and funds.

- Section 55 - Under Section 55, the Panchayat has vested property licenses. There is a provision for the Panchayat to give, sell or transfer it.
- Section 56 provisions have been made under Section 56 for the property of the Panchayat.
- Section 57 - Funds are provided for each village in the Gram Panchayat.
- Section 57A provides for the right of the Gram Panchayat to take loans for carrying out its functions.
- Section 58 provides for the appropriation of village funds and property.
- Section 59 - Under section 59, there are provisions for adjudication of property claims made by the Panchayat or against the Panchayat.

1.5.7. Establishment, budget and accounts.

- Section 60 provides for the Secretary of the Panchayat.
- Section 60 A provides for the specific duties of the Secretary in this regard.
- Section 61 provides for the appointment of such servants as may be necessary for the Gram Panchayat to discharge its duties properly.
- Section 62 - Under section 62, provision has been made for the budget and accounts of the Gram Panchayat.
- Section 62 A provides for revised or supplementary budget.

The compositions of the Judicial Panchayat and its powers have been omitted in Sections 63 to 89 of the Maharashtra Act No. 13 of 1975. Also in cases, Sections 90 to 112 of the Judicial Procedure and Sections 113 to 123 of the Enforcement have been excluded by Section 17 of the Maharashtra Act, Act 13, 1975

1.5.8. Taxation and recovery of claims.

- Section 124 - Under Section 124, the Panchayat has fixed minimum and maximum rates for levying taxes and fees by the State Government. There is a provision in this regard. It includes provisions on building and land tax, Octroi, travel tax, entertainment tax, bicycle, bullock-cart, horse-cart tax, business and job tax, general health tax, water bill, etc.
- Section 125 - There are provisions regarding payment of contribution in the form of lump sum by the factories in lieu of taxes levied by the Panchayat, such as approval of a lump sum from the factory to the Gram Panchayat resolution, recovery from the factory.
- Section 126 - Pursuant to Section 126, provision for granting of market fees etc. to the market in the Gram Panchayat, weekly market by auction or by private auction.
- Section 127 - Under section 127, there are provisions for levying cess on every rupee of Gram Panchayat land revenue.
- Section 128 - Section 128 provides for the right of the PanchayatSamiti to increase the taxes of the Gram Panchayat.
- Section 129 - Under section 129, there are provisions regarding collection of taxes and other dues, method of tax collection, bill of tax or fee, demand letter, movable confiscation warrant, unproductive factories etc.
- Section 130 provides for the power of the District Collector to issue directions for non-recovery of non-recoverable amounts, order for writing off arrears etc.

1.5.9. Financial assistance to panchayats.

- Section 131 - Pursuant to Section 131, there is a provision for granting an average of the same amount of land revenue received every five years starting from 1st April, 1964 as a grant.
- Section 132 - Pursuant to section 132, the Maharashtra ZillaParishad and PanchayatSamiti Act, 1961 provides for the provision of loans to the Panchayats in the district for the purposes of this Act.
- Section 132-A - Under Section 132A, the government has made provision to provide various grants to the ZillaParishad. Provision has been made in this regard that the Gram Panchayat should receive the amount of revenue as per the population.
- Section 132-B provides for a separate water supply fund for each village called the Village Water Supply Fund.
- Section 133 - Under section 133, there are provisions regarding the establishment of a fund called District Rural Development Fund in each district from the contribution made by the Panchayat in respect of Rural Development Fund.

1.5.10. Control

- Section 134 - This section has been omitted (Establishment of District Gram PanchayatMandal).
- Section 134A- (Consequently Special Provisions of the Mumbai Reconstruction Act, 1960) has been omitted.
- Section 135- Under section 135, there are provisions regarding the duties of ZillaParishads and PanchayatSamitis.
- Section 136 - Under Section 136, there are provisions for appointment of District Gram Panchayat Officers.
- Section 137 provides for the right of the Panchayat to call for any work etc.
- Section 138 provides for delegating duties to ZillaParishad, PanchayatSamiti to any of its presiding officers or any other officer.
- Section 139 provides for the investigation of any immovable property in the possession of any Gram Panchayat or as per its direction to the ZillaParishad and PanchayatSamiti.
- Section 139-A provides for the authority of the authorized officer or person to inspect and manage any work or development plan undertaken by the Gram Panchayat for efficient and economical implementation or management.
- Section 139B provides for the powers of the Chief Executive Officer or any other officer to inspect the offices of the Gram Panchayat.

- Section 140 provides for scrutiny of Panchayat accounts such as audit of accounts, importance, disclosure of Panchayat, recovery of penalty etc.
- Section 141 provides for reduction of establishment such as reduction of expenses on servants.
- Section 142 Under section 142, if the execution of any order or resolution by the Panchayat is likely to cause harm to the people, inconvenience or disturb the peace, then there is a provision to suspend the implementation of the order.
- Section 143 - Section 143 provides for carrying out work in case of emergency.
- Section 144 - Section 144 provides for breach of duty.
- Section 144A - To take action under section 144A in case of failure of Panchayat to undertake or maintain drinking water supply schemes in rural areas, this right is provided.
- Section 145 - Under section 145, if the Panchayat is encroaching or abusing its powers or is incapable of carrying out the duties imposed on it by any other law or accordingly, the section provides for dissolution of the Panchayat.
- Section 146 - Under section 146, provision has been made in this section for dissolution of Panchayat and its reorganization after making changes in the boundaries of the village.
- Section 147 - Provision has been made under section 147 for dissolving the property of the reconstituted or established Panchayat.
- Section 148 - Under section 148, if any local area as a part of a village is excluded from such village and the area is not included in the village, there is provision for the effect of exclusion of the area from the village.
- Section 149 provides for the effect of closure of an area as a village.
- Section 150 – Excluded
- Section 151 - There is a provision in Section 151 to carry out the powers and duties of a Panchayat which have not been duly constituted by a person appointed by the Government.
- Section 152 - This section provides for the Panchayat to comply with any instructions which may be given to it from time to time by the ZillaParishad or the PanchayatSamiti or both in the discharge of its duties and functions.
- Section 153- Section 153 provides for an inquiry to be conducted by the State Government officials in connection with the conduct of the Panchayat.

- Section 153A - The State Government has the power to give instructions and directions to the Panchayats.
- Section 153B - The State Government has the power to issue instructions and directions to the Gram Sabha or Panchayat in the Scheduled Area.
- Section 154 - Under section 154, there is a provision for the State Government, Commissioner and Collector Authority in general and revenue affairs.
- Section 155 – There is a provision under Section 155 that the State Government may request and inspect the working documents of ZillaParishad, PanchayatSamiti, Standing Committee or any other official to ascertain the validity or justification of any order.

1.5.11. Concerning the transformation of the municipality into a panchayat and the amalgamation and division of the panchayat

- Section 156 - Definition is given in this regard under Section 156.
- Section 157- Provisions have been made regarding the effect of conversion of a municipality into a Panchayat.
- Section 158 - Section 158 provides for the tenure of the members of the Interim Panchayat and their powers.
- Section 159 - Section 159 provides for the effect of consolidation of "integrated village".
- Section 160 - Under section 160, provision is made regarding the effect of division of the village.

1.5.12. KONDWADA

- Section 161 – Under Section 161, there are provisions regarding the applicability of the Cattle Admission Act.
- Section 162 - Under Section 162, Panchayats have the power to set up Kondwadas and appoint guards at Kondwadas.
- Section 163 - Punishment for allowing cattle to roam on the streets or for allowing them to enter or encroach on private or public property.
- Section 164 - The Panchayat has the right to keep cattle in Kondwada.
- Section 165 - Section 164 provides for the surrender of cattle, if the owner or agent of the cattle is present and demands the cattle in person, section 167 provides for the surrender of the cattle to the owner on payment of fees and expenses.
- Section 166 - If any person appears as the owner of such cattle within ten days after placing any cattle under section 166 and does not show

willingness to pay the fee and expenses charged under section 167, the cattle will be auctioned and sold immediately as prescribed.

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- Section 167 - Provision is made to determine the fee and cost of Kondwada to be levied.
- Section 168 - Provision is made in respect of complaints of illegal detention or detention.
- Section 168A - Provision of collateral in case of cattle kept in Kondwada.
- Section 168B - Moving cattle to specified places.

1.5.13 RULES AND BYE-LAWS

- The rules and bye-laws relating to Section 176 (Rules) and Section 177 (Bye-laws) shall be as indicated in the Government Gazette.

1.5.14. MISCELLANEOUS

- Section 178 - Loss of any property of the Panchayat, other property or money which may have been misappropriated, misused, provision related to all this has been mentioned in this section.
- Section 179 - Any person who is in capacity as Sarpanch, Deputy Sarpanch, Member, Officer, Staff or Secretary of the Panchayat leaves or ceases to hold office for any reason, then provision is made for the power of the District Collector to recover the records and money from such person.
- Section 180 - Section 180 provides for giving prior notice before filing action against Panchayat etc.
- Section 181 - Section 181 provides for giving prior notice before filing action against ZillaParishad, Standing Committee or PanchayatSamiti etc.
- Section 182 - Under this Section, the State Government may, by notification in the Government Gazette, authorize the Commissioner or any other authority to exercise any of the powers which the State Government may exercise.
- Section 183 - The Act provides for the Magistrate to call for a local inquiry and report from the Panchayat.
- Section 184 - This Act provides that the members of the Panchayat shall be Public Servant.
- Section 184A - Provision is made for the PanchayatSamiti to discharge its duties in respect of Panchayats under its jurisdiction.
- Section 184B - This section empowers police officers.

- Section 185 - Mumbai Gram Panchayat Act, 1933, Saurashtra Gram Panchayat Ordinance, 1949, Hyderabad Gram Panchayat Act, 1956, Madhya Pradesh and WahadPanchayat Act, 1946 are being repealed hereby.
- Section 186 - Provision is made under this Act with reference to review additional details of Section 185.
- Section 187 - Under this Act, the State Government has a provision to remove any problems in the Gram Panchayat.
- Section 188 - This Act provides for amendment of various Acts.

1.6 SUMMARY

In the state of Maharashtra, in the Panchayat Raj, the Gram Panchayat has been formed as per the Mumbai Gram Panchayat Act, 1958.

The Act contains 188 sections and nine types are included.

In the State of Maharashtra, amendments have been made from time to time by appointing special committees in the Panchayat Raj.

The work of Panchayat Raj has continuously changed and improved by accepting the amendments.

Especially after the 73rd Amendment Bill, there has been a general change in the functioning of the Gram Panchayat.

1.7. KEYWORDS

PANCHAYAT 1. : *A village council.*

SCHEDULED TRIBES : *Parts of or groups within, State of Maharashtra under Article 342 of the Constitution of India.*

GRAM SABHA : *Body consisting of persons registered in the electoral rolls relating to village comprised within the area of panchayat.*

SARPANCH : *Elected under section 30, (30-A), 44 or 43.*

1.8 EXERCISES

Descriptive:

- 1) Write in detail regarding the establishment and composition of Gram SabhaPanchayat under Mumbai Gram Panchayat Act.
- 2) Review the clauses regarding the administrative rights and duties in the Mumbai Gram Panchayat Act.

3) Write notes:

- a. Panchayat - its property law
- b. Establishment of Accounts Budget
- c. Taxation and recovery of claim amounts

MCQs:

- i). which state first started the Panchayat Raj System in India?
a) Rajasthan b) Madhya Pradesh c) Andhra Pradesh d) Bihar
- ii) Which of the following Article is related to Panchayati Raj?
(a) Article 243 (b) Article 324 (c) Article 124 (d) Article 73
- iii) Which is not a Panchayati Raj Institution –
a) Gram Sabha b) Gram Panchayat c) Cooperative Society
d) PanchayatSamiti.

1.9. REFERENCES:

- 1) Pvt. Bang K. R. - Local Self-Government of India, Special Reference - State of Maharashtra, SrimangeshPrakashan - Nagpur-2005.
- 2) Patil B.B. - Indian Government and Politics, Phadke Publications, Kolhapur-2006.
- 3) Patil V B..- Panchayat Raj.
- 4) Patil V B - Panchayat Raj and Urban Local Self Government Institutions in Maharashtra - K.Sagar, Publications, Pune – 2006.
- 5) Pawar J. E. Yadav Chandrasekhar - Administrative and financial of Panchayat Raj Institutions Management, YashwantraoChavan Development Administration Academy, Pune - 07
- 6) Kulkarni A.N. - Local Self-Government in India, VidyaPrakashan Nagpur – February2000.



LAW RELATED TO PANCHAYAT RAJ IN MAHARASHTRA- II

Unit Structure

- 2.1. Objectives
- 2.2. Introduction
- 2.3. Concept
- 2.4. Keywords
- 2.5. Maharashtra State Zilha Parishad and Panchayat Samiti Act, 1961
- 2.6. 73rd Constitutional Amendment
- 2.7. Summary
- 2.8. Exercises
- 2.9. References

2.1 OBJECTIVES

- To study the provisions of the Maharashtra State Zilha Parishad and Panchayat Samiti Act - 1961 regarding the administration of Zilha Parishads,
- To explain the important clauses in this Act.
- To study the major provisions of Section 1 to Section 290 of this Act.

2.2 INTRODUCTION

Considering the problems in rural administration in the post-independence period, the government appointed a committee under the chairmanship of senior MP Balwantrao Mehta. The key recommendations of the committee included the need for democratic decentralization and an independent three-tier structure of governance in rural areas. The government accepted the recommendations of the Balwantrao Mehta Committee.

In the context of Maharashtra, the Government accepted the recommendations of the Vasant Rao Naik Committee and based on these recommendations, Zilha Parishads and Panchayat Committees were formed as per the Maharashtra Zilha Parishad and Panchayat Samiti Act, 1961. Between 1961 and 1992, the Panchayat Raj Act was amended 11 times. Earlier, Gram Panchayats were formed in Maharashtra under the Maharashtra Mumbai Gram Panchayat Act, 1958. The Gram Panchayat, Panchayat Samiti and Zilha Parishad are functioning in Maharashtra under

the 1958 Act and the 1961 Act. Due to the provisions of Maharashtra Zilla Parishad and Panchayat Samiti Act, 1961, Zilla Parishad and Panchayat Samiti got the status of law and became stronger.

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2.3. CONCEPT:

Constitutional Amendment: Modification of the constitution of a polity.

Recommendations: a statement about what should be done in a particular situation.

Zilla Parishad or "Parishad": means a Zilla Parishad constituted under section 9; For every District, there shall be established a Zilla Parishad consisting of a President and Councillors; and the Zilla Parishad shall have all such powers and discharge all such functions as are vested in it by or under this Act, or otherwise.

2.4. KEYWORDS:

EXECUTIVE OFFICER: An officer with executive power.

STANDING COMMITTEES: Permanent and regular committee which is constituted from time to time according to the provisions of an Act

REGULATIONS: means regulations made under section 275;

2.5. MAHARASHTRA STATE ZILHA PARISHAD AND PANCHAYAT SAMITI ACT, 1961:

2.5.1. Preliminary Provisions.

- Section 1 (Short title, extent and commencement) - This Act may be called Maharashtra Zilla Parishad and Panchayat Samiti Act, 1961. It is applicable to the whole of Maharashtra except Greater Mumbai.
- Section 2 (Definitions) - Section 2 defines various concepts in the Maharashtra Zilla Parishad and Panchayat Samiti Act, 1961.
- Section 3 (Division into administrative areas) - For the purposes of this Act, the State of Maharashtra shall be divided into districts and the districts shall be divided into blocks.
- Section 4 (Constitution of Districts) - This section provides for the constitution of the district.
- Section 5 (Constitution of Blocks) - This section provides for the formation of blocks in the district.

2.5.1. Constitution of Zilla Parishads.

- Section 6 (Establishment of Zilla Parishads) - Section 6 provides for the establishment of a Zilla Parishad for each district, consisting of the

President and the Council members. This section includes ZilhaParishad, PanchayatSamiti and Standing Committee.

There are also provisions regarding subject committees, presiding authority, chief executive officer.

- Section 7 (Parishad authorities and organization thereof) - Under Section 7, there are provisions regarding ZilhaParishad authorities and their organizations.
- Section 8 (Incorporation of ZilhaParishads) - Under Section 8, the law provides for the establishment of ZilhaParishads.
- Section 9 (Constitution of ZilhaParishads) - Provision has been made for the composition of ZilhaParishads under Section 9.
- Section 9A (State Election Commission) - Provision has been made for the election of ZilhaParishad and PanchayatSamiti subject to the State Election Commission.

2.5.2. Election of council members.

- Section 10 (Election and term of office of Councillors, etc.) - Section 10 provides for the election of council members and their tenure.
- Section 10A (Manner of voting) - Section 10A provides for the conduct of the voting process.
- Section 11 (Commencement of term of office of Councillors) - Section 11 provides for the commencement of the term of office of the members of the Council.
- Section 12 (Division of District into electoral divisions) - Pursuant to Section 12, the State Election Commission shall divide each district into election divisions for the purpose of election of council members.
- Section 13 (List of Voters) - Provisions have been made as per the provisions of the Representation of the People Act, 1950.
- Section 14 (Date of election) - Section 14 provides for the date of election.
- Section 15 (Persons qualified to be elected) - Under section 15, provision is made for persons eligible to be elected.
- Section 15A (Vacation of seats) - If a person is elected to more than one seat in a ZilhaParishad, then all the seats will become vacant if he has not informed the State Election Commission or any official authorized by the State Election Commission to resign from all the seats except one with his own signature within the stipulated period.
- Section 16 (Disqualifications) - This section provides for the disqualification of a person to be elected subject to the provisions of this section.

- Section 17 (Right to vote) - This section provides for the right to vote.
- Section 18 (List of voters to be conclusive evidence for determining right to vote or to be elected) - The voter list will be conclusive evidence to determine the right to vote or to be elected under this section.

2.5.3. Elections and electoral disputes.

- Section 19 (Requisitioning of premises, vehicles, etc., for election purposes) - Provisions have been made for the requisition of eco-vehicles, etc. for election purposes.
- Section 20 (Payment of compensation) - Provision has been made for compensation for vehicles used for election purposes.
- Section 21 (Power to obtain information) - This section provides for the right to information.
- Section 22 (Power to entry into and inspection of premises, etc.) - This Act gives the right to enter and inspect the premises, etc.
- Section 23 (Eviction from requisitioned premises) - This Act provides for eviction from acquired premises.
- Section 24 (Release of premises from requisitioning) - Provision is made for release of property from requisition.
- Section 25 (Penalty for contravention of any order regarding requisition) - Punishment for violation of any acquisition order by a person.
- Section 26 (Power to declare persons elected in certain contingencies) - In any election, after the completion of the counting of votes, if it is found that any candidate has received the same number of votes, then the State Election Commission shall give the right in this regard. The officer will immediately cast the ballot and act on the candidate in whose name the ballot is issued as if he had received more than one vote.
- Section 27 (Determination of validity of elections; enquiry by Judge: Procedure) - In the case of a council member, if any candidate in such election or any person eligible to vote in that election objects the result within fifteen days from the date of declaration, an application for creation of an objection may be made to the District Judge of the District.
- Section 27A - As per Section 27C, the courts interference will be prohibited in election matters.
- Section 28 (Disqualification arising out of conviction and corrupt practices) - Provision has been made for disqualification of any person due to conviction or corruption.

- Section 28A (Promoting enmity between different classes in connection with election) - Provision is made for legal punishment for inciting animosity between different classes in connection with elections.
- Section 28B (Prohibition of public meetings on day before or on day of election) - It is forbidden to hold a public meeting on or before the day of election.
- Section 28C (Disturbances at election meetings) - Penalties for rioting in election rallies.
- Section 28D (Restriction on printing of pamphlets, posters, etc.) - No person shall print or publish any election leaflet or poster on which the names and addresses of the printer and publisher have not been printed.
- Section 29 (Prohibition of canvassing in or near polling stations) - It is forbidden to campaign in or near the polling station within 100 yards on the date of election.
- Section 30 (Penalty for disorderly conduct in or near polling stations) - This section provides for punishment for detention of any person at or near the polling station.
- Section 31 (Penalty for misconduct at polling stations) - There is a provision of punishment for misconduct of any person at the polling station.
- Section 32 (Maintenance of secrecy of voting) - Every officer, clerk, representative or other person engaged in any work relating to the registration or counting of votes shall maintain the secrecy of the ballot and shall assist in the maintenance of the ballot.
- Section 33 (Officers, etc., at elections not to act for candidates or influence voting) - Provision is made by the election officials, etc., not to act on behalf of the candidates or not to influence in the case of voting.
- Section 33A (Penalty for illegal hiring or procuring of conveyances at elections) - Penalty for illegally renting or obtaining vehicles at the time of election.
- Section 34 (Breaches of official duty in connection with elections) - Penalty is provided for violation of official duties in connection with elections.
- Section 35 (Removal of ballot papers from polling station to be offence) - It is an offence for a person to remove a ballot paper (fraudulently) from a polling station.

- Section 36 (Other offences and penalties) – Section 36 provides for punishment if any person commits any other offense related to the electoral process during any election.
- Section 37 (Prosecution regarding certain offences) - This Act provides for the District Collector to file a case in respect of various offenses.

2.5.4. Resignation, removal, casual vacancies of council members, etc.

- Section 38 (Resignation of Council Members) - Provision has been made for any elected council member to resign his office by writing under his hand addressed to the President.
- Section 39 (Removal of Council Members for misconduct, etc.) - If any council member is discharging his duties, he may be removed from office for misconduct.
- Section 40 (Disqualification of Council Members during term of office) - This section provides for disqualification of council members during their tenure.
- Section 41 (Casual vacancies how to be filled up) - Provision is made to fill the vacancy that occurred on account of the death of a council member, resignation, disqualification, or inability to work before the expiration of his term.

2.5.5. President and vice president.

- Section 42 (Election of President and Vice-President) - This Act provides for the election of President and Vice-President.
- Section 43 (Term of office of President and Vice-President) - This Act provides for fixing the term of the President and Vice-President.
- Section 44 - Excluded
- Section 45 (Procedure for election of President and Vice-President) - Provision has been made for the election of the President and Vice-President.
- Section 46 (Honorarium and other facilities to President) - Provisions are made for honorarium and other facilities to be paid to the President under this Act.
- Section 46A (Sumptuary allowance to President) - Provision regarding Hospitality Allowance to the President.
- Section 46B (Power to vary ceiling on sumptuary allowance) – It has the right to change the maximum limit on hospitality allowance.
- Section 47 (Leave of absence to President and consequential provisions) - The President may be absent without permission for a

period not exceeding thirty days in a year. The President is granted leave of absence and consequent provisions are made.

- Section 47A (Honorarium, other facilities including leave of absence to Vice-President and consequential provisions) - Provision has been made for honorarium to be paid to the Vice President, absentee leave and other concessions and consequent provisions.
- Section 48 (Resignation of President and Vice-President) - The President may resign in writing with his own signature by addressing the Commissioner.
- Section 49 (Motion of no-confidence against President or Vice-President) -

According to Section 49, the district has a two-thirds majority of the total number of elected council members who have the right to participate in any meeting of the ZilhaParishad and to vote at that time. There is a provision to pass a no-confidence motion against the president or vice-president at a special meeting of the council.

- Section 50 (Removal of President, or Vice-President) - This section deals with the misconduct or harassment of the President or Vice-President while discharging his duties or there is a provision to remove the President or Vice-President from office without allowing the State Government to interfere with the provisions of Section 49 for his inability to perform his duties or for any such reason.
- Section 51 (Consequence of absence of President without leave) - In this regard, subject to the rules made by the State Government, the President who absents himself from work / duty for a period exceeding thirty days in a year without permission shall cease to be the President.
- Section 52 (Vacancies in office of President and Vice-President to be filled up) - Vacancies under this Act may be vacated by the President or Vice-President on the ground of death, resignation, removal from office or any other reason. Subject to the provisions of Sections 42 and 50, there is a provision to elect a new President or Vice-President as convenient as possible.
- Section 53 (Penalty for refusal to hand over charge to new President or Vice-President) - After the election of a new President or Vice-President, a deposed President or Vice-President shall be appointed in his place. The Vice-President should immediately assign his duties. Refusal to surrender is punishable.
- Section 54 (Powers and functions of President) - This Act provides for the powers of the President and his functions.
- Section 55 (Functions of Vice-President) - This Act provides for the functions of the Vice-President.

2.5.6. Constitution of panchayat committees.

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- Section 56 (Establishment of PanchayatSamitis) - Under this section, there will be a PanchayatSamiti for each block and all the functions prescribed in it will be the functions of the PanchayatSamiti. To establish PanchayatSamitis provision has been made.
- Section 57 (Constitution of PanchayatSamitis) - This Act provides for the formation of PanchayatSamitis.
- Section 58 (Provisions regarding electoral colleges, disqualifications, elections and election disputes) - This Act contains provisions relating to electors, disqualified elections and election disputes.
- Section 59 (Term of office of members of PanchayatSamiti) - This Act provides for a term of five years for the members of the PanchayatSamiti.
- Section 60 (Resignation of office as member of PanchayatSamiti) - This Act provides for the resignation of any member of the PanchayatSamiti by addressing the Chairman and signing his resignation in writing.
- Section 61 (Removal of member for misconduct) - There is a provision to remove any member due to misconduct as a member of the PanchayatSamiti .
- Section 62 (Disqualification of members of PanchayatSamiti) - Without the permission of the PanchayatSamiti, if it is absent from its meetings for a period of three consecutive months or if it is absent from such meetings for a period of six consecutive months, the powers of such members become vacant.
- Section 63 (Casual vacancies how to be filled up) - This Act provides for the occasional filling of vacancies of a member of a PanchayatSamiti.
- Section 64 (Election of Chairman and Deputy Chairman of PanchayatSamitis) - This section provides for the election of the Chairperson and Deputy Chairperson of each PanchayatSamiti.
- Section 65 (Term of office of Chairman and Deputy Chairman of PanchayatSamitis) - This section provides for the appointment of the Chairperson and Deputy Chairperson of each PanchayatSamiti.
- Section 66 – Excluded
- Section 67 (Procedure for election of Chairman of PanchayatSamiti) - Provision is made for the election of the Chairman of each PanchayatSamiti.
- Section 68 (Election of Deputy Chairman) - There are provisions for election of Deputy Chairman of each PanchayatSamiti.

- Section 68A (Power of Commissioner to decide disputes regarding validity of election of Chairman or Deputy Chairman) - The Commissioner shall have the power to decide on disputes relating to the validity of the election of the Sabhapati or Deputy Sabhapati.
- Section 69 (Honoraria and allowance to Chairman and Deputy Chairman of PanchayatSamiti) - Subject to the provisions of Section 70, there is provision for payment of honorarium and allowance to the Chairperson and Deputy Chairperson of the PanchayatSamiti.
- Section 70 (Leave of absence to Chairman and Deputy Chairman of PanchayatSamiti and consequential provisions) - Provisions have been made for granting leave of absence to Chairperson and Deputy Chairperson of PanchayatSamiti.
- Section 71 (Resignation of Chairman and Deputy Chairman) - There are provisions in this Act regarding the resignation of the Speaker and Deputy Speaker.
- Section 72 (Motion of no-confidence against Chairman or Deputy Chairman of PanchayatSamiti) - This section provides for a motion of no-confidence against the Chairman or Deputy Chairman of the PanchayatSamiti.
- Section 73 (Removal of Chairman or Deputy Chairman of PanchayatSamiti for misconduct, etc.) - There is a provision to remove the chairperson or deputy chairperson of the PanchayatSamiti from office for misconduct, etc.
- Section 74 (Consequence of absence of Chairman or Deputy Chairman without leave) - If the Chairperson or Deputy Chairperson of the PanchayatSamiti is absent without permission, he will cease to be the Chairperson or Deputy Chairperson.
- Section 75 (Casual vacancies in office of Chairman and Deputy Chairman to be filled up) - Provision is made for filling up of vacant posts of Chairperson or Deputy Chairperson in the PanchayatSamiti.
- Section 76 (Powers and functions of Chairman of PanchayatSamiti) - Subject to the provisions of this Act, there are provisions regarding the powers and functions of the Chairman of the PanchayatSamiti.
- Section 77 (Powers and functions of Deputy Chairman of PanchayatSamitis) – Section 77 of the Act provides for the powers and functions of the Deputy Chairman of PanchayatSamitis.

2.5.7. Committees.

- Section 78 (Appointment of Standing Committee, Subjects Committees and other Committees) - Provision is made for the appointment of each ZilhaParishad a Standing Committee, Subject Committee and other Committees.

- Section 79 (Constitution of Standing Committee) - This Act provides for the composition of the Standing Committee.
- Section 79A (Constitution of Water Management and Sanitation Committee) - The Water Management and Sanitation Committee is constituted subject to the provisions of Section 81 of the Act.
- Section 80 (Constitution of Subjects Committees) - This Act contains provisions regarding the composition of subject committees.
- Section 81 (Election to Committees) - As per Section 81, no Council Member shall be elected on more than one Committee (including Standing Committee).
- Section 82 (Term of office of members of Standing Committee and Subjects Committees) - The term of office of the members of the Standing Committee and Subject Committee of the ZilhaParishad shall end with the term of office of the members of that ZilhaParishad.
- Section 82A (Resignation of members of Standing or Subjects Committees) - Provision is made for resignation of members of Standing Committee or Subject Committees.
- Section 82B (Casual vacancies how to be filled up) - Provision is made on how to fill the occasional vacancy in case of vacancy due to resignation or other reasons by a member of the Standing Committee or Subject Committee.
- Section 83 (Chairman of Subjects Committees) - There are provisions regarding the chairperson of the subject committees of the ZilhaParishad.
- Section 84 (Honorarium to Chairman of Subjects Committees) - There are provisions regarding the honorarium to be paid to the chairperson of the subject committees.
- Section 84A (Power of State Government to vary amount of honorarium by order) – There are rights to change the amount of honorarium (Speaker and Deputy Speaker) by order of the State Government.
- Section 85 (Leave of absence of Chairman of Subjects Committee and consequential provisions) - The Chairman of the Subject Committees shall be granted leave in absentia and as a result there shall be provisions.
- Section 86 (Resignation of Chairman of Subjects Committee) - Resignation of the Chairman of the Subject Committee. There is a provision to address the Speaker / Chairman in writing with his own signature.

- Section 87 (Motion of no-confidence against Chairman of Subjects Committee) - Provision is made for motion of no confidence against the Chairman of the Subject Committee.
- Section 88 (Removal of Chairman of Subjects Committee) - Provision is made for removal of the Chairman of the Subject Committee for misconduct or inability to perform his duties while discharging his duties.
- Section 89 (Consequences of absence on leave of Chairman of Subjects Committee) - If the Chairperson of the Subject Committee is absent for a period of more than thirty days in a year, he shall cease to be the Speaker.
- Section 90 (Casual vacancy in office of Chairman of Subjects Committee) - Provisions are made for the occasional vacancy of the post of Chairperson of the Subject Committee.
- Section 91 (Powers and functions of Chairman of Standing Committee and of Subjects Committee) - This Act provides for the powers and functions of the Chairperson of the Standing Committee and the Subject Committee.
- Section 91A (Power of Government to appoint presiding authorities to exercise powers and perform duties during vacancies) - The Government has the power to appoint a presiding authority to exercise the powers (of the President or Vice-President) when there is a vacancy.
- Section 92 (Duties, procedure, etc., of Committees to be prescribed by regulations) - There are provisions regarding the duties, procedures, etc. of the Committees to be prescribed by exchanges.
- Section 93 – Excluded

2.5.8. Executive officer.

- Section 94 (Appointment of Chief Executive Officer and Deputy Chief Executive Officer) - The State Government shall appoint one Chief Executive Officer and one or more Deputy Chief Executive Officers for each ZillaParishad.
- Section 95 (Powers and functions of Chief Executive Officer) - The Act provides for the powers and functions of the Chief Executive Officer.
- Section 96 (Delegation of powers of Chief Executive Officer) - There are provisions regarding delegation of powers to the Chief Executive Officer.
- Section 96A (Appointment of Executive Officer and his powers and functions) - Provision regarding appointment of Executive Officer and his powers and functions.

- Section 97 (Appointment of Block Development Officer) - There shall be one Block Development Officer for each PanchayatSamiti who shall be appointed by the State Government.
- Section 98 (Powers and functions of Block Development Officer) - Provisions regarding rights and duties of Block Development Officer.
- Section 99 (Powers and functions of Head of Department of ZilhaParishad) - This Act provides for the powers and functions of the Head of Department of ZilhaParishad.

2.5.9. Powers and duties of zilhaparishad, panchayatsamiti and committees.

- Section 100 (Administrative powers and duties of ZilhaParishad) - Provisions have been made under this Act regarding the administrative powers and duties of the ZilhaParishad.
- Section 100A – There are provisions regarding powers and duties of ZilhaParishad in the concerned district of the Scheduled Area.
- Section 101 (PanchayatSamiti to be primarily responsible in respect of certain subjects) - The PanchayatSamiti will be responsible first and foremost in the matter of specific matters.
- Section 101A (Powers of PanchayatSamiti to incur expenditure from block grant) - PanchayatSamiti will have the power to spend from block grant.
- Section 101B - Block contains provisions regarding competent powers and duties of PanchayatSamiti in Scheduled Areas.
- Section 102 (Power of ZilhaParishad to construct other works and manage other institutions and to give technical guidance to other local authority) - The ZilhaParishad shall have the power to carry out other constructions and to look after other ecosystems, to provide technical guidance.
- Section 103 (Power of State Government to transfer works and development schemes) - The State Government shall have the power to transfer public welfare constructions and development projects to the State Government with the consent of the ZilhaParishad.
- Section 104 (District fund ordinarily liable for all costs and expenses incurred by ZilhaParishad) - District fund will generally be eligible for outlay and expenditure incurred by ZilhaParishad.
- Section 105 (Power to compromise) - The ZilhaParishad has the power to compromise on any claim made against them.
- Section 106 (Powers and functions of ZilhaParishad) - The powers and functions of the ZilhaParishad may be exercised subject to the provisions of this Act and the rules made by the State Government under it.

- Section 107 (Duties of ZilhaParishad during scarcity, etc.) - There are provisions regarding the duties of the ZilhaParishad in case any area is declared as a scarcity zone by the State Government in any given year.
- Section 108 (Powers and functions of PanchayatSamiti) - This Act contains provisions regarding the powers and functions of the PanchayatSamiti.
- Section 108A (PanchayatSamiti to conform to instruction given by ZilhaParishad) – PanchayatSamiti shall conform to instructions given by the ZilhaParishad in carrying out its functions and duties under the PanchayatSamiti Act. It will act as instructed by the council from time to time.
- Section 109 (Powers and functions of Standing Committee and Subjects Committees) - The Act provides for the powers and functions of the Standing Committee and the Subject Committee.
- Section 109A (Special powers and functions of Finance Committee) - There are provisions regarding the special powers of the Finance Committee and its functions.
- Section 110 (Joint Committees of two or more ZilhaParishads) - There are provisions for joint committees of two or more ZilhaParishads.

2.5.10. Conduct of business (zilhaparishad).

- Section 111 (Meeting of ZilhaParishads) - ZilhaParishad may hold meetings as many times as required. But the date of the last meeting will not be more than a period of three months.
- Section 112 (Councillor may act during vacancy; acts of ZilhaParishads etc., not to be invalidated by informalities) - In case of any vacancy in the ZilhaParishad, the members of the Parishad who are continuing during that period may act on the understanding that no vacancy has occurred.
- Section 113 (Dignitaries to address meeting) - A meeting of the ZilhaParishad may be convened so that distinguished persons may be referred to the President by the State Government, by general or special order.
- Section 114 (President may require the presence of certain Government officers at meetings of ZilhaParishad) - The President shall inform the concerned government officials to attend the meeting of the ZilhaParishad.
- Section 115 (President may circulate written propositions) – President may circulate a written statement for which he has called a meeting.
- Section 116 (Mode of execution of contracts) - Subject to the provisions of this Act, the Executive Officer may enter into any form

of contract or agreement on behalf of the ZilhaParishad or for the purposes of the PanchayatSamiti.

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2.5.12. Panchayatsamitis.

- Section 117 (Meetings of PanchayatSamitis) - The PanchayatSamiti may meet as many times as it deems necessary, but there shall be a period of one month gap between its last meeting and the date of its next meeting.
- Section 118 (Sections 111,112 and 115 to apply to meetings of PanchayatSamitis) - There are provisions regarding the application of sections 111, 112 and 115 to the meetings of PanchayatSamitis.

2.5.13. Standing and subject committees.

- Section 119 (Meetings of Standing Committees and Subjects Committees) - This Act provides for holding meetings of Standing Committees and Subjects Committees.
- Section 120 (Chairman may require attendance of Government officers at meetings of Standing or Subjects Committees, as the case may be) - The Chairman may require the attendance of particular officer of the State Government to attend the meeting of the Standing Committee or Subjects Committees as is the case.
- Section 121 (Chairman of Standing Committee or Subjects Committee may circulate written propositions) - Whenever it appears to the Chairman of a Standing Committee or Subjects Committee unnecessary to convene a meeting he may circulate a written proposition of his own or of any other member of the Committee or of Executive Officer of the ZilhaParishad for the observations and votes of members of the Committee.
- Section 122 (Meeting of Committees to be convened in certain cases) – There is a provision to convene a meeting of the Standing Committee or the Subjects Committee whenever a Minister wishes to discuss and exchange any of the matters assigned or handled by those Committees.

2.5.14. Execution and maintenance of works and development schemes

- Section 123 (Entrustment of execution of development schemes to ZilhaParishad) - Provision is made to entrust the implementation of development plan to the ZilhaParishad subject to the conditions and essays to be specified by the State Government.
- Section 124 (Execution of works and development schemes of ZilhaParishad through PanchayatSamiti) - Subject to the rules prescribed by the State Government in this regard, there is a provision for the ZilhaParishad to carry out construction and development plans through the PanchayatSamiti.

- Section 125 (Sanction for undertaking works or development schemes) - In respect of construction and development plan which has to be spent from district fund or block, no grant can be implemented without prior approval of the officers.
- Section 126 (Contracts for works or development schemes) - Rules may be prescribed for carrying out any construction or development project duly sanctioned for undertaking from district funds or block grants. No tenders will be accepted without the prior approval of such authorities or officers.
- Section 127 (Power of State Government or officer to inspect and give technical guidance, etc.) - The State Government or the Authority shall have the power to inspect any construction or development plan undertaken by the ZilhaParishad or the PanchayatSamiti and to provide technical guidance, etc.

2.5.15. Zilhaparishad, its assets, funds and expenses.

- Section 128 (Power of ZilhaParishad to acquire and lease, sell or transfer property) - The ZilhaParishad has the power to acquire, lease, sell or transfer property for the purpose of any of its functions.
- Section 129 (Property of ZilhaParishad) - Every construction done with the help of PanchayatSamiti or Government or with the participation of the people from Kia block grant from district fund shall be the property of ZilhaParishad.
- Section 130 (District fund, its custody and investment) - Each district has provisions for having a local fund called 'District' Fund.
- Section 130A (Borrowing of money) - ZilhaParishad may borrow money from any bank or co-operative society for carrying out its functions under this Act.
- Section 131 (Creation of special fund) - Special funds may be reserved for any work to meet the related expenses.
- Section 132 (District fund where to be expended) - This Act contains provisions on where the ZilhaParishad should spend the funds from the District Fund.
- Section 133 (General charges to be defrayed) - Provision is made for each ZilhaParishad to meet its general expenditure from the district fund.
- Section 134 (How district fund shall be drawn against) - No money in the District Fund can be withdrawn from the Contract Treasury or Bank unless the checks or letters of credit signed by the Chief Executive Officer are produced.
- Section 135 (Accounts to be kept in form prescribed by State Government) - Accounts of Deposits and Expenses of each

ZilhaParishad or PanchayatSamiti prescribed from time to time in accordance with the rules made by the State Government.

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- Section 136 (Preparation of statement of accounts and publication of abstracts of accounts) - Chief Executive Officer shall prepare a statement of accounts of receipts and expenditure showing the amount withdrawn from District Fund, expenditure on Establishment and all other expenses undertaken such as for Construction and Development Project and balance in hand, if any. The ZilhaParishad shall submit to the State Government the details of accounts and expenditure every year by rules.
- Section 137 (Preparation of annual budget estimates of income and expenditure) - Each ZilhaParishad shall make budgetary estimates of receipts and expenditures of the Council for the next financial year, on a date to be prescribed by the State Government from time to time in this regard or in a pre-prescribed format every year.
- Section 138 (Revised or supplementary budget estimates may be made when necessary. Re-appropriation to be subject to approval like budget estimate) - To make revised or supplementary budget estimates if necessary, as well as there is a provision to be subject to re-appropriation as per the budget estimate.
- Section 139 (Budget estimates and re-appropriations when to be approved) - Provision of when to approve budget estimates and re-appropriations.
- Section 140 (Except on pressing emergency, no sum which is not provided for in budget estimate to be expended) - There is a provision not to spend any amount which is not provided in the budget estimate except in case of extreme urgency.
- Section 141 (Authorities of ZilhaParishad to sanction loans or contingent expenditure or to write off dues. Limits of such power) - There is a limitation limit for the officers of the ZilhaParishad to sanction loans or contingencies or to disburse the amount due.
- Section 141A (Recovery of sum due to ZilhaParishad as arrears of land revenue) – There are provisions to recover the amount due to ZilhaParishad under Section 141A as arrears of land revenue.
- Section 142 (Administration report) - Subject to the provisions of this section, each ZilhaParishad or PanchayatSamiti shall prepare its own administrative report.
- Section 142A (Power of Accountant General to check accounts of Parishads and Samitis) - Accounts of any ZilhaParishad or PanchayatSamiti may be checked at any time by the Accountant General, Maharashtra State in accordance with the directions as the State Government may give from time to time as determined by the Accountant General.

2.5.16. Taxation.

- Section 143 (Application) - The provisions of this Act shall apply to the areas of the State to which section 143 has been applied.
- Section 144 (Levy of cess on every rupee of land revenue) - Provision is made for levy of cess on every rupee of land revenue.
- Section 145 (Rules for assessment) – Section 145 of the Act provides for the Mumbai Land Revenue Levy Rules.
- Section 146 (Levy of cess on water-rate) - This section provides for levy of cess on water bill.
- Section 147 (Manner of levying cess described in section 144) - The procedure for levying cess described in section 144 is explained here.
- Section 148 (Manner of levying cess described in section 146) - The procedure for levying cess described in section 146 is explained here.
- Section 149 (Assistance to superior holders) - Superior holders and owners of waterways have the right to recover money from their clans and occupants.
- Section 150 (Collection and credit of local cess on water rate) - Provision is made for collection and submission of local cess on water bill.
- Section 151 (Levy of cess on every rupee of land revenue in Vidarbha area) - Provision is made to levy cess on every rupee of land revenue in Vidarbha region.
- Section 152 (Levy of cess on every rupee of land revenue in Hyderabad area) - There is provision for levy of cess on every rupee of land revenue in Hyderabad area.
- Section 153 (Collection and credit of local cess of land revenue) - Collection of local cess on land revenue.
- Section 154 (Suspension and remission of local cess) - Provision for suspension or exemption of local cess.
- Section 155 (ZilhaParishad's or PanchayatSamiti's power to propose increase in rate of cess) - ZilhaParishad or PanchayatSamiti has the power to suggest increase in cess rate under this Act.
- Section 156 - If the minerals in a land are owned by the government and the ownership is payable to the government, then the government has the right to levy cess on the land.
- Section 157 (Taxes which may be imposed by ZilhaParishad) - Provision is made for taxes to be levied on ZilhaParishad.

- Section 158 (Stamp duty on certain transfer of immovable property) - Provision is made for stamp duty on specific transfer of immovable property.
- Section 159 (Procedure of ZilhaParishad preliminary to imposing tax) - The procedure of ZilhaParishad is to pass a resolution in its meeting before imposing any tax or any fee.
- Section 160 (Procedure for abolishing or varying a tax) - The ZilhaParishad has the procedure to repeal or amend the tax under this Act.
- Section 161 (Procedure in cases of non-payment of fee) - Provision is made for proceedings in case of non-payment of fees.
- Section 162 (Publication of sanctioned rules with notice) - Provision is made for the district for which the approved rules are to be published with notice (to be done by the ZilhaParishad).
- Section 163 (Compulsory general and special water taxes imposed by ZilhaParishad to be collected by Panchayats) - This Act provides for the collection of compulsory general and special water tax imposed by the ZilhaParishad and collected by the Panchayats.
- Section 164 (Default in payment by Panchayat and recovery from its moneys) - If any Panchayat fails to pay any amount of general water bill or special water bill collected under section 163 within the date given by the ZilhaParishad, there is a provision to recover the amount from its money.
- Section 165 (Powers of State Government to suspend levy of objectionable taxes) - The State Government has the power under this section to suspend the levy of objectionable taxes in the ZilhaParishad.

2.5.17. Collection of taxes or fees.

- Section 166 (Presentation of bill for amount of tax or fee) - Provision for submission of tax or fee bill.
- Section 167 (Issue of warrant) – Provision for issuance of power of attorney.
- Section 168 (Warrant by whom to be signed) - There is a provision as to who should sign the power of attorney.
- Section 169 (To whom warrant should be addressed) - There is a provision in whose name the power of attorney should be issued.
- Section 170 (Power of entry under special order) - Provision for right of entry under special order.
- Section 171 (Warrant how to be executed) - Provision is made on how to issue a warrant.

- Section 172 (Sale of goods distrained; application of proceeds of sale and surplus how dealt with) - Provision is made for the use of proceeds from the sale of seized goods and how to manage the balance.
- Section 173 (Distrain and sale outside district) - Provisions for detention and sale of seized goods outside the district.
- Section 174 (Fees and cost chargeable) - Provision regarding fees and outlay to be levied.
- Section 175 (Appeals to Magistrates) - Provision is made to appeal to the Magistrate against any violation of rights.
- Section 176 (Liability of lands, buildings, etc., for rates) - Provision is made for liability for tax of land, buildings etc.
- Section 177 (Suspension of power to recover by distress and sale) – Provision is made to suspend the right of ZilhaParishad to recover amount by withholding and selling under this Act.
- Section 178 (Framing of tolls or certain fees) - Provision is made for payment of lease for recovery of ZilhaParishad, Road Tax or Dedicated Fees.
- Section 179 (Receipt to be given for all payments) - The Act provides that the recipient will give a receipt for all amounts paid in respect of any tax or fee.

2.5.18. Financial assistance to zilhaparishads.

- Section 180 – Excluded.
- Section 181 – Excluded.
- Section 181A (Grant of forests revenue to ZilhaParishads) - Provision is made for ZilhaParishad to get forest revenue grant.
- Section 182 (Purposive grants) - Provision Grants under this Act are provisions in this regard.
- Section 183 (Establishment grant) - Provision is made for establishment grant under this Act.
- Section 184 – Excluded
- Section 185 (Local cess matching grant) - Provision is made to provide subsidy to local cess.
- Section 186 (Incentive grants) - Incentives to the State Government in view of the progress of development work of each ZilhaParishad, which will encourage further development.
- Section 187 (Grants for Plan Schemes) - Provision is made by State Government to provide grant to the ZilhaParishad for the work related to any subject mentioned in the district list.

- Section 188 (Block grant) - Under this Act, there is a provision to give block grants to the ZilhaParishad by the State Government.
- Section 189 - Excluded

2.5.19. Sanitary and other rights.

- Section 190 (Power to enter and inspect buildings, etc.) - Provision is made for the CEO to enter and inspect any building.
- Section 191 (Filthy buildings, etc.) - There are provisions regarding dirty buildings.
- Section 192 (Powers and duties with regard to sources of water supply) - Provisions are made to the Chief Executive Officer or any person authorized by him in this regard regarding his rights and duties in relation to water supply.
- Section 193 (Remedy on non- compliance with directions issued) - There are provisions for taking measures in case of non-compliance with the instructions given.
- Section 194 (Power to set apart public springs, etc., for certain purposes) - The CEO has the right to set aside springs, lakes, wells or other places for certain purposes.
- Section 195 (Penalty for using places set apart for other purposes) - There are provisions for separate water reservoirs for drinking purposes.
- Section 196 (Abatement of nuisance from foul water) - There are provisions regarding reduction of diseases and diseases caused by contaminated water.
- Section 197 (Closing of places for disposal of dead) - Provisions have been made for disposal of corpses.
- Section 198 (Chief Executive officer, etc., to have power of entry for inspection into buildings, etc., where infectious disease exists, disinfections of buildings, etc.) - This Act provides for the removal of infectious diseases affecting buildings, premises, settlements, houses, spraying etc.
- Section 199 (ZilhaParishad to notify places for washing and disinfecting articles, exposed to infection; infected articles may be destroyed; penalty) - ZilhaParishad has made provision in this Act regarding infectious items and similar matters.
- Section 200 (Obstructions and encroachments upon public roads, land or building) - Provisions are made for removal of obstructions and encroachments on public roads, land, buildings.
- Section 201 (Powers of inspections of weights and measures, etc.) - There are provisions for monitoring in terms of weights, measures etc.

- Section 202 (Numbering of premises) - The Chief Executive Officer has the power to assign numbers to the asset.

2.5.20. Public market.

- Section 203 (Vesting of market rights) - This Act provides for the determination of market rights by the ZilhaParishad.

2.5.21. Private markets.

- Section 204 (Power of State Government to apply these provisions to villages) - Under this Act, the State Government has the power to apply these provisions to the villages.
- Section 205 (Provision as to licences required for private markets) - The ZilhaParishad has provisions relating to licenses required for the private market.
- Section 206 (Procedure to be followed in claiming right to levy fees) - This Act provides for the power to levy fees to the ZilhaParishad.
- Section 207 (Grounds of decision on claim to levy fees) - There are provisions in this Act regarding the decision to be taken regarding the right to charge fees.
- Section 208 (Suit for establishing right to levy fees) - There is a provision for claiming the right to impose a fee.
- Section 209 (Fee for licence) - There are provisions for charging fees for licenses.
- Section 210 (Suspension or cancellation of licence) - There are provisions for suspension or revocation of license.
- Section 211 (Appeal against orders of ZilhaParishad) - Sections 205, 206, 209 and 210 provide for appeal against the powers prescribed by the ZilhaParishad.
- Section 212 (Failure to grant a licence and applications against such order) - Provision is made for default in issuing license and application against such order.
- Section 213 (Penalty for unlicensed markets) – This section provides punishment for any person who tries to establish a market for which no license has been issued.

2.5.22. Fairs.

- Section 214 (Provision regarding public markets applicable to fairs, etc.) - The State Government has made provisions for public markets in connection with fairs.

2.5.23. Public parking.

- Sections 215, 216, 217 and 218 are the provisions relating to public parking.

2.5.24. Special provisions for town planning in the Hyderabad area of the state.

- Sections 219 to 226 are special provisions for town planning in the Hyderabad region of the State.

2.5.25. Provisions regarding notices, etc.

- Section 227 (Service of notices, etc., addressed to individual) - There are provisions for execution of notices etc. issued in the name of the person.
- Section 228 (Service of notices on owners or occupiers of lands and buildings) - There are provisions for issuing notices to the owners or occupants of land and buildings.
- Section 229 (Public and general notices, how to be published) - Provision is made on how to publish public and general notices.
- Section 230 (Defective form not to invalidate notice or bill) - No notice or bill will be invalid due to defective pattern.
- Section 231 (Punishment for disobedience of orders and notices not punishable under any other section) - There is a provision under this section to punish any person for disobeying any written notice or order issued by or on behalf of the ZilhaParishad.
- Section 232 (ZilhaParishad in default of owner or occupier may execute works and recover expenses) - In case of misconduct by the owner or occupier, the ZilhaParishad has a provision to carry out the work and recover the cost.
- Section 233 (Expenses of costs how to determine and recover) - Provision is made on how to determine and recover the cost or amount thereof.
- Section 234 (Power of Chief Executive Officer to prosecute) - The Chief Executive Officer has the power to sue for public nuisance under this Act.
- Section 235 (Damage to any ZilhaParishad property and compensation for same) - There are provisions regarding how to compensate the loss of property of ZilhaParishad.
- Section 236 (Alternative procedure by suit) - Provision is made for alternative methods of filing suit against any person for recovery.
- Section 237 (Powers of police officers) - Provision of powers in respect of police officers.

2.5.26. Provisions as to services

- Section 238 to section 253C provides for the services of officers and employees of the ZilhaParishad. Since the clauses under this section are not very useful in the syllabus, it was not necessary to analyze them.

2.5.27. Alteration of boundaries of districts and blocks

- Section 254 (Power of State Government to alter boundaries of District) - The State Government has the right to change the boundaries of the district.
- Section 255 (Power of State Government to make suitable provision by order when a District is altered) - The State Government has the power to make reasonable provision by order when changes are made in the district.
- Section 255A (Abolition of Districts) - There are provisions regarding the disappearance of districts.
- Section 256 (Power of State Government to alter boundary of Block) - The State Government has the right to change the boundaries of the block.
- Section 257 (Power of State Government to make suitable provision by order when Block is altered) - The State Government has the power to make appropriate provision by order when the block is reshuffled.
- Section 257A (Division of Block or Blocks and its consequences) - There are provisions regarding division of Block or Blocks and its consequences.

2.5.28. Control

- Section 258 (Inquiry into affairs of ZilhaParishad) - The State Government has the power to inquire into the affairs of the ZilhaParishad.
- Section 259 (Power of State Government to provide for performance of duties in default of ZilhaParishad) - The State Government has the power to make provision for the discharge of duties by the ZilhaParishad.
- Section 260 (Power of State Government to dissolve ZilhaParishad and consequential provisions) - The State Government has the power to dissolve the ZilhaParishad when the ZilhaParishad encroaches or abuses its powers or fails to perform the duties imposed on it under other laws or continues to fail to do so.
- Section 261 (State Government's power to give direction regarding works and development schemes) - The State Government has the power to issue directions to the ZilhaParishad regarding construction and development projects.

- Section 261A (Power of State Government to recover expenditure from grants, etc., for operating piped water supply scheme, where default is made by ZilhaParishad in taking over the scheme) - In case the ZilhaParishad fails to take over the project of tap water supply, the state should recover the cost from the grant etc. The government has the right to keep the project operational.
- Section 262 (Commissioner to call meeting of ZilhaParishad Committee or PanchayatSamiti) - The Act provides for the Commissioner to convene a meeting of the ZilhaParishad, its committee or the PanchayatSamiti.
- Section 263 (Power of inspection and supervision) - The Commissioner or any officer duly authorized by the State Government in this regard has the right to inspect and supervise.
- Section 264 (Commissioner to inspect office of ZilhaParishad) - Provision is made for the Commissioner to inspect the office of the ZilhaParishad.
- Section 265 (Power of Commissioner to prevent extravagance in establishments [for wasteful expenditure]) - If the number of ZilhaParishad staff officers or Class III employees or Class IV employees exceeds the limit, the Commissioner has the authority to prevent wasteful expenditure.
- Section 266 (Power of Collector to call for information relating to affairs of ZilhaParishad) - The State Government has made provision for the Collector to seek information about the functioning of the ZilhaParishad under this section.
- Section 267 ([District Magistrate's] power of suspending execution of orders of ZilhaParishad, PanchayatSamiti, etc.) - The District Magistrate has been empowered by the ZilhaParishad or the PanchayatSamiti to revoke the execution of orders, etc. which may cause harm to the people due to any act or work.
- Section 268 (Emergency power of Collector) - This Act empowers the Collector in case of emergency.
- Section 269 (Power of State Government to dissolve PanchayatSamiti for incompetency, default or abuse of power) - PanchayatSamiti is encroaching or abusing its powers or is unable to perform its duties. In such a case, the state government has the right to dismiss the PanchayatSamiti under this section.
- Section 270 (Power of State Government to make special rules for certain matters) - The State Government has the right to make austerities in various matters under special rules.
- Section 271 (Power of State Government to transfer staff employed in connection with the public health by ZilhaParishad to another District in cases of emergency) - Under this Act, the State Government has the

power to transfer the staff employed in the affected district to another district in case of any outbreak of any deadly or epidemic disease in any district or in its area or in case of flood scarcity, natural calamity or crisis.

- Section 272 (Power of State Government and of Commissioners over Collectors, etc.) - This Act provides for the powers of the State Government and the Commissioners in relation to their functions.
- Section 273 (Delegation of powers by State Government) - The State Government has the power to delegate powers.

2.5.29. Rules, regulations and by-laws

- The provisions of Section 274 to Section 276 deal with rules, exchanges and by-laws. Analyzing it did not seem necessary in terms of the curriculum.

2.5.30. Miscellaneous.

- Section 277 (Penalty for Councillor, officer or servant of ZilhaParishad having interest in any contract, etc., with ZilhaParishad or PanchayatSamiti) -
- Section 278 (Councillors of ZilhaParishads to be public servants) - This Act provides that every member of the ZilhaParishad and PanchayatSamiti, as well as the staff serving in the ZilhaParishad and PanchayatSamiti should be servants of the people.
- Section 279 (Delegation of powers by Heads of Departments of ZilhaParishad) - This Act provides for delegating powers to the Heads of Departments of ZilhaParishads.
- Section 280 (Limitation of suits, etc.) - This Act provides for filing of lawsuits against any ZilhaParishad or any officer or employee working under its control for any action taken or intended to be done by the ZilhaParishad.
- Section 281 (Power of ZilhaParishad to delegate its powers) - Subject to the rules of the State Government, the ZilhaParishad has the right to delegate its powers.
- Section 282 (Joint meeting of two or more local authorities) - This Act gives the right to hold a joint meeting of two or more local authorities.
- Section 283 (Utilization of portion of revenue paid to municipalities, etc.) - There are provisions regarding utilization of revenue share given to Municipal Corporations, Municipalities, etc.
- Section 284 – Excluded

- Section 285 (Acquisition of land) - Under this Act, if required by any ZilhaParishad, the State Government makes provision for acquisition of the same land.
- Section 285A (Power of State Government to appoint headquarters of ZilhaParishads and PanchayatSamitis) - The State Government has the power to appoint the headquarters of ZilhaParishad and PanchayatSamiti.
- Section 286 – Excluded
- Section 287 (Power of State Government to adopt laws) - The State Government has the power to make the law favorable under this Act.
- Section 288 (Transitory provisions and savings) - The provisions contained in the Eleventh Schedule under this Act shall apply to the composition of the ZilhaParishad.
- Section 289 (Removal of difficulties) – If there is any difficulty in the implementation of the provisions of this Act or any of the Schedules, the State Government may by order do anything which appears to be necessary for the purpose of removing the difficulty.

2.6. 73RD CONSTITUTIONAL AMENDMENT.

The 73rd Amendment 1992 added a new Part IX to the constitution titled “The Panchayats” covering provisions from Article 243 to 243(O); and a new Eleventh Schedule covering 29 subjects within the functions of the Panchayats.



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2.6.1 Significance of the amendment

This amendment implements the article 40 of the DPSP which says that “State shall take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government” and have upgraded them from non-justifiable to justifiable part of the constitution and has put constitutional obligation upon states to enact the Panchayati Raj Acts as per provisions of the Part IX. However, states have been given enough freedom to take their geographical, politico-administrative and others conditions into account while adopting the Panchayati Raj System.

2.6.2. Salient features

a) Gram Sabha

Gram Sabha is a body consisting of all the persons registered in the electoral rolls relating to a village comprised within the area of Panchayat at the village level. Since all the persons registered in electoral rolls are members of Gram Sabha, there are no elected representatives. Further, Gram Sabha is the only permanent unit in Panchayati Raj system and not constituted for a particular period. Although it serves as foundation of the Panchayati Raj, yet it is not among the three tiers of the same. The powers and functions of Gram Sabha are fixed by state legislature by law.

b) Three Tiers of Panchayati Raj

Part IX provides for a 3 tier Panchayat system, which would be constituted in every state at the village level, intermediate level and district level. This provision brought the uniformity in the Panchayati Raj structure in India. However, the states which were having population below 20 Lakh were given an option to not to have the intermediate level. All the members of these three levels are elected. Further, the chairperson of panchayats at the intermediate and district levels are indirectly elected from amongst the elected members. But at the village level, the election of chairperson of Panchayat (Sarpanch) may be direct or indirect as provided by the state in its own Panchayati Raj Act.

c) Reservation in Panchayats

There is a provision of reservation of seats for SCs and STs at every level of Panchayat. The seats are to be reserved for SCs and STs in proportion to their population at each level. Out of the Reserved Seats, 1/3rd has to be reserved for the women of the SC and ST. Out of the total number of seats to be filled by the direct elections, 1/3rd have to be reserved for women. There has been an amendment bill pending that seeks to increase reservation for women to 50%. The reserved seats may be allotted by rotation to different constituencies in the Panchayat. The State by law may also provide for reservations for the offices of the Chairpersons.

d) Duration of Panchayats

A clear term for 5 years has been provided for the Panchayats and elections must take place before the expiry of the terms. However, the Panchayat may be dissolved earlier on specific grounds in accordance with the state legislations. In that case the elections must take place before expiry of 6 months of the dissolution.

e) Disqualification of Members

Article 243F makes provisions for disqualifications from the membership. As per this article, any person who is qualified to become an MLA is qualified to become a member of the Panchayat, but for Panchayat the

minimum age prescribed is 21 years. Further, the disqualification criteria are to be decided by the state legislature by law.

f) Finance Commission

State Government needs to appoint a finance commission every five years, which shall review the financial position of the Panchayats and to make recommendation on the following:

- The Distribution of the taxes, duties, tolls, fees etc. levied by the state which is to be divided between the Panchayats.
- Allocation of proceeds between various tiers.
- Taxes, tolls, fees assigned to Panchayats
- Grant in aids.

This report of the Finance Commission would be laid on the table in the State legislature. Further, the Union Finance Commission also suggests the measures needed to augment the Consolidated Funds of States to supplement the resources of the panchayats in the states.

g) Powers and Functions: 11th Schedule

The state legislatures are needed to enact laws to endow powers and authority to the Panchayats to enable them functions of local government.

The 11th schedule enshrines the distribution of powers between the State legislature and the Panchayats. These 29 subjects are listed below:

2.7. SUMMARY

The Maharashtra State Government has proved that the Panchayat Raj of Maharashtra is different in the country by enacting the Maharashtra ZilhaParishad and PanchayatSamiti Act, 1961. Some states in the country adopted two-tier Panchayat Raj and gave main powers to PanchayatSamitis. It was recommended by the Ashok Mehta Committee in 1977. But the state of Maharashtra gave a prominent place to the ZilhaParishad.

The structure of this law is important for the smooth functioning of the entire Panchayat Raj, especially the ZilhaParishad and PanchayatSamiti. The law is divided into 26 parts.

In the year 1992, the 73rd Amendment Bill was introduced in the country. The bill adopted almost all the provisions of the ZilhaParishad and PanchayatSamiti Act and implemented those provisions for the entire country.

2.8. EXERCISES

Descriptive:

- 1) Briefly explain the structure of ZilhaParishad and PanchayatSamiti Act.
- 2) Explain the provisions regarding President and Vice President in ZilhaParishad and PanchayatSamiti Act.
- 3) Write notes on:-
 1. Executive Officer
 2. Standing Committees and Subject Committees
 3. Carrying out construction and development projects and keeping them in good condition.
 4. Collection of taxes or fees
 5. Other sanitary rights.

MCQs:

- i). 73rd Constitutional amendment was implemented in.....
 - a) 1992, b) 2020, c) 1997, d) 1995.
- ii) ZilhaParishad and PanchayatSamiti Act. Passed in ...
 - a) 1991, b) 2001 c) 1961 d) 1965.
- iii) Panchayat Raj of Maharashtra is.....system.
 - a) two tire b)three tire c) four tire d) one tire.

2.9. REFERENCES:

- 1) KanetkarMedha - Fifty Years of Indian Planning, Shri Sainath Prakashan, Nagpur 2007
- 2) Kulkarni A.N. - Local Self-Government in India, VidyaPrakashan Nagpur – February, 2000
- 3) Government of Maharashtra Law and Justice Department - Maharashtra ZillaParishad and Panchayat Samiti Act 1961, Government Press, Aurangabad-2007
- 4) Dr. Jain Ashok V, Dr. PawarDattatreya V. - Rural Government and Politics,Professor KirtiMahavidyalaya, Dadar



LAND REFORM LEGISLATIONS- PART-I



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Unit Structure

3.1. Introduction

3.2. Objectives

3.3 The Nature of Land Retention in India

3.4 The Need for Land Reforms in India.

3.5 The Nature of Land Reforms in India

3.6 Land Reforms Laws

3.6.1 Maximum Lands Act 1961

3.6.2 Objective

3.6.3 The Nature of the Ceiling Above Ground

3.6.4 Transfer and Edit Hour Limit

3.6.5 Determine Additional Land

3.6.6 To Compensate

3.6.7 More Land Allotment

3.6.8 Correction and Re Inspection of Appeal Writing Defects

3.6.9 Land Excluded from this Act

3.6.10 Loopholes in the Law

3.6.11 With Recommendations for Effective Enforcement of the Law

3.7 Summary

3.1. INTRODUCTION:

The meaning of land reforms and land tenure system has already been discussed in the preceding chapter, besides, the prevailing land tenure systems during the British period, their merits and demerits and the measures of land reforms taken so as to remove their demerits and the impact of those measures have also been discussed there.

Land reforms usually refer to redistribution of land from the rich to the poor. More broadly, it includes regulation of ownership, in an agrarian economy like India with great scarcity and an unequal distribution of land. A large mass of the rural population below the poverty line, there are compelling economic and political arguments for land reforms,

Land is a characteristic element of human life and their life and their life project in the early period of human origin. During this time, he felt that his livelihood was important. Constant wandering was a feature of his life.

As human life progressed, human beings became aware of their existence. They should have their own shelter; they should have some land around them he began to feel that way. The concept of rights began to take shape as man settled in one place and began to establish his own ownership of the land he had occupied. Later human gangs emerged; the gang that attacked each other and won the attack was the group that made the losing group the Mandlik, which led to the rise of the monarchy.

3.2. OBJECTIVES:

- To know the nature of land holding in pre-independence period
- To study the need of land for reforming the law
- To study the nature & importance of law in land reform.
- To study the benefits of the land reforms act to farmers.
- To study the extent to which social justice and equality have been established in rural areas through land reform
- Understanding the nature of the maximum land retention Act 1961.

3.3 THE NATURE OF LAND RETENTION IN INDIA:

To begin with we take up the meaning of the tenancy system. We also describe the main forms in which the system is found in the country

The basic feature of the tenancy system is that the cultivator cultivates a land taken from an owner on payment of rent or by sharing the produce of land with the landlord. As such the tenure system of a country identifies the ownership of land and the relation of the owner with the cultivator. The two, the owner and the cultivator, may be separate entities as, for example, in the Zamindari system, or the two functions of owning and

cultivation may vest in the same person as in the ryotwari system. In case the owner and the tiller are separate persons, cultivation is done in terms of conditions of tenancy. In such a system the cultivator is a tenant who may be paying or sharing the crop with the owner. His tenancy may be temporary or fixed permanently, subject to the fulfilment of certain conditions. The person identified as owner is also related to government insofar as he is responsible for making tax payments such as land revenue to the state. Thus, a tenure system encompasses such things as the owner, the cultivator, and the government, interrelation among them and the rights and obligations of each

Mahalwari system

In this system land is held under the joint ownership of the entire village community. The members of the community jointly and individually are responsible for the payment of land revenue to the government. Generally, the village community appoints a certain person for this purpose. The land revenue is normally fixed for 30 to 40 years, and is subject to change after the expiry of the fixed period. The fixation of land revenue, its payment and other connected things are different in different places. This system is prevalent in Punjab, UP and in some places of Madhya Pradesh.

The arrangements for cultivation vary from place to place. At some places, cultivation is undertaken by owners as, for example, in Punjab, while at others it is done through tenants as in Uttar Pradesh. The rights in land or the division of the produce raised on land are based upon different considerations in different places. In some places it is done as per arrangements made by their forefather; in others, the basis is traditional principles or with reference to the number of ploughs, wells, etc., on the land.

Zamindari system.

The system prevailed over about 40% of the land under cultivation during the British rule. Since Independence it has ceased to exist in its old form. The British viewed the land tenure system not in reality owners, were made only from the angle of fixing responsibility for the payment of land revenue to the government; they were indifferent to what happened to the tiller and to production. As such, even those persons, who were not in reality owners, were made so by the British Government for the simple reason that they were arranging the collection of land revenue from agriculturists.

Under this system two distinct classes emerged: owners and cultivators. Thus between the government and tillers, owners acted as intermediaries. Often the number of intermediaries was very large, caused by the subtenancy of land. The principal tenants sublet the land taken on lease from zamindars. The subtenants did likewise and leased the land to other tenants. In this way the number of intermediaries between the government and the actual cultivator multiplied. According to the Simon commission Report, in some cases there were as many as 50 intermediaries.

The former system of the fixation of land revenue was known as permanent settlement, and the latter was known as temporary settlement for a period of 20 to 40 years after which the amount of land revenue payable could be revising. Permanent settlement prevailed in Bengal, Bihar, Orissa, and in some parts of Assam and Madras (now Tamil Nadu). Temporary settlement was to be found in Uttar Pradesh, Punjab, Rajasthan and Madhya Pradesh.

3.4 THE NEED OF LAND REFORMS IN INDIA

As we noticed above, land ownership was highly unequal at the time of Independence. There was a parasitic class of intermediaries who played no role in production on the other hand, the vast majority of actual cultivators were either tenants or subtenants, without any security of tenure. According to the national commission on Agriculture (1976), this was the root cause of the state of chronic crisis in which Indian agriculture economy was enmeshed before the attainment of Independence.

Although the adverse effect of landlordism on agriculture production was most profound in the states of Uttar Pradesh, Bihar, west Bengal and Orissa, other states that were under Ryotwari and Mahalwari systems also witnessed the growth of a large number of intermediaries with all its adverse impact. The leased-in area consisted nearly 35% of the total operated area in 1950-51.

A report of the U.N.O. on the defects in Agrarian Structure pointed out that, "the present agrarian system acts as a powerful obstacle to economic development in three ways.

In the first place, the tenant has little incentive to increase his output since a large share accrues to the landowner who incurs no cost.

Secondly, very small margin is left with the actual cultivator and his amount is quite insufficient to provide for a capital investment on the land.

Thirdly it means that wealth is held in the form of land, and that the tenants secure no benefit of working with better equipment or with better seed.

In a word, under the peasant agrarian system, the landlords grew richer, the intermediaries continued to flourish, the state was deprived of his share of legitimate increase in revenue and the cultivator tenants lived to mouth existence.

The Planning Commission pointed out the following defects in the agrarian structure of India that was prevailing before independence.

- i. The existence of a large number of intermediaries between the state and the cultivator.
- ii. The existence of a large proportion of land under tenancy system.

- iii. Insecurity of tenure among small cultivators due to indebtedness, mortgages into possession and absence of ownership rights which prevented the cultivator from effecting permanent improvement.
- iv. A high rate of rent which leaves little incentive to cultivators to produce more particularly in case of crop-sharing.
- v. Small and fragmented holdings disabling improvements in techniques of cultivation.
- vi. Excessive low yield per hectare and prevalence of poverty in agricultural sector.
- vii. Uneven distribution of land which leaves a large section of the rural population either without any land or with holdings too small for profitable cultivation.
- viii. Lack of effective organisation for the completely disorganised peasantry.

3.5 THE NATURE OF LAND REFORMS IN INDIA

3.5.1. Introduction:

It is difficult to say when this system was started. In ancient scriptures the share of the state in total income $\frac{1}{6}$ it is mentioned that. Hindu and Muslim king had fixed the amount of farm land. Then in times of turmoil, moneylenders and the rich bought land from the poor and conquered established as the owner of the land. The method of perpetuation by Lord Cornwallis brought security to the landlords. From these classes like zamindar, Jahgirdar, Talukadar etc. were formed. This is where the plight of Indian agriculture began. Landowners have not paid much attention to agriculture reform.

After Independence, this issue was considered for a long time. The first five year plan cleverly states that land ownership is a fundamental issue in national development.

In almost all the states in the country, laws were enacted to create zamindari system, which resulted in land ownership of 20 million clans. The direct relationship between the government and the land grabbing farmers was established.

Gujarat, Maharashtra, Madhya Pradesh, Rajasthan clans who have paid compensation to landowners in instalments have become landlords the experiment of destroying zamindari is truly revolutionary in addition to destroying zamindari practices, various reforms were needed for agricultural development. The government has tried to take steps in that direction.

1. To protecting the rights of clans
2. Determine the amount to be given to the land owners
3. Giving land ownership rights to clans

In this way 1/6 of the total income in Maharashtra was fixed. Clans cannot be removed till a certain period. In Maharashtra, Andhra Pradesh, Madhya Pradesh, etc. a period of ten years has been fixed by the court in the state of Andhra Pradesh. Due to the enactment of such the owner of the land a situation arose to cultivate with intimacy.

3.5.2 Clan Laws

The landlords themselves cultivate the land through clans without cultivating the land. In the attribute rayowari method so it is not a matter of clans. Safety, it is not a matter of land ownership; it is not a matter of land rights for clans. The interest of was not considered during the British rule but in clans.

But in 1937 the provincial Autonomy Corporation accelerated these ideas. In the post-independence period however, identity laws were passed in various states to protect the interests of the clans.

3.5.3 Ceiling on land holding

The most far-reaching important program in terms of results in the land improvement program is the ceiling on the land dam. In Maharashtra, this law came into force on January 26, 1962. The law sets limits on how much land each person can keep close to himself. If a landlord has more land than the prescribed limit, he should take it away from the government. The removed land is allotted to the landless

This law was enacted in almost all the states. Assam 50 acres, Andhra Pradesh 27 to 234 acres, Bihar 20 to 60 acres, Kerala 5 to 20 acres, Maharashtra 18 to 54 acres, Karnataka 27 to 216 acres, ext.

This includes land for wool business, excluding large size of land from sugarcane mills using modern methods of sugarcane cultivation. The reason for making this law

In rural areas, land is a means of income and land is in the hands of a few. The bill will provide land to the landless and reduce economic inequality between the two classes.

Since the landless get land, they will cultivate with utmost sincerity

If a person has a lot of land, it is not possible to cultivate that land properly, so allotment of land will help increase production.

Giving more land to a person who has less land will solve the financial problem of that person

3.5.4 Preventing warts to pieces

The Act was enacted in 1948 with the aim of improving agricultural production and increasing agricultural incentives to promote agricultural development.

It had two important parts.

- i) To prevent further fragmentation of agriculture, this is not financially feasible.
- ii) The purpose behind the law is to consolidate land parcels across the state

The purpose of this Act is to collect the village land held by different persons and make a plan in such a way that the land will be utilized to the maximum.

3.5.5 Active Award for Cooperative Farming

Mahatma Gandhi had earlier in 1942 emphasized the idea that one would not get full benefits without adopting co-operative agriculture. Earlier, the Congress Agriculture Reforms Committee had awarded co-operative agriculture but the experiment was successful as land is an important part of human economic progress in the country, so who would not be willing to give their land to another? 1984 85 the country had only 0.2% co-operative land.

The only exception was the successful experiment of co-operative farming by Madhukar Deval in the village of Mahisal in Sangli district of Maharashtra, but after him this experiment has failed but the co-operatives have succeeded in the field of buying and selling of milk, dairy co-operative sugar factories etc.

3.6 LAND REFORM LAWS:

The nature of land reform laws in the country is as follow:

3.6.1 Maximum Land Retention Act 1961

In the post-independence period, it was the policy of the government to fix the land holding limit during the land reform and to remove the excess land and distribute it to the landless and the poor. Large population of people on agricultural land Lack of opportunities to move from agricultural business to non-agricultural business Lack of employment facilities at the same time, considering the need to increase grain production, the government decided to enact a maximum land holding law.

The land holding ceiling from different states in the country was laid down in two phases. For example, the first phase from 1960 to 1972 and the second phase after 1972 started. In the first phase, land holding in Maharashtra was fixed at 18 to 126 acres.

In the second phase, the area was fixed at 18 to 54 acres. Some lands have been excluded from the Maximum Land Retention Act. The family holding criteria has been fixed and land holding has been restricted in the second phase of 1972. Thus, it has become an important law in the country.

3.6.2 Objectives:

- Maximum for the subsistence of a family by setting a ceiling on land holding
- After fixing it, the excess land is removed and the land is distributed to the landless and minority holders.

3.6.3 The nature of the ceiling above Land

When legislating to impose a ceiling on land holding The law stipulates how much land should be in each of these categories by defining the category as A,B,C,D,E. Its appearance is as follows.

Table No. -1

Class	Description	Maximum land holding area(In acres)
A	With perennial water supply.	18-00
B	No perennial water supply but guaranteed water supply for only one crop per year	27-00
C	Land with flood water for a crop from natural resources but no assured supply	36-00
D	Thane Ratnagiri, Raigad, Bhandara, Brahmapuri Gadchiroli, Sironcha Taluka of Chandrapur District for slaughter in and of the early period lands under rice cultivation.	36-00
E	Dry land means above A,B,C or D lands in addition to lands falling under	54-00

A total of three criteria were set out in determining the family factor when considering land.

- Person and his wife, More than one wife, their obedience and children and ignorant unmarried children.

- When one of the spouses dies, the husband or wife or several wives, the ignorant daughter.
- If the husband and wife are dead, then their command and children are unmarried daughters.

3.6.4 Restrictions on transfer and holding

Exceeding the arch limit near any family or individual after 26 September 1970, So that land cannot be transferred in any way to the person. Even if the person and the family have additional land, that family or individual cannot hold more land by law, of land held so as not to get a chance to evade the law. The division of occupied land was also restricted after 26 September 1970.

3.6.5 Determining additional land

Under this Act, each family head or individual was given a period of time to file a return of land. (One month since 2 October 1975) If the Description letter is not filled in time a fine of Rs. 500 was provided for giving false information. The statement was to be checked by the Collector immediately to determine the amount of additional land

In determining the additional land, care was to be taken not to violate the Fragmentation and Fragmentation Act and to issue notices to the landowners in a timely manner.

The landowners whose land was to be redundant he wanted to call them and remind them of the matter. All the owners would not get a copy of the land after the surplus land was deposited with the government

3.6.6 To compensate

Give the compensation fixed by the government to the concerned for the land which is excess and has been taken away by the government. When considering land compensation, the construction of trees and wells on that land The District Collector wants to know the cost of permanent joint work. The compensation amount is to be paid in transferable cash without paying cash. This amount carries an interest rate of three per cent per annum. If any part of it is not payable in the form of patient while paying the amount of compensation, such amount or part thereof to be paid in cash.

3.6.7 Surplusland allotment.

More land acquired by the state government is to be allotted on priority basis this land is to be given as per the provisions of the Land Revenue Code fixed by the Government for allotment of land.

Clans that have become landless due to removal of land from clans as per clan law

If there is an agricultural labourer working in this group or an agricultural product planted on that land or related unemployed worker, it has to be offered.

Excluding the above lands, out of the remaining lands, 50 per cent lands have been sanctioned by the Scheduled Castes and Scheduled Tribes, Nomadic deprived castes and landless persons belonging to backward classes are to be reserved for growth.

A) The landless clan of the clan whose land has been taken away by the owner by the clan law, however, the clan must be within eight kilometres of the village.

B) In order to cultivate efficiently and to continue the supply of raw materials, the land can be given to the leased persons for industrial purposes.

The main beneficiary is to pay the land volume in annual instalments not exceeding fifteen. The interest is to be paid by the beneficiary at the rate of three per cent on this price.

3.6.8 Appeals, writings, defects and revisions.

Maharashtra Revenue Tribunal: Maharashtra Revenue Tribunal figures against the decision given by the Collector.

This appeal must be made within 90 days from the date of decision. A copy of the decision of the appeal against which the appeal is filed while giving decision on this, the order given by the District Collector within the Maharashtra Revenue Tribunal can be maintained. The declaration order can be revoked or revoked. The Collector has the power to rectify the writing defects in the judgment.

The Commissioner can make a full inspection of the decision of the Collector by inquiring into the documents.

3.6.9 Lands excluded from this Act.

1. Corporations and lands owned or controlled by the State Government
2. Authorities established by law Universities Agricultural Colleges, schools Lands of agricultural research institutes or lands leased from them
3. Lands held by the government's military field
4. Lands leased from him before 4th August 1959 land Development Banks or Central Co-operative Banks or Primary Co-operative Societies.
5. Land held by the bank as per co-operative society for recovery of amount

Apart from this, on the terms and conditions prescribed by the order given to the State Government, the following lands are above this Act.

Lands held by a trust or WAFF before 26 September 1970

Anyone for horse breeding area or any trust organization or any one and Panjarpol or Goshala 26 September 1970.

Lands held by a public limited company or trust or by a father for raising cattle or sheep before 26 September 1970

Up to 1999 lands occupied by any real industrial or other male industrial enterprise for later use.

3.6.10 Loopholes in the law

Considering the state of Maharashtra, there are many loopholes in this law and it has not been implemented properly. Increased land was not received as expected. The original purpose of the law did not succeed

It was already rumoured that the Maximum Land Retention Act would come into existence in Maharashtra. In the first stage the individual was the criterion so the land was divided into individuals

In the second phase, the criterion of family was fixed and the then Chief Minister of Maharashtra was not willing to implement this law. But due to the pressure of the then Prime Minister, he showed readiness to implement this law in Maharashtra. But the family was born 15 days before the law was enacted by the Hon. Chief Minister. After announcing this, the relatives immediately transferred their land. It was clear from this that the government did not want to implement this law wholeheartedly, which benefited the rich farmers.

The state government adopted a policy of delay for the law. 1972 The Sully Legislative Assembly passes an Amendment Act reducing the maximum area. But the law was not enacted until September 19, 1975. So the rich farmers got plenty of time to evade this law. Many wealthy farmers with more land than their maximum land holdings escaped the law.

There is ample scope for transfer and division of land for agriculture.

In this Act, different lands were excluded from the dispute. There were eleven different types of land. This provided an opportunity to save a large amount of land from the clutter of the law. Also, many people have succeeded in saving land by changing the classification of land.

3. 6.11 Recommendations for effective implementation of the Act.

For effective implementation of the Act, the Ministry of Rural Development, Government of India has made some recommendations in Volume One of the First Year Report. These recommendations are as follows

1. Updating land records.
2. The pending claims of the court should be constantly reviewed. A special court should be set up to decide this case
3. The tactic of making false documents should be exposed and thwarted
4. Find the area above the maximum dam with great skill
5. Preparation of proper documents regarding land given to landless. To record their name in the land records. Allocation of land to the landless by the actual authorities
6. If the augmented lands are not cultivable, they should be cultivated and then given to the landless.

If this law is to be effectively enforced, there must be a diamond in the rough. Awareness of the beneficiaries should be established. A senior practitioner and guide of the land reform movement.

3.7 SUMMARY:

Land reform is an important objective in the planning process of post-independence India. For this, the land holding system in India was reviewed while enacting various laws and a review of the distance in human relations when considering land redistribution accordingly.

Accordingly, objectives were set to improve the land. i.e.

- 1) Destroying all types of intermediaries on farm land.
- 2) Clan laws,
- 3) Ceiling on land holding.
- 4) Fragmentation prevention.
- 5) Active Award for Cooperative Farming Etc.

In accordance with this objective, a law was enacted to put a ceiling on the land. The Maharashtra Maximum Land Limit Act, 1961 was enacted. In Maharashtra, the maximum land limit was 18 acres for horticulture and 54 acres for arable land. Although there are many loopholes in this law, the beginning of the law is definitely a credit.

3.8. UNIT END QUESTION:

Descriptive:

1. Explain the need for land reform by clarifying the nature of land retention in India.
2. Explain in detail the nature of land reform in India.
3. Explain the nature of land retention law.
4. Short notes
 - I. Lands excluded from the Maximum Land Retention Act.
 - II. Loopholes in the maximum land retention law.

5. Suggest measures for effective implementation of the Maximum Land Retention Act.

MCQs:

i) **Landing ceiling means.**

- a) Maximum size of land.
- b) Minimum Size of land
- c) Less size of land
- d) Big size of land.

ii) **Purpose of land ceiling.**

- a) Reduce size of land.
- b) Reduce imbalance in land distribution.
- c) Increase land holding
- d) Reduce production.

iii) **What is the Dry land ceiling in Maharashtra?**

- a) 104 acre
- b) 54acre
- c) 64 acre
- d) 94acre.

Answer Key: i)-a, ii)-b, iii)-b.

3.9 REFERENCES

- Agrawal A.N., wishwaprakashan, 20th edition, Indian Economy. Problems of Development and planning
- Dr. B.P. Tyagi, Agricultural economics, and Rural Development
- Indian Agriculture Institutional perspective
- Appu.P.S.“ Tenancy reform In India” Economic and Political Weekly,
- Khusro, A.M., Economics of land Reform and farm size in India, Delhi, Macmillan.
- A.S.Sirohi, 1986, Agrarian Reforms and Institutional Changes in India. Concept publishing company. New Delhi
- National Commission on Agriculture, 1976 Report on Agrarian Reforms. No. XV, Government of India
- Planning Commission, 1973, Task force on Agrarian Relations Government of India.



LAND REFORM LEGISLATIONS- II



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Unit Structure

- 4.1 Objectives
- 4.2 Introduction
- 4.3 Tenancy Act
- 4.4 Consolidation of Land Holding Act
- 4.5 Summary
- 4.6 Exercise
- 4.7 References

4.1 OBJECTIVES

- To Study of Tenancy Act.
- To analyse Role of Land Calling Act.
- To Study Consolidation of land holding Act
- To analyse Role of Consolidation of land holding Act

4.2 INTRODUCTION

The British government pursued a policy of giving maximum protection and encouragement to arrogant intermediaries such as moneylenders and landlords. During the British rule, moneylenders were tied around the necks of the peasantry. In the rural areas, the lender's hold was strong. The mortgaged land was auctioned off as per the order of the civil court and became the property of the moneylenders. Rayat, who was the owner, later

became a clan. The Rayat was not protected at all. The situation has been described by the Feminine Inquiry Commission with great pomp.

Landlords and moneylenders leased land to clans, and there was no guarantee of how long they would remain in the clan's possession. The owners had the right to withdraw the money at the end of the year with a period of three months. These women were given half to the clans. The clan had to pay half of the hard-earned income to the owner. The clans were not getting enough fruit from their hard work. The landlords were only concerned with the continent. He had no interest in land reform

According to the Mumbai government's census, between 1917 and 1943, about five million hectares of land from small farmers went to absentee landowners, moneylenders and traders. In Rayatwari, 68.67 per cent people holding less than 10 acres in Mumbai state have only 26. 67% of the land was left.

The land reform program was given an important place in the Second Five Year Plan. In Maharashtra, separate clan laws were initially enacted mainly for three geographical regions

- A) The Mumbai Clan and Agricultural Land Act 1948 were for Mumbai Konkan and Western Maharashtra.
- B) Hyderabad Clan Occupied Farm Land Act 1950-This law is applicable in Marathwada, the state of Hyderabad which joined Maharashtra,
- C) The Mumbai Clan and Agricultural Land Act, 1958, covers the districts of the province and covers the territory of Varad.

4.3 LAND TENANCY ACT.

A tenant is a person who occupies the property of another person by signing a lease or rental agreement. Even though tenants do not own the property, by signing a rental or lease agreement, they have certain rights over the property they occupy.

4.3.1 Mumbai Clan and Agricultural Land Act, 1948-

Objectives of the Mumbai Clan and Agricultural Land Act, 1948: -

- Regulating the relationship between owner and clan
- Hedge and disputes between land holders and clans to prevent illness to land
- Improving the socio-economic status of farmers
- To manage the land by taking possession of the land holders in case of complete and efficient use of agricultural land
- Lands owned or occupied by farmers, agricultural labourers and artisans

4.3.2 The main provisions of the Clan law

Definition of clan-

- Clans established by agreement- Families established by oral or written agreement
- Assumed Tribe - Another person who does not have a person will legally own the land owned by another person.

This person will not be from the landlord's family, will not be working as a wage labourer under the supervision of the landlord or his family, or will not be holding land mortgage.

- Protected clan- A person deemed to be protected under Section 3, 3-A and 4 of the Mumbai Clan Act, 1939 is protected by this Act, in any case, to a person who encroaches on another person's land.
- Sub- clans: Permanent clans give responsibility to the individual within them to land and to do so they are called sub-clans

4.3.3 Confirmation of clan to clans.

The law fixed the maximum and subsistence area of the land and fixed the ransom.

Sr. N.	Types of Land	Maximum aria (Acres)	Executing area (Acres)
A)	Arable land	48-0	24-0
B)	Watering or paddy land in season	24-0	12-0
C)	Perennial irrigated land	08-0	04=0

A) Volume filling format.

- B) The volume is to be paid in cash
- C) The amount to be paid by the clan whichever is less is five times the volume of land revenue or twenty rupees per acre.
- D) The amount of the block shall in no case be less than double the amount of land revenue.
- E) If the clan does not inform the clan owner of the amount due to other matters, the amount will be treated as a clause.

- F) The land owner is required to give a receipt of the volume amount after receiving the volume amount. Failure to provide the receipt of the clause is punishable by a fine of up to Rs.100
- G) Prior to the enactment of this Act, all levies levied on landlords or any form of service was abolished. Violation of this provision can result in a fine of up to Rs.1000 to the land owner.

B) Amounts to be paid by the clan other than Volume.

1. Land revenue as per code
2. Irrigation tax as per Mumbai Irrigation Provision
3. Cess as per Mumbai Local Bodies Act 1923.
4. Mumbai Gram Panchayat Act Cess

If the clans plant trees in the land of the continent, they will have the right to that tree. The claimant will have the right to receive compensation from the case owner of these trees at the end of the clan occupation. Two-thirds of the clan and one-third of the owner will own the plant that grows naturally in the land.

The clan will be responsible for erecting land boundary markers.

C) Removal of land possession.

No clan will be unjustly removed from the land by this Act but in certain circumstances the land can be taken over by the clan.

1. If you fail to pay the volume before May 31 for three consecutive years
2. If the act of damaging or damaging the land is done by the clan
3. If the land is subdivided, if the land is leased, then the land is transferred now
4. If the land is not cultivated by the clan
5. If land is used for other purposes other than agriculture
6. If the original owner wants to cultivate the land or cultivate it.
7. If the land owner who has a certificate for caste consolidation wants land
8. If the clan ends voluntarily
9. If the land owner and the clan exchange the land among themselves
10. The land owner did not cultivate the land within a year after taking the land from the clan for cultivating the caste

4.3.4 Land Acquisition Act 1 April 1957.

The government removed the ordinance on April 1, 1957 and on this date the person who was cultivating the land was declared the real owner of the deposit. In this case, if the permanent clans have kept the sub-clans, then on the above date it is said that the sub-clans have become the owners of the land.

The value of the land to be purchased by the flood is to be decided by the tribunal. The land can be purchased by the clan up to a maximum of 48

acres of irrigated land or 24 acres of perennial water 12 acres. No more land can be purchased than that. The tribunal will issue a notice to the clan regarding the purchase of land. During the period of notice, the clan should appear before the tribunal in person and state whether it wants to purchase or not.

4.3.5 Tenancy Problem.

The Land reforms under this category is related to those who work on land leased from others. Such Cultivators can be of three types, viz. (I) Occupancy tenants, i.e., permanent tenants; ii non-occupancy tenants or tenants-at-will; (iii) sub-tenants. The tenants under the first category enjoy right on land almost those equal to the owners. His right to cultivate land is permanent. So long as he pays the rent in time, he cannot be ejected from the land. He enjoys the benefit of whatever investment or improvement he has made on the land.

But, in the case of non-occupancy tenants or tenants-at-will and sub-tenants, the position of the cultivator is very weak. Such tenants can be ejected from land at any time. Prior to independence, they had to perform different types of beggar and were just like bounded labour of the landlords. Many a time such lease deeds were oral and likely to change at the discretion of the landlord. According to the National Sample Survey (8th Round) about 20% of the land was under the tenancy-at-will and sub-tenancy.

Although with the abolition of intermediary right tenants acquired proprietary rights in land and have been brought directly in relation with the State, yet the problem of tenancy has not been completely solved for still in some case the tiller is holding land not directly from the state but from the owners of land. This has been mostly due to three factors. Firstly, intermediaries did not always cultivate their home farm lands and generally let these lands out to tenants. Secondly, the tenants that have become owners with the abolition of intermediaries sometimes leased lands to sub-tenants. Thirdly, in rayotwari areas a considerable proportion of land held by ryots has been cultivated by tenants.

4.3.6 Policy of Tenancy Reforms.

The policy of tenancy reforms in different states formulated in the right of the recommendations of the First Five Year Plan, which was subsequently modified and amended. The main recommendations of the First Five Year Plan in respect of tenancy reforms were as follows:

- (i) Conferment of the right of occupancy on all tenants subject to the owner's right to resume a limited area for personal cultivation;
- (ii) Resumption for personal cultivation to be permitted up to three family holdings.

- (iii) Only those owners to get the right to resume land who cultivate land themselves, that is to say, who are bona fide agriculturists.
- (iv) The landowners to exercise the right of resumption for personal cultivation within a period of five years.
- (v) The tenants of non-reusable area, to get the right of purchase, the price to be determined in terms of multiple of the rental value of the land and payment being made in instalments the Government to establish direct contact with the tenants of the non-reusable area.
- (vi) A rate of rent exceeding one-fourth or one-fifth of the produce to be regarded as requiring special justification. it means rent should not exceed one-fourth or one-fifth of the produce.

4.3.7 Measures for Tenancy Reforms:

The First phase of land reforms (1948-55), was mainly concerned with the abolition of intermediaries. The tenancy reform which is an integral part of land reform policy favoured neither the wholesale expropriation of landlordism nor the wholesale expropriation of tenant cultivators. The middle course was adopted. Thus, certain amendments to the then existing tenancy laws were carried out, along with the legislation for the adulation of intermediaries. Thus the scope of protection of former intermediaries and tenants was extended especially in the area of statutory landlords.

But, the owners were allowed to resume land for their personal cultivation. This led to the mass eviction of tenants, sub-tenants and share-croppers through various legal and extra-legal devices. In fact, a big drive to clear land of tenant occupants was started by landlords in order to obtain maximum area as i.e., called as Land Reforms and Land Tenure Systems, Since Independence

Self-cultivated land Innumerable evictions were effected in the process of “resumption” of land by landowners. But such eviction could not take place in Uttar Pradesh and Union Territory of Delhi in fact; Uttar Pradesh has the credit, of having the best land reforms in India.

The counter-act this, the law makers in most of the State tried to enact or amend tenancy laws in the subsequent ten year (1955-65) and tried to plug certain glaring loopholes in the existing enactments and thus enlarged the area protection to tenants.

4.3.8 The major aspects incorporated in tenancy legislation in different State to protect the tenants can be identified as below:

- (a) Regulation of Rent.
- (b) Security of Tenure
- (c) Rights of Ownership

Regulation of Rent: On the eve of independence the customary level of rents commonly paid by the tenants to landlords varied from 50 per cent to

70 per cent of the total produce. Besides, the tenants had to render certain free services known as Begar to the landlords. Those considerably reduced the real income of the actual cultivator. The situation was reviewed thoroughly by the Planning Commission, and it was laid down in the First Five Year Plan that the rent, payable by cultivating tenants to landlords, should not exceed one-fifth (20 per cent) to one-fourth (25 per cent) of the total produce. Legislation along these lines has been enacted in all the States. The maximum rates of rent have been fixed at levels as suggested by the Planning commission in almost all states, with some marginal adjustments. However, the maximum rates of rents fixed by different States vary from one State to another state. For instance, the maximum rent payable by tenants in Kerala has been fixed at Will be between 1/4 to 1/2 of the total product

- (a) .Whereas in Assam, Mysore, Manipur and Tripura rates vary from one-fifth to one-fourth. In Punjab, Tamil Nadu and Jammu and Kashmir, it varies from, 33.3 per cent to 40 per cent of the gross produce, depending on whether land is wet or dry. Rents have also been differentiated on the basis of difference in land revenue. It means rents differ within a state, because land revenue differs from area to area.
- (b) **Security of Tenure:** The actual tiller can put in his best efforts and cultivate the land efficiently only when he is sure that he will continue to be its tiller for ever. Investment needs to be made in land in the form of manures to maintain its fertility and improvements of increase its yield. If land is continuously cultivated without being manured or looked after, its yield will go on decreasing till it becomes barren. Hence, to enable the tiller to put forth his best in land and to maintain and improve its yield, it is imperative that he should have a sense of security of continued occupation and cultivation of land. He should not be liable to ejection as long as he pays the rents but fair rent. He should have permanent and heritable interest in it, so that he may be able to develop and improve it.

In this connection, the words of Arthur Young are worth mentioning. "The magic of private property turns sand into gold. Give a man the secure possession of bleak rock and he will turn it into garden, give him a nine years lease of garden, he converts it into a desert. Thus, realising the importance of security of tenure, the Planning Commission laid down that tenants at will should be accorded permanent right in land they cultivate subject to a limited right of resumption to be granted to the landowners. Legislation has been enacted in different state. The legislation has three essential aims:

- (a) The ejectment may not take place except in accordance with the provisions of the law :

- (b) land may be resumed by the landowners for personal cultivation only; and
- (c) In the event of resumption, the tenant is assured of the prescribed minimum area. The security of tenure provided to the tenants has been different in different states. For instance, in U.P. tenants have been given full security of tenure and permanent and heritable rights, while in Bombay and other states tenants were liable to ejectment in exercise of the landlord's right to resume a limited area for personal cultivation. However, the measure adopted for security of tenure follow broadly the following four patterns:
 - (a) In some states like Utter Pradesh, and the Union Territory of Delhi, all Tenants in cultivating possession of land have been given full security of tenure without the landowners having any right to resume land for personal cultivation.
 - (b) In some other states like Assam, Maharashtra, Gujarat, Punjab, Rajasthan and Himachal Pradesh land-owners are permitted to resume a limited area or a portion of the holding is left with tenants.
 - (c) In still other states like West Bengal, Jammu and Kashmir, a limited has been placed on the extent of land which a landowner may resume but the tenant is not entitled to retain a minimum area or a portion of h is holding in cases.
 - (d) In some states, like Tamil Nadu, Karnataka, Kerala, Andhra Pradesh, Orissa, etc., measures in the form of an order for staying ejectments have been adopted.

The measures relating to the security of tenure also restrict the grounds on which a tenant can be ejected. Thus, a tenant can be ejected Land Reforms and Land Tenure System, Since Independence. on the following grounds : (a) Non-payment of rent, (b) performance of an act which is destructive or permanently injurious to the land, (c) suds-letting the land, (d) using the land for purpose other than agriculture; (e) resumption of land for personal cultivation.

Now all tenancies have been declared as Non resemble and permanent and heritable rights have been granted.

c. Right of Ownership : Legislation provides for bringing tenants of non-resemble lands it direct relationship with the state in the following three ways : (a) by the declaring tenants as owners and requiring them to pay compensation to owners in suitable instalments; (b) through the acquisition by the state of the Landlords rights and bringing tenants into direct relationship with the State, option being given to tenants continue as such on payment of fair rent to the

government or to acquire full ownership on payment of the prescribed minimum.

The impact of these measures can be seen from the pattern of holding that now emerged in the country. Agricultural census report pointed out that, out of the 70 million holdings in the country, 64 million or 92 per cent holdings are wholly owned and self-operated, 3 million holdings are wholly leased, accounting for 4 per cent each. Out of 162 million hectares under the holdings, 148 million hectares or 91 per cent hectares are wholly owned and self-operated: 10 million hectares of six per cent hectares are partly owned and partly rented and the balance 4 million of 3 per cent hectares is wholly leased. It is, thus, obvious that, most of the holdings are now under self-cultivation and the evil of sharecropping has been reduced to a very great extent. It is because of high returns in self-cultivation and the owner cultivator does not find it profitable to lease out land on sharecropping. In view of increasing pressure of population on land and unemployment, the leasing out of land is expected to be a rare phenomenon in future.

The practice of leasing out of land is adopted by those cultivators who do not possess required amount of labour and capital, otherwise in view of the high return from land, leasing out and sharecropping is considered unprofitable by owner cultivator.

4.3.9 Criticism of Tenancy Reforms or Legislation.

Though considerable progress has been made in the field of tenancy reforms, but because of serious deficiencies and loopholes, tenancy legislation has been rendered ineffective. Some of the loopholes have been discussed as below:

1. **Share Croppers are not regarded as Tenants:** In the first place, the National Commission on Agriculture pointed out that the definition of the term “tenant” generally excludes share-croppers who form the great bulk of the tenant cultivators. Most of the leasing out is done in the form of sharecropping in all the States and the exclusion of sharecroppers from the scope of tenancy legislation deprives the millions of real tillers of the soil of the protection and rights provided under tenancy reform measures.” However, at present only 3% of the area is wholly leased out.
2. **Ejection of Tenants:** The National Commission on Agriculture pointed out that, ejection of tenants from their holdings is still permissible on many grounds such as, (a) Non-payment of rent, (b) failure of payment within a given period, (c) failure to deliver share of the produce within a specified time, (d) failure to cultivate properly, and (d) failure to cultivate personally. This is essentially a continuing hanging over of the feudal system. Total evocation from land is one of the besetting evils of the present tenancy system.

3. **Voluntary Surrenders:** The National Commission on Agriculture also pointed out that, the provisions of voluntary surrenders have become the biggest instrument in the hands of landowners to deprive tenants of their due protection. i.e., the protection which has been granted under law. The so-called voluntary surrenders are hardly ever voluntary. Landowners resort freely to pressures and even coercion to secure surrenders in order to get their tenanted lands vacated. Experience has shown that implementation of tenancy laws has everywhere been accompanied by large scale surrenders of tenancies which defeat the very purpose of tenancy legislation
4. **Resumption for personal Cultivation:** The right of resumption has become an instrument in the hands of unscrupulous. Landowners for land grabbing and unwarranted evictions of tenants. This provision has in fact, indirectly created an atmosphere for the growth of informal, oral and concealed tenancies under which the actual cultivator is characterized as a farm servant or agricultural labour.
5. **Rents have not been regulated:** It is said that tenancy legislation has not been able to regulate rents as recommended by the Five Year Plans, that is, one-fifth to one-fourth of the gross produce. In fact, in certain States they have been fixed at higher level than what was recommended in the Plans. For instance, Punjab and Haryana, fair rent is fixed at one-third of the gross produce. In Tamil Nadu, it is 40 per cent of the gross produce in irrigated areas and one-third in other areas. In Andhra Pradesh, the fair rent has been fixed at 30 per cent of the gross produce in irrigated areas and one-third in other areas. In Andhra Pradesh, the fair rent has been fixed at 30 per cent of the gross produce for irrigated and 25 per cent for dry lands. It also reveals that all states have passed laws for fixing rent of cultivating tenants but fair rents have not been defined uniformly.
6. **All tenants could not get Ownership Right:** One of the principal aims of tenancy reforms was to convert tenants into owners of lands they cultivated. But the rates of compensation to be paid by the tenants for acquiring ownership rights were generally very high and beyond the paying capacity of tenants. Therefore, the objective of conferring occupancy rights on as large a body of tenants as possible could not materialize.
7. **Condition to Acquire Occupancy Right:** It was laid down in tenancy legislation that a tenant can acquire occupancy rights provided he can prove continuous possession has holding for a number of years. This provision totally negates the spirit of the principle of land to the tiller, because under the peculiar character of landlord-tenants nexus in India, it is virtually impossible for an ordinary tenant to prove continuous occupation for a number of

years. In fact, the landlord takes good care that the tenant is unable to do so by manipulating land records, by not issuing rent receipts and by rotating tenancies yearly from plot to plot. The burden of proof being on the tenant, the law, thus, becomes virtually ineffective.

It should, however, be noted the most of the deficiencies have been subsequently removed and loop-holes plugged. In fact, at present the Indian agrarian structure is almost free from these loopholes. Had it been done earlier it would have been better.

4.3.10 Conclusion.

The Tenancy and Land Act 1948 and the tightening Land Act 1 April 1957 gave land ownership to a number of clans. In some villages, landlords became landless. Although the acquisition of land for the landless should lead to a slight change in their economic status, it cannot be said that the law has changed much in Maharashtra. There were many loopholes in the law.

4.4 CONSOLIDATION OF LAND HOLDING ACT

4.4.1 Introduction

Ever since man started cultivating the land with his ingenuity, he had a natural desire to pass on the law of these reforms to his descendants. They tried to improve the land for the permanent provision of their descendants, but in time the joint family system began to decline in the country. Divided descendants began to distribute their ancestral lands equally on the basis of fertility. This division began to take place in each generation so that the land began to be transformed into smaller pieces. Independence In view of this, the government enacted the Mumbai Pieces Prohibition Pieces Act 1947 with the objective of not making the farm land smaller than the proportion. Falling small pieces of land cause huge losses to Related to agriculture community which affects the overall economy of the country. The law was enacted by the government to ensure that it does not become a small piece of land.

4.4.2 Definition:

In the post-independence period, the idea of a small British family took root in the Indian people. The inheritance law in the country has given these ideas more leeway. Due to the increase in population, a farmer should have as many roots as he has, after which his father's lands should be divided according to the principle of fertility. This led to fragmentation with the division of the land which resulted in the fragmentation of the land. In view of this problem, the Government of India enacted a special law under section 147, prohibiting the fragmentation of agricultural land and enacting the Fragmentation and Fragmentation Act by fixing its size while dividing the farmland. His fragmentation affected the productivity

of farmland. Due to the small size of the plots of land, there were obstacles in improving the agricultural land.

The government had to consider the possibility of this issue becoming more acute in the future. This was the result of the British joint family system. The government felt the need to consider this matter seriously.

4.4.3 CEILING ON LAND HOLDINGS.

Ceiling on land holdings refers to the fixation of maximum size of a holding that an individual cultivator or a house hold may possess. Beyond maximum limit, all land belonging to the land-lords is taken away by the Government to be redistributed among the landless labourers. Thus, the imposition of ceiling on agricultural holdings is pre-eminently a redistributive measure. The idea basically is to ration land, a crucial asset, in such a way that, above a certain maximum, the surplus land is taken away from the present holders and is distributed to the landless or to the small farmers. This will reduce wide disparities of income and wealth found in the agrarian structure.

4.4.4 Case for Ceiling Land Holdings.

- (a) **Important Component of land Reforms:** The National Commission of Agriculture considered the imposition of ceiling land holding as integral part of land reforms policy. It is of the view that, any land reform programme is grossly inadequate and defective, it does not provide for an upper limit on land holdings and for redistribution of surplus among the land hungry population. The Commission is of the view that such a measure is urgently called for in view of the acute pressure on land and meagre prospect of population transfer from agriculture to non-agriculture, the need for increasing agricultural output, and for increasing employment in rural areas. Thus, First Five Year Plan accepted the principle of ceiling on land holding and said, "that there should be an upper limit to the amount of land that an individual may hold."
- (b) **Social Justice:** Ownership and cultivation of land determine the economic and social relationship with the rural society. For building up a progressive rural economy, disparities in the ownership of land should be greatly reduced for in Indian conditions disparities in the distribution of wealth are inconsistent with economic progress. Thus, the Second Five Year Plan recommended ceiling legislation for giving to the rural poor "a sense of opportunity equal with other sections of the community." Thus, provide a sense of social justice and greater opportunities to the rural poor. The Panel on Land Reforms set up by the Planning Commission in 1955, recommended enactment of ceiling legislation "for reducing inequalities in land ownership and income for satisfying land-hunger of rural poor and for providing greater opportunities for self-employment." It is thus, obvious that enactment of ceiling legislation has been considered essential from the point of social justice.

- (c) **Economic Development:** It is said that, the policy of ceiling on land holdings will accelerate that rate of economic development, since ceiling policy will lead to the emergence of a small peasant class, i.e., peasants holding small holdings. These small peasants will work with enthusiasm, give his best to the land and take the maximum out of it. Thus, it will lead to maximum production of agricultural goods and maximum employment of rural population. The production per hectare is greater on small holding than that on large holdings. It means an increase in incomes of population. Increased agricultural incomes create market demand for industrial consumption goods thereby providing a stimulus to industrialization and market development. The inter-action between agricultural and non-agricultural sectors facilitates the growth of both.
- (d) **Increase in Employment :** The policy of ceiling has also been justified on the ground that it increased the number of small holding and thus absorbs the surplus labour force, i.e., it increases employment opportunities. Since, the production per hectare on small holding is greater than that of large holding; it also increases production and incomes of rural population. Hence, ceiling should be imposed on big agriculturists and the land thus acquired to landless labourers, to whom it may provide a source of sustenance and livelihood.
- (e) **Hunger for Land:** There is a great love for land in almost all countries of the world, but this love is far greater in developing countries like India, since land is regarded as an asset of a permanent land Reforms and Land Tenure Systems, Since Independence.

Fix value and is considered as the best source of livelihood. It provides a sense of social security into the minds of rural masses. This demands the distribution of land into as large a number of people as possible. Hence, the policy of ceiling has been justified. Besides, increasing pressure on land leads to tensions among various groups of the agrarian economy, since the concentration of land into the hands, of few generate a feeling of haves and have not. To reduce this tension, it is essential to distribute land equitable among different sections of the society.

- (f) **Cooperative Farming:** Reduction of disparities in the ownership of land is also essential for the development of a cooperative rural economy for cooperation thrives best in homogeneous groups in which there are no large inequalities. Thus, small farmers and landless agricultural labourers among whom surplus land is being distributed provides an opportunity to develop farming on cooperative lines, so as to get the advantages of large scale farming and get rid of the disadvantages of small farming. As development proceeds along these lines, opportunities for diversified employment are opened up. This will increase employment and growth both.

4.5 SUMMARY

Land is an important factor in human life. Land plays an important role in the development process. During the course of human evolution, the importance of land increased and land reform developed over time. Mahalwari, Rayatwari, zamindari system came into existence in the country. In the British era, the landlord system did injustice to the clans and a hefty amount will be recovered from the clans. This led to extortion of clans. The British tried to exacerbate the problem. Lord Cornwallis tried to get the clans into trouble by introducing perpetual methods. Land retention was one of the first objectives of self-government in the post-independence period. The idea of land reform had been in the Congress cabinet since 1939. While trying to improve the land in the post-independence period, the government had set the objectives of 1) Abolition of Zamindari system 2) Clan rules 3) Maximum limit on land holding 4) Prevention of fragmentation 5) Active reward for co-operative agriculture.

An important step in this land reform was the enactment of the Clan Act of 1948 to provide solar protection to the clans. Millions of families became landowners. On April 1, 1957, the government passed an effective decision on his land. The ownership of the land by the clans inspires them to manage the land well. In 1961, the government tried the Maximum Land Retention Act. It was decided how much land each landholder should have in the state of Maharashtra. The aim was to make the landless and marginalized feel like extra land. This law could not be implemented as a result due to some unavoidable reasons.

4.6 EXERCISE

*** Descriptive:**

1. Explain the Important Component of land Reforms
2. Explain the nature of aggregation in fragmentation and fragmentation law.
3. Explain the Measures of Tenancy Reforms.

*** Shorts notes:**

- a) Features of Ceiling Act.
- b) Land transfer uninterrupted
- c) The nature of the lucrative piece of farmland.

*** MCQs:**

- i) Which state initiated the eradication of Zamindari system?
 - a) Bihar b) Bengal c) Maharashtra d) Uttar Pradesh

ii) Who brought up the Mahalwari system?

- a) William Bentinck. b) L. Cornwallis c) Sir John Shore d) None of the above .

iii) Who started the Zamindari system?

- a) John Shore b) L. Cornwallis c) Lord Minto d) William Bentinck

4.7 REFERENCES:

- Agrawal A.N., wishwaprakashan, 20th edition, Indian Economy. Problems of Development and planning
- Dr. B.P. Tyagi, Agricultural economics, and Rural Development
- Indian Agriculture Institutional perspective
- Appu.P.S. “Tenancy reform In India” Economic and Political Weekly.
- Khusro, A.M., Economics of land Reform and farm size in India, Delhi, Macmillan.
- A.S.Sirohi, 1986, Agrarian Reforms and Institutional Changes in India. Concept publishing company. New Delhi
- National Commission on Agriculture, 1976 Report on Agrarian Reforms. No. XV, Government of India
- Planning Commission, 1973, Task force on Agrarian Relations Government of India.
- Jaminsudharnakayde, Bhuskute, MukundPrakashan
- Agriculture Economics, R.G. Desai, Himalaya Publishing House, Mumbai-400004



LAW RELATED TO RURAL AREA- PART-I

Unit Structure

5.1 Introduction.

5.2 Objectives of the Lesson

5.3 Concept

5.4 Law Related to Tribal Community Land

5.5 Prevention of Atrocities Act (Against Sc/St) 1989

5.6 Pesa- Act, 1996

5.7 Forest Land - Forest Right Act

5.8 The Forest Conservation Act 1980 (Amendments Made In 1988)

5.9 Forest Right Act 2006

5.10 Summary

5.11 Keywords

5.12 Unit End Questions

5.13 References

5.1 INTRODUCTION

Today more than half of Indian population lives in rural areas. The social welfare of India depends on the abundance of the villages. After independence in India, the conditions of the rural areas have been improved a bit. There are so many problems that the people in rural areas facing. For solving these problems both the government and the people have to take some serious steps. Before the main topic here once again we have to see the meaning of rural development and today's situation of the rural area and especially tribal community in brief.

Rural development is the process of improving the quality of life and economic well-being of people living in rural areas. According to 2011 Census 68.84% of population lives in villages. The backwardness of the rural sector would be a major impediment to the overall progress of the economy. India is predominately an agricultural country and farming is their main occupation. According to 2011 Agricultural Census of India, an

estimated 61.5% dependent on agriculture. Technical developments in field of agriculture have increased the gap between the rich and poor, as the better off farmers adopted modern farm technology to a greater extent than the small farmers. The all India Rural Credit Review Committee in its report warned "If the fruits of development continue to be denied to the large sections of rural community, while prosperity accrues to some, the tensions social and economic may not only upset the process of orderly and peaceful change in the rural economy but even frustrate the national affords to set up agricultural production." Report of the All India Rural Credit Committee, New Delhi, 2003 has rightly pointed out that a purely agricultural country remains backward even in respect of agriculture. Most of the labour force in India depends on agriculture, not because it is remunerative but because there are no alternative employment opportunities. This is a major cause for the backwardness of Indian agriculture.

The backwardness of Indian agriculture also effect on the development of Adivasi community in most part of India.

5.2 OBJECTIVES OF THE LESSON

There are main few objective of the lessons are:

1. To understand the meaning of PESA its Provisions.
2. The lesson has aim of understanding provisions in constitution for tribal people.
3. To understand the land related issues of Tribal community in the country.
4. To know about **Forest right Act**.
5. To know about the changing pattern use of forest land all over the country.

5.3 CONCEPT

RURAL AREA: A rural area or countryside is a geographic area that is located outside towns and cities. Often called "the country," have low population density and large amounts of undeveloped land.

TRIBAL COMMUNITY: is a social group having many clans, nomadic bands and other sub groups living on a definite geographical area having separate language, separate and singular culture.

SCHEDULED TRIBES: "such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under Article 342.

Introduction:

Caste is defined as a set of families bearing a standard of name claiming standard mythical ancestors, human or divine, with professing to follow the hereditary calling of forming a homogeneous community. Every caste has its organizational structure referred to panchayats in down rules and regulations, which were obeyed by caste members. In rural life, there is a dominant position in social, political, and economic fields of castes. These rights and privileges together decreased in descending order of caste hierarchy. In Indian history due to ancient class system these downtrodden communities also suffer a lot.

Adivasi, (Hindi: “Original Inhabitants”) official name (in India) **Scheduled Tribes**, any of various ethnic groups considered to be the original inhabitants of the [Indian](#) subcontinent. There are over 700 Schedule Tribes in India according to The National Commission for Schedule Tribes. Schedule Tribes are classified as marginalized communities on the basis of geographical isolation. **The National Commission for scheduled tribes explain:** primitiveness, geographical isolation shyness and social educational and economic backwardness due to these reasons are the trades that dish English that distinguish scheduled tribe communities well for country from other communities. Further the minister of tribal affairs also realize a list of 75 tribes that fall into Particularly Vulnerable Tribal Groups (PVTGs) classification, from 18 states and union territories across the country. The ministry carries out specific welfare initiatives for the protection of PVTGs based on recommendations by the state, which are not extended to all Scheduled Tribes.

What Provisions Were created in constitution to Protect Scheduled Tribes?

Most of the rights and protections assured to members of Scheduled Caste communities are extended to members of Scheduled Tribes.

Article 342 gives the President the power to notify those communities in specific regions that fall under the classification of Scheduled Tribes.

Table No. : 1

List of Particularly Vulnerable Tribal Groups in India

S.N	Name of the States /UT	Name of PTG	S.N	Name of the States /UT	Name of PTG
Andhra Pradesh and Telangana	1. BodoGadaba	<u>Karnataka</u>	27. JenuKuruba	Odisha	53. LanjiaSaura
	2. BondoPorja	-	28. Koraga		54. Lodha
	3. Chenchu	<u>Kerala</u>	29. Cholanaikkan		55. Mankidia
	4. DongriaKhond	-	30. Kadar		56. PaudiBhuyan
	5. GutobGadaba	-	31. Kattunayakan		57. Sauura
	6. KhondPorja	-	32. Koraga	Rajasthan	58. Saharia
	7. Kolam	-	33. Kurumba	Tamil Nadu	59. Irular
	8. KondaReddi	<u>M. P. & Chhattisgarh</u>	34. Abujh Maria		60. KattuNayakan
	9. KondaSavara	-	35. Baiga		61. Korumba
	10. KutiaKhond	-	36. Bharia		62. Kota
	11. ParengiPorja	-	37. Birhor		63. Paniyan
	12. Thoti	-	38. Hill Korwa		64. Toda
Bihar & Jharkhand	13. Asur	-	39. Kamar	Tripura	65. Riang
	14. Birhor	-	40. Saharia	Uttar Pradesh & Uttarakhand	66. Buksa
	15. Birjia	<u>Maharashtra</u>	41. Kathodi		67. Raji
	16. Hill Kharia		42. Kolam/Katkari		
	17. Korwas		43. Maria Gond/Katkari	West Bengal	68. Birhor
	18. Mal Paharia	Manipur	44. Maram Naga		69. Lodha
	19. Parhaiya	Odisha	45. Birhor		70. Toto
	20. SauriaPaharia		46. Bondo	Andaman & Nicobar Islands	71. Great Andamanese
	21. Savar		47. ChuktiaBhunjia		72. Jarawa
Gujarat	22. Kathodi		48. Didayi		73. Onge
	23. Kolgha		49. DongriaKhond		74. Sentinelese
	24. Kotwalia		50. Juang		75. Shom Pen
	25. Padhar		51. Kharia		
	26. Siddi		52. KutiaKhond		

Ref: Wikipedia, the free encyclopaedia.

Apart from the fundamental rights under Articles 15, 16 and others which assure non-discrimination on the basis of caste, gender, race, religion, or

place of birth, the other provisions protecting the fundamental rights of Scheduled Tribes are as follows.

Article 46 directs the state to work for the welfare and promotion of the interests of Scheduled Tribes, and to take steps to safeguard their interests.

Additionally, articles 243 D, 243 T, 330, and 332 promise proportionate reservations of seats for both Scheduled Castes and Scheduled Tribes in Panchayats, Municipalities, State Legislative Assemblies, and the Lok Sabha.

Article 338A directs the state to create a National Commission for Scheduled Tribes, to oversee the implementation of the provisions and safeguards of the rights of Scheduled Tribes in India.

Apart from the rights under the Constitution, the Scheduled Castes and Tribes (**Prevention of Atrocities Act**) also extends protection to Scheduled Tribes.

Article 164 also provides for the appointment of a minister in charge of tribal welfare in the states of Chhattisgarh, Jharkhand, Madhya Pradesh and Orissa, who may also be in charge of the welfare of the Scheduled Castes and backward classes or any other work.

The Fifth Schedule of the Constitution outlines the provisions for administration of Scheduled areas. It assures the establishment of Tribes Advisory Councils, with three-fourths representation from the tribes in the area, in states with Scheduled Tribes but without Scheduled Areas. The council's duties include to advice on matters of welfare and advancement of the tribes.

The **Sixth Schedule** of the Constitution provides for the administration of tribal areas in Assam, Meghalaya, Tripura and Mizoram to safeguard the rights of the tribal population in these states. This special provision is provided under Article 244(2) and Article 275(1) of the Constitution.

On the base of the above constitutional provision following laws are there to protect rights of Tribal communities.

5.5 PREVENTION OF ATROCITIES ACT (AGAINST SC/ST) 1989.

The Scheduled Castes and Tribes (Prevention of Atrocities) Act, 1989 was enacted by the Parliament of India (Act 33 of 1989), to prevent atrocities against scheduled castes and scheduled tribes. The Act is popularly known as POA, the SC/ST Act, the Prevention of Atrocities Act, or simply the Atrocities Act. The SCs and STs (Prevention of Atrocities) Act, 1989 with stringent provisions (which extends to whole of India except the State of Jammu & Kashmir) was enacted on 9 September 1989. Section 23(1) of the Act authorises the Central Government to frame rules for carrying out the purpose of the Act. The purpose of the Act was to help the social inclusion of Dalits into Indian society, but the Act has failed to live up to its expectations. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'the said Act') was

enacted in order to prevent the commission of atrocities against members of Scheduled Castes and Scheduled Tribes and to provide for special courts for the trial of offence under the said Act as also to provide for the relief and rehabilitation of victims of such offences —Atrocity has been defined under section 2 of the said Act to mean an offence punishable under section 3.

Main provisions of the Act are as under. -

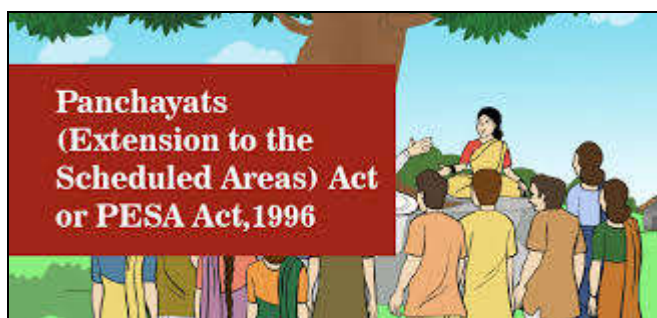
- (i) Defines offences of atrocities and prescribes punishment there for, (Section 3).
- (ii) Punishment for wilful neglect of duties by non-SC/ST Public servants (Section 4)
- (iii) Designating for each District a Court of Session as a Special Court for speedy trial of offences under the Act (Section 14).
- (v) Appointment of Public Prosecutors/Special Public Prosecutors for conducting cases in special courts (Section 15).
- (vi) Preventive action to be taken by the law and order machinery (Section 17).

Salient provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995 notified under the POA Act are as under:-

- 1. It defines various types of atrocities against the SCs/STs. These include forcing an SC or ST person from drinking or eating any inedible or obnoxious substance; forcibly removing clothes; parading him/her naked or with painted face or body; compelling to do ‘beggar’ or other forms or forced labour.
- 2. There are stringent punishments prescribed for such acts of atrocities.
- 3. Crimes committed by non-SCs or STs are considered as severe offences whereas there is no mention of any crimes done by the SCs or STs themselves.
- 4. It provides for compensation, rehabilitation and relief for victims of such atrocities.
- 5. It also makes provisions for setting up a mandatory, periodic monitoring system at the district, state and national levels.

5.6 PESA-ACT, (PANCHAYATS EXTENSION TO SCHEDULE AREAS ACT-1996)

Law Related to Rural Area-
Part-I



[youtube.com](https://www.youtube.com/watch?v=...)

Introduction

PESA is a law enacted by Government of India to cover the “Scheduled Areas”, which are not covered in the 73rd Constitutional amendment. This particular act extends the provisions of Part IX to the Scheduled Areas of the country. PESA brought powers further down to the Gram Sabha level. The Gram Sabha in the Panchayat Act were entrusted with wide ranging powers starting from consultation on land acquisition to that of ownership over minor forest produces and leasing of minor minerals.

PESA became operative at a time when Indian economy was opening up all its frontiers to foreign direct investment. The mining sector, which is mostly located in the scheduled areas of the country where PESA operates, were made open to MNCs and the Indian Corporate sector for exploitation of mineral resources at a throwaway price.

One of the highlighting features of PESA is its suggestion that, every Gram Sabha shall be competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and the customary mode of dispute resolution

Full Form (Definition): Panchayats Extension to Schedule Areas Act, 1996. (Power of Gram Sabhain Tribal Area)

Salient Features of PESA

1. A village may consist of one or more habitations or hamlets comprising a community and managing its affairs in accordance with traditions and customs.
2. Every village shall have its own Gram Sabha.
 - Reservation of seats for STs shall not be less than half of total seats.
 - Seats of Chairpersons of Panchayats at all levels reserved for STs.
 - Government may nominate persons belong to ST which have no representation in Panchayat at IP or DP not to exceed one –tenth.

3. State may endow Panchayat with power and authority to function institution of self-government and contain safeguards to ensure Panchayats at higher levels do not assume power and authority of Panchayat at lower level or Gram Sabha.
4. Shall endow to follow pattern of Sixth Schedule for district levels.
5. Powers exclusive to Gram Sabha Gram Sabha is “competent” to safeguard and preserve the....
 - (a) Traditions and customs of people and their cultural identity
 - (b) Community resources, and
 - (c) Customary mode of dispute resolution
6. Gram Sabha has mandatory executive functions to
 - ❖ approve plans, programmes and projects for social and economic development
 - ❖ identify persons as beneficiaries under poverty alleviation and other programmes.
 - ❖ Issue certificate of utilization of funds by Panchayat for plans; programmes and Projects.
7. Powers endowed to Gram Sabha and Panchayat at appropriate level to...
 - regulate sale/consumption of intoxicants
 - Ownership of minor forest produces
 - prevent land alienation and restore alienated land.
 - manage village markets.
 - Control over money lending to STs.
 - Control over institutions and functionaries in social sector, local plans including Tribal sub-plans and resources

Importance of PESA

1. Implementation of PESA ensures that panchayats and gram sabhas would be benefited by way of ownership of resources and rights in the scheduled areas in true sense and help in realisation of self-reliance in the villages
2. PESA Act helps in implementation of various provisions for self-rule for village communities in scheduled areas.
3. The Act provides solution to many issues such as tribal land alienation, deprivation of rights on minor forest produce, lack of control of the residents over natural resources.
4. PESA was enacted to cover the "Scheduled areas", which are not covered in the 73rd amendment or Panchayati Raj Act of the Indian Constitution.
5. Forest Rights Act 2006 also has a potential to change the way forests have been traditionally viewed and managed by the forest dwellers.



[youtube.com](https://www.youtube.com)

Introduction

Policies are guidelines for the government and the people and help in making various decisions. Forests are a vital part of any nation, not only for the commercial value, but also for the quality of life that it guarantees. Hence it was considered imperative, even during the British Rule, that India must have a Forest Policy. The British were the first to officially recognize the natural wealth of India and it was they who initiated the process of forming a forest policy during the second half of the 19th century. Their scheme was to plunder the natural wealth of the nation as much as possible, since timber trade was a highly lucrative trade during those times. Hence, their policies were aimed at putting themselves in an advantageous position and to exploit the resources to the extent possible.

Forest Policy after Independence:

India is one of the ten most forest-rich countries of the world. Together, India and these other 9 countries account for 67% of total forest area of the world. India's forest cover grew at 0.20% annually over 1990–2000, and has grown at the rate of 0.7% per year over 2000–2010. Even after 71 years of our own policy forest [degradation](#) is a matter of serious concern.

5.8 THE FOREST CONSERVATION ACT 1980 (AMENDMENTS MADE IN 1988).

A new strategy of forest conservation has become imperative. Conservation includes preservation, maintenance, sustainable utilisation, restoration, and enhancement of the natural environment. It has thus become necessary to review and revise the National Forest Policy, with following objectives:

- Maintenance of environmental stability through preservation and, where necessary, restoration of the ecological balance that has been adversely disturbed by serious depletion of the forests of the country.
- Conserving the natural heritage of the country by preserving the remaining natural forests with the vast variety of flora and fauna,

which represent the remarkable biological diversity and genetic resources of the country.

- Checking soil erosion and denudation in the catchment areas of rivers, lakes, reservoirs in the "interest of soil and water conservation, for mitigating floods and droughts and for the retardation of siltation of reservoirs.
- Checking the extension of sand-dunes in the desert areas of Rajasthan and along the coastal tracts.
- Increasing substantially the forest/tree cover in the country through massive afforestation and social forestry programmes, especially on all denuded, degraded and unproductive lands.
- Meeting the requirements of fuel-wood, fodder, minor forest produce and small timber of the rural and tribal populations.
- Increasing the productivity of forests to meet essential national needs.
- Encouraging efficient utilisation of forest produce and maximising substitution of wood.

STRATEGIES OF THE POLICY:

A) Area under Forests: The national goal should be to have a minimum of one-third of the total land area of the country under forest or tree cover. In the hills and in mountainous regions, the aim should be to maintain two-third of the area under such cover in order to prevent erosion and land degradation and to ensure the stability of the fragile eco-system.

B) Afforestation, Social Forestry & Farm Forestry: A massive need-based and time bound programme of afforestation and tree planting, with particular emphasis on fuel wood and fodder development, on all degraded and denuded lands in the country, whether forest or non-forest land, is a national imperative.

C) Management of State Forests: The Central Government should issue necessary guidelines to the State Governments in a prescribed format and in keeping with the National Forest Policy.

D) Rights and Concessions: The rights and concessions, including grazing, should always remain related to the carrying capacity of forests. The capacity itself should be optimised by increased investment, silvicultural research and development of the area. The rights and concessions from forests should primarily be for the bonafide use of the communities living within and around forest areas, specially the tribal. The life of tribal and other poor living within and near forests revolves around forests. The rights and concessions enjoyed by them should be fully protected.

E) Diversion of Forest Lands for Non-forest purposes: Forest land or land with tree cover should not be -treated merely as a resource readily available to be utilised for various projects and programmes, but as a

national asset which requires to be properly safeguarded for providing sustained benefits to the entire community. Diversion of forest land for any non-forest purpose should be subject to the most careful examinations by specialists from the standpoint of social and environmental costs and benefits.

F) Wildlife Conservation: Forest Management should take special care of the needs of wildlife conservation, and forest management plans should include prescriptions for this purpose. It is especially essential to provide for "corridors" linking the protected areas in order to maintain genetic continuity between artificially separated sub-sections of migrant wildlife.

G) Tribal People and Forests: Having regard to the symbiotic relationship between the tribal people and forests, a primary task of all agencies responsible for forest management, including the forest development corporations should be to associate the tribal people closely in the protection, regeneration and development of forests as well as to provide gainful employment to people living in and around the forest. While safeguarding the customary rights and interests of such people, forestry programmes should pay special attention to the following: • One of the major causes for degradation of forest is illegal cutting and removal by contractors and their labour. In order to put, an end to this practice, contractors should be replaced by institutions such as tribal cooperatives, labour cooperatives, government corporations, etc. as early as possible; • Protection, regeneration and optimum collection of minor forest produce along with institutional arrangements for the marketing of such produce; • Development of forest villages on par with revenue villages; • Family oriented schemes for improving the status of the tribal beneficiaries; and Undertaking integrated are a development programmes to meet the needs of the tribal, economy in and around the forest areas, including the provision of alternative sources of domestic energy on a subsidised basis, to reduce pressure on the existing forest areas.

H) Shifting Cultivation;shifting cultivation is affecting the environment and productivity of land adversely. Alternative avenues of income, suitably harmonised with the right land use practices, should be devised to discourage shifting cultivation. Efforts should be made to contain such cultivation within the area already affected, by propagating improved agricultural practices. Area already damaged by such cultivation should be rehabilitated through social forestry and energy plantations.

I) Damage to Forests from Encroachments, Fires and Grazing: Encroachment on forest lands has been on the increase. This trend has to be arrested and effective action taken to prevent its continuance. There, should be no regularisation of existing encroachments.

The incidence of forest fires in the country is high. Standing trees and fodder are destroyed on a large scale and natural regeneration annihilated by such fires. Special precautions should be taken during the fire season. Improved and modern management practices should be adopted to deal with forest fires.

J) Forest-based Industries: The main considerations governing the establishment of forest-based industries and supply of raw material to them should be as follows:

i) As far as possible, a forest-based industry should raise the raw material needed for meeting its own requirements, preferably by establishment of a direct relationship between the factory and the individuals who can grow the raw material by supporting the individuals with inputs including credit, constant technical advice and finally harvesting and transport services.

ii) No forest-based enterprise, except that at the village or cottage level, should be permitted in the future unless it has been first cleared after a careful scrutiny with regard to assured availability of raw material. In any case, the fuel, fodder and timber requirements of the local population should not be sacrificed for this purpose.

iii) Forest-based industries must not only provide employment to local people on priority but also involve them fully in raising trees and raw-material.

iv) Natural forests serve as a gene pool resource and help to maintain ecological balance. Such forests will not, therefore, be made available to industries for 'undertaking plantation and for any other activities.

v) Farmers, particularly small and marginal farmers, would be encouraged to grow, on marginal/degraded lands available with them, wood species required for industries. These may also be grown along with fuel and fodder species on community lands not required for pasture purposes, and by Forest department/corporations on degraded forests, not earmarked for natural regeneration.

vi) The practice of supply of forest products to industry at concessional prices should cease. Industry should be encouraged to use alternative raw materials. Import of wood and wood products should be liberalised.

vii) The above considerations will, however, be subject to the current policy relating to land ceiling and land-laws.

K) Forestry Education: Forestry should be recognised both as a scientific discipline as well as a profession. Agriculture universities and institutions, dedicated to the development of forestry education should formulate curricula and courses for imparting academic education and promoting postgraduate research and professional excellence, keeping in view the manpower needs of the country.

L) Forestry Research: With the increasing recognition of the importance of forests for environmental health, energy and employment, emphasis must be laid on scientific forestry research, necessitating adequate strengthening of the research base as well as new priorities for action.

M) Forest Survey and Data Base: Inadequacy of data regarding forest resources is a matter of concern because this creates a false sense of complacency. Priority needs to be accorded to completing the survey of

forest resources in the country on scientific lines and to updating information. For this purpose, periodical collection, collation and publication of reliable data on relevant aspects of forest management needs to be improved with recourse to modern technology and equipment.

5.9 FOREST RIGHT ACT 2006

Provisions in Forest land - Forest right Act 2006.

1. The Act recognises and vests rights and occupation in forest land in forest dwelling Scheduled Tribes and other traditional forest-dwellers who have resided in such forests for generations but whose rights were not recorded.
2. The Act provides for recognition of forest rights of other traditional forest dwellers provided they have for at least three generations prior to 13.12.2005 primarily resided in and has depended on the forest or forestlands for bona-fide livelihood needs. A generation would mean a period of 25 years.
3. The cut-off date for the recognition and vesting of forest rights under the Act will be 13.12.2005.
4. The Act provides for the ceiling of occupation of forestland for purposes of recognition of forest rights to the area under occupation and in no case exceeding an area of four hectares.
5. The Act provides for conferring rights in national parks and sanctuaries habitat.
6. The Act provides for the right to hold and live in forest land under individual or common occupation for habitation or for self-cultivation for livelihood by a member or members of forest-dwelling Scheduled Tribes and other traditional forest-dwellers.
7. The Act recognises the right of ownership access to collect; use and dispose of minor forest produce which was traditionally collected within or outside village boundaries. The Act defines minor forest produce to include all non-timber forest produce of plant origin, including bamboo, brush wood, stumps, cane, cocoons, honey, wax, lac, tendu or kendu leaves, medicinal plants and herbs roots and tubers.
8. The Act recognises the right to in situ rehabilitation including alternative land in cases where Scheduled Tribes and other traditional forest-dwellers have been illegally evicted or displaced from forestland of any description without granting their legal entitlement to rehabilitation prior to 13.12.2005.
9. The Act provides for forest rights relating to government providing for diversion of forest land for schools, hospitals, anganwadis, drinking water, water pipelines, roads, electric and telecommunications lines.

10. The rights conferred under the Act are heritable but not alienable or transferable and to be registered jointly in the name of both spouses in the case of married persons and a single head in the case of households headed by a single person. In the absence of a direct heir the heritable right shall pass on to the next of kin.
11. The Act provides that no member of a forest-dwelling Scheduled Tribes or other traditional forest-dwellers shall be evicted or removed from forest land under his occupation until the recognition and verification procedure is completed.
12. Gram sabha have been designated as competent authorities for initiating the process of determining the nature and extent of individual or community forest rights or both that may be given to forest dwellers.

5.10 SUMMARY:

India is one of the ten most forest-rich countries of the world. Together, India and these other 9 countries account for 67% of total forest area of the world. We have learnt and experience forest is the lungs of the earth. Each one of us needs to take efforts to protect and conserve the forest. Same way tribal community on earth also teaches way of life with protecting the environment, their right of life should not ignore.

5.11 NEWWORDS

Dalits	Oppressed or broken.
Anganwadis	Rural child care centre in India
Tendu	Type of Tree

5.12 UNIT END QUESTIONS

Descriptive:

- i) Explain the various features of PESA ACT.
- ii) Write detail note on Forest Right Act-2006.
- iii) State the various Constitutional and Legal provisions for Tribal in brief.

MCQs:

- i) PESA provides the right to....
 - A. Gram Sabhas
 - B. Dalit
 - C. Leader
 - D. Cooperative Society
- ii) PESA is a law enacted by the

- A. Grampanchayat.
- B. District
- C. State government.
- D. Central Government.

iii) The main objective of the co-operative movement is....

- A. Welfare of Public.
- B. Development of Leaders.
- C. Development of Democracy.
- D. Population Control.

5.13 REFERENCES:

- Forest (Conservation) Act, 1980 with Amendments Made in 1988.
- Forest Rights, Advocacy Internet, Vol. 6, Issue No. 6, November – December, 2006.
- Forest Right Act, Chaudhari Publications
- PESA Act 1996 Chaudhari Publications.
- https://thefactfactor.com/facts/law/legal_concepts/indian_judiciary/district-courts/844.
- <https://www.yourarticlelibrary.com/essay/essay-on-rural-factionalism-in-india-2040-words/4882>.
- <https://www.yourarticlelibrary.com/essay/indias-rural-life-sociological-characteristics-of-indias-rural-life/31949>.
- <http://www.legalservicesindia.com/article/1079/Vulnerable-Groups-in-India—Status,-Schemes,-Constitution-of-India.html>



LAW RELATED TO RURAL AREA- PART-II

Unit Structure

- 6.1 Introduction
- 6.2 Objectives of the lesson
- 6.3 Concept
- 6.4 Bio-Diversity Act. - Natural Conservation 2002
- 6.5 Provisions in the Natural Conservation Act-2002
- 6.6 Co-Operative Act – 2004-2012
- 6.7 The Maharashtra Co-Operative Societies Act, 1960
- 6.8 Importance of Co-Operation
- 6.9 Summary
- 6.10 Keywords
- 6.11 Unit End Questions
- 6.12 References

6.1. INTRODUCTION

Rural development aims at improving rural people's livelihood in an equitable and sustainable manner, both socio-economic and environmentally. In the development process Indian government has many provisions including laws on the base of constitution. If we try to analyse the different laws in the country, some laws are specifically meant for the rural / tribal community. Which are extremely required for the improvement of the rural life? In the chapter we are going to learn concepts and few laws related to rural area.

6.2. OBJECTIVES OF THE LESSON

- To make students understand the meaning of bio-diversity.
- Need to see the relation in between the biological factors.
- To understand importance of the bio-diversity in environmental balance.
- Co-operative learning is important to build positive relationships among students.
- Cooperative learning requires students to engage in group activities.

6.3. CONCEPT

Bio-diversity: variety of life on Earth

Cooperation: **cooperation** is people working together to achieve common goal.

Conservation: a careful preservation and protection of something especially, natural resources.

6.4. BIO-DIVERSITY ACT - NATURAL CONSERVATION 2002



Image Source- <https://bit.ly/2z1aT0e>

INTRODUCTION:

Biodiversity is the shortened form of two words "biological" and "diversity". It refers to all the variety of life that can be found on Earth (plants, animals, fungi and micro-organisms) as well as to the communities that they form and the habitats in which they live. The term Biodiversity coined by Walter G. Rosen in the year 1986.

Biodiversity plays a critical role in sustaining human populations across the globe. We depend on it for sustained food growth, for clean air and water and for medicine and shelter. It is no surprise then that ecosystem degradation threatens our most basic necessity – a healthy environment to live and thrive in. This is especially true of biodiversity hotspots, which house some of the largest diversity of species in the world and provide important life-support services to the people who live in and around them.

Important Provisions:

The Biological Diversity Act puts forth definitions, principles, appointed authorities, procedures, mechanisms for conservation, access benefits, etc., all related to biodiversity. It also mentions an institutional structure to be established for the same purpose.

Definition of Bio-diversity.

The term “**biodiversity**” refers to the variety of life on Earth at all its levels, from genes to ecosystems, and can encompass the evolutionary, ecological, and cultural processes that sustain life.

As per the Section 36 the Central government has responsibilities such as:

1. It is duty-bound for formulating national strategies, plans and programmes to conserve and uphold the sustainable use of biological diversity.
2. If any area rich in biological diversity or such resources seems to be facing threats then it is the central government's responsibility of notifying the respective state government and asking them to take appropriate steps to prevent it.
3. Composing sectorial and cross-sectorial plans and policies, which are practicable in the notified environment on the foundation of integration of conservation and the sustainable use of biological diversity.
4. The central government has to take measures for assessing the harmful effects of upcoming projects on biodiversity and to either prevent it or come up with techniques of diminishing such effects.
5. The central government must aspire to protect the traditional knowledge holders and their knowledge with methods including registration of such knowledge at the local, state or national levels, and other measures necessary for protection and so on.

The Act, especially with Sections 36, 37 and 38 which relates to developing national plans and programmes for the conservation of biodiversity, powers given to state government to notify and preserve areas of biodiversity, and with the authority of the Central Government to notify species that are dangerously endangered, on the verge of extinction, threatened species, prohibiting their collection and so on. While sustainable use of its component would indicate towards regularising the use of natural resources and not exhausting it. **Section 37** of the Act involves the declaration of Biodiversity Heritage Sites with regard to which the state government is required to notify about the areas of biodiversity heritage in the Official Gazette under this Act. It proceeds to protect the area rich with biodiversity in its natural surroundings. The biodiversity-rich landscape and ecosystems brought under already legally protected areas such as National Parks and Wildlife Sanctuaries in a method similar to that of the declaration of Eco-sensitive areas as per the **Environment Protection Act (1986)**. The Section also puts the responsibility on the state government to compensate people or sections of people economically affected by such declaration

6.5. THE ENVIRONMENT (PROTECTION) ACT, 1986, MAIN PROVISIONS:

1. An Act to provide for the protection and improvement of environment and for matters connected therewith.
2. It extends to the whole of India.

3. "Environment" includes water, air and land and the inter-relationship which exists among and between water, air and land, and human beings, other living creatures, plants, micro-organism and property.
4. "Environmental pollutant" means any solid, liquid or gaseous substance present in such concentration as may be, or tend to be, injurious to environment.

Without any sort of prejudice, **Section 38** of the Act requires the Central Government, in deliberation with the concerned State Government, notifying from time to time about species that are on the verge of extinction or threatened species and prohibit its collection thereof for any trade purpose and put to action appropriate steps for the preservation of such species. Whereas, **Section 39** empowers the Central Government to designate repositories for biological material to be kept in safe custody.

OFFENCES AND PENALTIES

Put forth by **Section 58**, offences under this Act are cognizable and non-bailable. Except for the Central Government or any authority authorized by the government or any benefit claimant with his intention to make a complaint, no court shall take cognizance of any offence under this Act or rules as per **Section 61** of the Act. No suit, prosecution or other legal proceedings shall lie against the Central Government or any officer of the Central Government or the State Government or any member, officer or employee of the National Biodiversity Authority or the State Biodiversity Board with regard to an action done in good faith as per **Section 54** of the Act. Provisions of this Act even being inconsistent with any other law in force shall yet have effect and put to work as laid under **Section 59**. Offences punishable with imprisonment for a term which may extend to five years or fine which may extend to ten lakh rupees or both.

Bio-diversity conservation and its Importance.

Biodiversity conservation is the protection and management of biodiversity to obtain resources for sustainable development. Biological variety plays very crucial role in the development of humans. Biodiversity enriches our lives – it has economic, cultural, recreational, religious and aesthetic importance across the world. We have celebrated it in art, music and literature throughout history. More than 190 countries acknowledge its importance to human populations through a show of support for the Convention on Biological Society.

In the report of the National Academy of Sciences published in 1980, It is said that, biodiversity in developing countries cannot be conserved over the long run unless local peoples and national economies simultaneously derive social and economic benefits. This will require not only improved methods of resource management and the creation of products and markets, but the development of economic paradigms involving new institutions, incentives, and policies.

Importance of Bio-diversity: Biodiversity is important to humans for many reasons. Biodiversity is also considered by many to have intrinsic value—that is, each species has a value and a right to exist, whether or not it is known to have value to humans.

Biodiversity plays a key role in providing numerous irreplaceable services to the people in following area of life.

Economic—biodiversity provides humans with raw materials for consumption and production. Many livelihoods, such as those of farmers, fishers and timber workers, are dependent on biodiversity.

Ecological life support—biodiversity provides functioning ecosystems that supply oxygen, clean air and water, pollination of plants, pest control, wastewater treatment and many ecosystem services.

Recreation—many recreational pursuits rely on our unique biodiversity, such as bird watching, hiking, camping and fishing. Our tourism industry also depends on biodiversity.

Cultural—the Australian culture is closely connected to biodiversity through the expression of identity, through spirituality and through aesthetic appreciation. Indigenous Australians have strong connections and obligations to biodiversity arising from spiritual beliefs about animals and plants.

Scientific—biodiversity represents a wealth of systematic ecological data that help us to understand the natural world and its origins.

National importance—in national perspective bio-diversity improve resource efficiency, could lead to new sources of economic opportunity and growth, enhancing economic performance, while restoring and protecting natural assets that are essential to long-term wellbeing.

6.6. CO-OPERATIVE ACT – 2004-2012

Introduction:

The co-operative movement was introduced in India with the chief object of making a breakthrough in the stagnation of the lives of the poor classes, especially the vast majority of agriculturist who were groaning under the heavy weight of indebtedness. The first Cooperative Credit Societies Act was enacted in 1904. Subsequently a more comprehensive legislation called the Cooperative Societies Act was enacted. This Act provided for the creation of the post of registrar of cooperative societies and registration of cooperative societies for various purposes and audit.

After Independence, cooperatives assumed a great significance in poverty removal and faster socio-economic growth. They became an integral part of the Five Year Plans. As a result they emerged as a distinct segment in

Indian economy. In the First Year Plan it was specifically stated that the success of the Plan would be judged among other things, by the extent it was implemented through cooperative organizations.

Definitions of co-operation

“Cooperation is a form of social interaction wherein two or more persons work together to gain a common end.”-----Merrill and Elbridge:

Co-operation simply means **“working together for a common purpose. This is a joint effort to help one another so as to accomplish certain tasks that would benefit members of the group.”**

HISTORY OF CO-OPERATION

The cooperative movement began in Europe in the 19th century, primarily in Britain and France. Robert Owen (1771–1858) is considered as the father of the cooperative movement. A Welshman who made his fortune in the cotton trade, Owen believed in putting his workers in a good environment with access to education for themselves and their children. These ideas were put into effect successfully in the cotton mills of New Lanark, Scotland. It was here that the first co-operative store was opened. Although Owen inspired the co-operative movement, others – such as Dr. William King (1786–1865) – took his ideas and made them more workable and practical. The credit of the cooperative movement also goes to **The Rochdale Society**. The Rochdale Society of Equitable Pioneers, founded in 1844, was an early consumer co-operative, and one of the first to pay a patronage dividend, forming the basis for the modern co-operative movement.^[1] Although other co-operatives preceded them,^[2] the Rochdale Pioneers' co-operative became the prototype for societies in Great Britain. The Rochdale Pioneers are most famous for designing the Rochdale Principles, a set of principles of co-operation that provide the foundation for the principles on which co-ops around the world operate to this day. The model the Rochdale Pioneers used is a focus of study within co-operative economics.

CO-OPERATIVE ACTS IN INDIA

The history of cooperatives in India is more than a hundred years old, but actual process and firm establishment of cooperative movement started in 1901 by the Famine Commission. Famine Commission recommended the establishment of Rural Agricultural Banks through the establishment of Mutual Credit Associations, and such steps as were taken by the Government of North Western provinces and Oudh. The underlying idea of a number of persons combining together was the voluntary creation of a new and valuable security. A strong association competent to offer guarantees and advantages of lending to groups instead of individuals were major advantages. The Commission also suggested the principles underlying Agricultural Banks. Taking cognizance of these developments and to provide a legal basis for cooperative societies, the Edward Law Committee with Mr Nicholson as one of the members was appointed by

the Government to examine and recommend a course of action. The Cooperative Societies Bill, based on the recommendations of this Committee, was enacted on 25th March, 1904. As its name suggests, **Cooperative Credit Societies Act, 1904.**

The Cooperative Credit Societies Act, 1904 provided for constitution of societies, eligibility for **membership, registration, liabilities on members, disposal of profits, shares and interests of members, privileges of societies, claims against members, audit, inspection and enquiry, dissolution, exemption from taxation and rule making power.** All other operational and managerial issues were left to the local governments namely to formulate suitable rules and model bye-laws of the cooperative societies. The institution of the Registrar, visualized as a special official mechanism to be manned by officers with special training and appropriate attitudinal traits to prompt and catalyse cooperative development was the result of the Cooperative Societies Act of 1904. By 1911, there were 5,300 societies in existence with a membership of over 3 lakhs.

With the developments in terms of growth in the number of cooperatives, far exceeding anticipation, the Cooperative Societies Act of 1912 became a necessity and cooperatives could be organized under this Act for providing non-credit services to their members. The Act also provided for Federations of cooperatives. With this enactment, in the credit sector, urban cooperative banks converted themselves into Central Cooperative Banks with primary cooperatives and individuals as their members. Similarly, non-credit activities were also cooperatively organized such as purchase and sales unions, marketing societies, and in the non-agricultural sector, cooperatives of hand loom weavers and other artisans.

Cooperative Societies Act, 1912

Features of Cooperative Societies Act, 1912

1. **Limited liability:** the liability of members is limited. it's depends upon the value of shares but it just by members. There for that personal property is not used for payment of society's debt.
2. **Management:** elected representatives of members from the managing committee. The managing committee works according to by law. Collective decision are taken after conducting meetings. The organization is managed on democratic principles.
3. **Service motive:** the main motive of a cooperative organization is to give service to the people. It is not profit oriented. Outmost importance is given to the welfare of the people. In that sense, a cooperative society differs from other form of organisation.
4. **Profit:** profits are made in the course of business after payment of dividends to shareholders. A percentage of profit is always used for

the welfare of the people. A bonus is given to employees and as a bonus on purchase made by members.

5. **Separate legal status:** a cooperative society is formed according to the cooperative society act 1912, which gives it independent legal status. It is distinct from its members. Therefore it can enter into the contract purchase property, at cetera in its name.
6. **Equal voting rights:** all the members in cooperative societies have equal voting rights irrespective of the number of shares held by them.
7. **Number of members:** for the formation of the cooperative society. There is no limit on maximum number of members.
8. **Democratic principle:** democratic democracy is followed in the working of cooperatives. Equality of voting right is the main principle of the organization. The principle of 1 member one vote is followed. All members are equal in society.
9. **Voluntary association an open membership:** cooperative organization is a voluntary association of individuals. Membership is voluntary. Any person can become a member of the organization. No difference is made on the basis of language, religion cast, etc. There is an open membership. A person can become a member of is on free will and terminate membership whenever he wants.
10. **Registration:** registration of a cooperative organization is compulsory under the cooperative societies act 1912 put stop registration is done according to the act of every society every state. In Maharashtra societies are registered under **Maharashtra state cooperative societies act 1960.**
11. **State support:** cooperatives receive support from the government. They are under the control and supervision of the state. All of them are registered under the cooperative society's act 1912. They get corporate status. They get concessions from the government in purchase of land, payment of tax, etc. They get legal and financial assistance also.

6.7. THE MAHARASHTRA CO-OPERATIVE SOCIETIES ACT, 1960.

Maharashtra Co-operative Societies Act, 1960 provides order and laws for development of co-operative societies in the state of Maharashtra. This Act was passed as a law by the Maharashtra legislative assembly in 1960 enacted in the eleventh year of the Indian republic. It extends to the whole state of Maharashtra giving detailed laws for registration to membership

and liability of members and incorporation of duties and privileges of the co-operative societies across the state.

Features and Characteristics of Cooperative Society act-1960:

1. **Voluntary Association-** The membership of cooperative societies is voluntary. Anybody having a common interest is free to join a cooperative society. The member can also leave the society any time after giving a proper notice.
2. **Equal Voting Rights-** A cooperative society is based on the principle of “one man one vote”. A member has only one vote irrespective of the number of share(s) held by him. Thus, a co-operative society runs on democratic principles.
3. **Separate Legal Entity-** A cooperative society is required to be registered under the Co-operative Societies Act. Registration provides it a separate legal entity. Its existence is quite different from its members. The death, insolvency or lunacy of a member does not affect its existence. It can sue and be sued in its own name. It can make agreements as well as purchase and sell property in its own name.
4. **Service Motive-** A cooperative society is based on the service motive of its members. Its main objective is to provide service to the members and not to maximize profits. Earning profits is the most important objective of other forms of business organization. It is not so in the case of co-operatives.
5. **Distribution of Surplus-** Members are paid dividend and bonus out of the profits of the co-operative society. The bonus is given according to the volume of business transacted by each member with the co-operative society. For example, in a consumer co-operative society, bonus is paid in proportion to the purchases made by members during a year. In a producers’ cooperative society, the value of goods delivered for sale forms the basis of distributing bonus.
6. **State Control-** Cooperative societies are subjected to regulation and control by the government. In India a cooperative society can be registered under the Cooperative Societies Act, 1912 or the State Co-operative Societies Act.
7. **Elimination of Middlemen-** The main object of the cooperative societies is to eliminate middlemen and to establish direct contact between members and customers. This ensures availability of goods at fair prices and minimizes unhealthy competition.
8. **Cash Trading-** Generally, a co-operative society buys and sells goods on cash basis. Cash trading does not involve bad debts and credit collection expenses. Thus, it helps the society to have a good working capital and to maintain short-term solvency.

9. **Audit-** Accounts of cooperative society are audited by the auditors appointed by the Government under the supervision and control of Registrar of Co-operative Societies.
10. **Principle of Self and Mutual Help-** Cooperative society promotes the common interests of its members through self-help and mutual help
11. **Democratic Management-** Annual General Meeting (AGM) of co-operative society is held every year in which the managing committee is elected, which manages the affairs of the co-operative society.
12. **Perpetual Existence-** Existence cooperative remains unaffected by the death, or insolvency of any of its members. Thus, it has perpetual existence.

6.8. IMPORTANCE OF CO-OPERATION

- a) **Cooperation helps society to progress:** Progress can better be achieved. through united action. Progress in science and technology, agriculture and industry, transport and communication, etc., would not have been possible without cooperation. Persons who cooperate may generate unbounded enthusiasm.
- b) **Cooperation is an urgent need of the present-day world:**It is needed not only among the individuals, associations, groups and communities but also among the nations. It provides solution for many international problems and disputes. Since interdependence is widespread in all walks of life, cooperation is all the more needed. Society advances through cooperation and declines in its absence.
- c) **It empowers local communities:**When it comes to development, empowerment is a vital element in its success. Working with communities and involving locals in the decision-making and implementation of initiatives can empower them to assert control over their own development, and help them access resources and capacity needed to do so.
- d) **Teamwork encourages healthy competition:** When you assemble a group of goal-oriented people, they somehow see each other as a rival. A healthy balance of friendly rivalry within the team won't do much harm, and could even benefit not just the organisation itself but even the team members.
- e) **It increases creativity and innovation:**The seeds of creativity and innovation spring from the exchange of ideas that come from people of different backgrounds.Progress in science, technology, art, literature depends upon cooperation.
- f) **Well-being of Society:** Most competitive situations are highly stressful; the possibility of failure creates agitation if not outright

anxiety. The fear or anger generated from being eliminated or losing often causes embarrassment, tension and hostility. Cooperative activities are non-threatening and non-judgmental. As a result, this creates an atmosphere for relaxation and well-being—the foundation for more genuine, healthy and playful fun.

- g) Democratic organisation:** A co-operative is a democratic organisation, owned and controlled by its members for a shared benefit. It is a distinct legal entity from its members or officers. This structure encourages member contribution and shared responsibility.
- h) All round development:** Co-operation brings all round development of individual as well as of society. Without this, the very existence of human society is impossible.

Cooperatives are community-based, rooted in democracy, flexible, and have participatory involvement, which makes them well suited for economic development (Gertler, 2001). The process of developing and sustaining a cooperative involves the processes of developing and promoting community spirit, Cooperatives are community-based, rooted in democracy, flexible, and have participatory involvement, which makes them well suited for economic development (Gertler, 2001). The process of developing and sustaining a cooperative involves the processes of developing and promoting community spirit, Cooperatives are community-based, rooted in democracy, flexible, and have participatory involvement, which makes them well suited for economic development (Gertler, 2001). The process of developing and sustaining a cooperative involves the processes of developing and promoting community spirit, Cooperatives are community-based, rooted in democracy, flexible, and have participatory involvement, which makes them well suited for economic development (Gertler, 2001). The process of developing and sustaining a cooperative involves the processes of developing and promoting community spirit,

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• CHALLENGES IN CO-OPERATIVE SECTOR

In a developing country like India and other countries that big problems and challenges faced by different area in corporative sectors. In today's scenario Cooperatives have extended across the entire country and there are currently an estimated 274.97 million members nationwide (2014-15). The cooperative credit system of India has the largest network in the world and cooperatives have advanced more credit in the Indian agricultural sector than commercial banks. The village cooperative societies provide strategic inputs for the agricultural sector, consumer societies meet their consumption requirements at concessional rates; marketing societies help the farmer to get remunerative prices and co-operative processing units help in value additions to the raw products etc. In addition, co-operative societies are helping in building up of storage go-downs including cold storages, rural roads and in providing facilities like irrigation, electricity, transport, and health. Various development activities in agriculture, small industry marketing, and processing, distribution and supplies are now carried on through cooperatives.

In globalised world considering all above area cooperative sector have to come over many challenges discussed below:

- i) **Customers for co-operative:** sectors Co-operative sectors industry is in service industry. So service characteristics, as given below, make Marketing of Co-operative sectors Services difficult.
- ii) **Perish ability:** Co-operative sectors services are perishable. Similarly Co-operative sectors have funds are there to give as a loan, but there are no applicants. So interest lost by the Co-operative sectors for a particular time period is a loss forever. So Demand Management in Co-operative sectors is more difficult than goods.
- iii) **Intangibility:** Co-operative sectors services cannot be seen, touched or felt. So advertising or promotion is very difficult. Marketers reach

customers through Mouth publicity through satisfied customers. It is the total resultant experience from bank which creates an impact.

- iv) **Heterogeneity:** Co-operative sectors services cannot be standardized like goods. Co-operative sectors Marketing is an interactive Marketing. i.e. customers will have constant interaction with the service provider. So behind back of all services are employees i.e. human beings and they are complex and volatile. So Quality Control and standardization of Co-operative sectors Services are challenges before Marketer.
- v) **Inseparability:** Customers have to approach Co-operative sectors to get services so he/she can be affected by other customers. So how to protect the customer from other customers ' adverse effect is also a challenge.
- vi) **Competition:** Today Co-operative sectors have thrown to competition to other sectors. Customers have now a wider choice because they are in the buyer's market.
- vii) **Illiteracy:** 25% people of rural India have either fear about handling work in Co-operative sectors. The reasons are being illiteracy, lack of knowledge about bank formalities, etc.

6.8. SUMMARY:

After Independence, cooperatives assumed a great significance in poverty removal and faster socio-economic growth. Cooperatives are also considered to have immense potential to deliver goods and services in areas where both the state and the private sector have failed.

6.9. KEYWORDS

Bio	: life
Cooperation	: working together
Diversity	: Variety.

6.10. UNIT END QUESTIONS:

Descriptive:

- Explain the meaning and importance of Bio-Diversity.
- Define the term co-operation and write the Challenges in co-operative sector.
- Write note on Provisions in the natural conservation act-2002.
- Describe the features of co-operative society.

MCQs:

- i) Who first coined the term biodiversity?
- A. Thomas Lovejoy.
 - B. Walter G. Rosen
 - C. Robert Owen.
 - D. Rochdale
- ii) The cooperative movement began in.
- A. Europe.
 - B. Asia.
 - C. America
 - D. Australia.
- iii) Is considered as the father of the cooperative movement.
- A. Robert Owen
 - B. Alfred Nobel
 - C. Almeida Robert
 - D. Augustine Owen

6.11. REFERENCES

1. Co-operative Act. 2009 Chaudhari Publications.
2. Biodiversity, Act 2002 Chaudhari Publications.
3. National Academy of Sciences published a report entitled Research Priorities in Tropical Biology.
4. Co-operation and Rural Development Principal Dr.NitinGhorpade Success Pune.
5. Co-operation Prof L.P. Wakale and Dr. G.H. BarhateSheth Publishing Mumbai.
6. Co-operatives UK (2008) Co-operative Review 2008, Manchester.
7. Indian cooperative movement a statistical profile – 2016.



RIGHT OF INFORMATION ACT – 2005-I

Unit Structure

7.1 Objectives

7.2 Introduction

7.3 Origin of the RTI Act 2005 In India

7.4 Objectives of the Act

7.5 Importance and Features of RTI Act. - 2005

7.6. Concept Maharashtra RTI Act. - 2005

7.7. Consequences, Maharashtra RTI Act. - 2005

7.8 Summary

7.9 Keywords

7.10 Exercises

7.11. References

7.1 OBJECTIVES

- To understand the origin of the right to information.
- To know the various Objectives of the Right to Information Act 2005.
- To know how to file RTI application.
- To understand the importance of RTI.
- To know impact of Right to Information on systems in country.

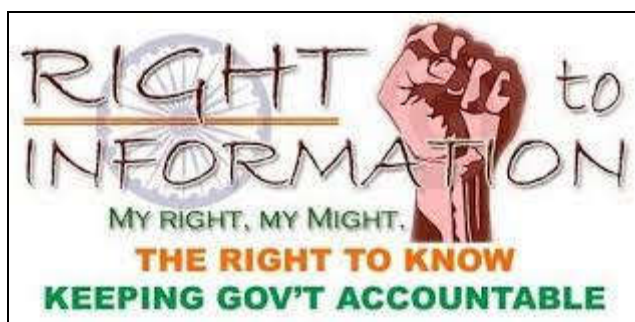


Image Courtesy: upload.wikimedia.org/wikipedia

7.2 INTRODUCTION:

Right of Information Act –
2005-I

The RTI Bill was passed by Parliament of India on 15 June 2005 and came into force with effect from 12 October 2005. This is one of the most significant legislation enacted by the Parliament in India. Sweden is the first country to give RTI to their citizens in the world. Sweden gave Right to Inform in 1776, as far as India is concerned we got the right late after struggling with movement. It is a major step towards more accountable and transparent government. RTI has been enacted to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities in order to promote transparency and accountability. The Act will certainly lead to end the culture of governmental privacy for the betterment of democracy.

The Rights to Information Act passed in 2005 extends to all states and union territories of India and even now applicable to Jammu and Kashmir after removal of Article 370. This act gives Indian citizens the right to access information about any public authority or institution, including non-government organizations substantially funded by the government. The main aims of the RTI act are to provide clarity to information to the citizens of India, to contain corruption and to promote accountability in the working of every public authority.

7.3 ORIGIN OF THE RTI ACT 2005 IN INDIA

The first and foremost well-known right to information movement in India was the Mazdoor Kisan Shakti Sangathan (MKSS), an organization for the empowerment of workers and landless workers and rural poor, which began its right to information work in Rajasthan during the early 1990s. The MKSS started grassroots movement, demanding access to government information on behalf of wage workers and small farmers who were often deprived of their rightful wages or their just benefits under the government schemes. Through their innovative concept of JAN SUNVAI or public hearing MKSS started demanding information from local authorities regarding the wages, muster rolls, materials used for the construction of roads during famine relief work. From the modest beginning in the villages of Rajasthan the success of MKSS has been a source of inspiration for activists in India demanding the information from the bureaucracy and the government. The struggle of MKSS activists led to a nationwide demand for law to guarantee the RTI to every citizen, with wide spread support from social activists, professionals, lawyers and media who are committed to transparent and accountable governance and people's empowerment. The MKSS movement in Rajasthan was a turning point in the RTI movement and showed that even illiterate, socially mute and exploited laborers could assert and get their other rights conceded by the invoking the RTI.

The social movements in Rajasthan and other states led to the formation of the National Campaign for People's Right to Information in 1996. Various State RTI laws were passed during this period, including Tamil-

Nadu, Delhi, Maharashtra Karnataka, Assam, Madhya Pradesh and Goa. Finally, the national Freedom Information Act was passed in 2002. However, this Act was not notified and the newly elected government (after General Election in 2004), got the Right to Information Act passed in Parliament in 2005.

7.4 OBJECTIVES OF THE ACT

The major objectives of the RTI Act are:

- (i) Greater Transparency in functioning of public authorities;
- (ii) Informed Citizenry for promotion of partnership between citizens and the Government in decision making process;
- (iii) Improvement in Accountability and performance of the Government; and
- (iv) Reduction in Corruption in the Government departments.

7.5. FEATURES AND IMPORTANCE OF RTI ACT- 2005

FEATURES OF RTI ACT- 2005

1. Every citizen possesses the right to information
2. The term information includes any mode of information in any form of record, document, email, circular, press release, contract sample or election data etc.
3. Right to information covers inspection of work, document, record and its certified copy and information in any other electronic mode.
4. Applicant can obtain information within 30 days from the date of request in a normal case.
5. Information can be obtained within 48 hours from time of filling the request if it is a matter of life or liberty of a person.
6. Every public authority is under obligation to provide information on written request or request by electronic means.
7. Certain information is prohibited for security reasons.
8. Central Information Commission and State Information Commission are to be constituted by the Central Government and the respective State Governments.
9. No Court can entertain any suit, application or other proceedings in respect of any order made under the Act.

IMPORTANCE OF RTI ACT- 2005

Right of Information Act –
2005-I

1. Democracy requires an informed citizenry and transparency of information which are vital for its functioning and also to contain corruption and to hold government and their representatives accountable to the governed.
2. The greater the access to the information the greater would be the responsiveness of government to the needs of the people. Without information people cannot exercise their rights and duties.
3. RTI is a major step towards more accountable and transparent government. It will certainly lead to end the culture of governmental secrecy and fulfil its potential as a truly great democracy.
4. The Act provides for setting out the practical regime of right to information under the control of public authority in order to promote transparency and accountability in the working of every public authority.
5. The promulgation of this Act set the stage for the transparency in the functioning of the government and its various agencies.
6. Under this Act access to information from public agency has become a statutory right of every citizen. Ordinary citizens do not have much information about how decisions are made and how public resources are utilized. Right to Information Act is a vehicle for greater transparency about the manner of functioning of public agencies.
7. Before this Act, the accountability of public authority was practically minimal. By this Act the citizens can now question, audit, review, examine, access government records, acts, decisions to ensure that these are consistent with the principles of public interest, good governance and justice. This act promotes transparency and accountability in administration. The act provides for a framework for promotion of citizen-government partnership in carrying out the programs for the welfare of the people.
8. When the government is transparent, there is less chance for corruption and more room for accountability. People feel more powerful, their bargaining power vis-à-vis public officials has increased manifold. The Act has definitely resulted in a greater transparency in governance.
9. The Act has become a powerful instrument for citizens and social activists to access information from the bureaucracy and thereby ensures greater accountability and transparency in decision making.
10. The Act aimed to concentrate power in the hands of the citizens who may demand, even without giving a reason, any information which they think will help them exercise their rights more effectively and take an informed decision.

Further more, even the judiciary has liberally interpreted the provisions of the Act, thereby making the public authorities more accountable. For instance, in *Shyam Yadav vs. Department of Personnel Training*, the Central Information Commission held that property statements filed by civil servants are not confidential and information can be disclosed after taking the views of concerned officials as per the provisions of the RTI Act.



Image Courtesy: upload.wikimedia.org/Wikipedia

7.6. CONCEPT MAHARASHTRA RTI ACT. - 2005.

The Central Right To Information Act (RTI ACT) 2005, which came into existence with a view to enjoy the freedom of speech and Expression in accordance with the section 19 (1) (e) of the Indian Constitution after Indian Independence is indeed a revolutionary Act. The implementation of this Act has been done on a large scale and in a satisfactory manner especially in Maharashtra State. The Right To Information Act, 2005. The State Information Commission has the following eight offices.

Table:1

Structure of the State Information Commission

SN	OFFICES
1	State Chief Information Commission, Mumbai (Main Office) (Established on 11.10.2005)
2	State Chief Information Commission, Nagpur Region (Established on 27.12.2006)
3	State Chief Information Commission, Aurangabad Region (Established on 27.12.2006)
4	State Chief Information Commission, Pune Region (Established on 8.2.2007)
5	State Chief Information Commission, Konkan Region (Established on 1.3.2008)
6	State Chief Information Commission, Greater Mumbai Region (Established on 1.3.2008)

7	State Chief Information Commission, Amravati Region (Established on 24.12.2008)
8	State Chief Information Commission, Nashik Region (Established on 15.10.2010)

Right of Information Act –
2005-I

7.7. CONSEQUENCES, MAHARASHTRA RTI ACT. - 2005

There has been a continuous and constant increase in the ratio of applications under Rights to Information, 1st Appeals & 2nd Appeals in the office of the Commission even in the seventh year after the implementation of Right to Information Act 2005. It is seen that there is a considerable growth in the use of this Act because of the publicity and propaganda about this Act, increasing awareness about the Act in the public and the availability of information for solving the problems through the Applications and Appeals. Maharashtra has been No. 1 state in the Country in using The Right to Information Act, 2005.

Information about the applications for getting information by the Public Authorities: The statistics about the applications received in the year under report in the name of the State Public Information Officers in Public Authorities in the State in accordance with the Sub-Section 1 of section 6 of the Right to Information Act, 2005 is shown in the following Table.

Table: 2

Year	2006	2007	2008	2009	2010	2011	2012
Number of Applications	1,23,000	3,16,000	4,16,090	4,40,728	5,48,987	6,45,023	6,82,286

Seventh Annual Report, 2012 (MSIC-Right To Information Act, 2005)

It is noticed from the above table that an awakening has been created in the public about getting information from the Public Information Officers by availing the Right to Information Act, 2005 and there is an increasing tendency to submit applications for information.

7.8. SUMMARY

The RTI Bill was passed by Parliament of India on 15 June 2005 and came into force with effect from 12 October 2005. This is one of the most significant legislation enacted by the Parliament in India. Sweden is first country to give RTI to their citizens in the world.

The RTI Act as it stands today is a strong tool to uphold the spirit of democracy. The Act is influencing the people to come forward and question the progress on various welfare schemes creating positive change.

The true potential of RTI Act is still to be explored, especially in the rural India where villages find it very cumbersome to file RTI applications. A little more stimulation by the government and other enlightened and empowered citizens can augment the benefits of this Act manifold. The real and true governance can be achieved not by the acquisition of authority by a law, but acquisition of capacity by all to resist authority when abused.]

7.9. KEYWORDS:

INFORMATION:	<i>Information is any material in any form. It includes records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form. It also includes information relating to any private body which can be accessed by the public authority under any law for the time being in force.</i>
ACCOUNTABILITY:	Accountability is the acceptance of responsibility for one's own actions.
TRANSPARENCY:	The quality or state of being transparent.

7.10. EXERCISES

- What is Right to Information? Explain the importance of RTI.
- Discuss the features of Right to Information Act 2005.
- Enumerate the hurdles in implementations of Right to Information Act.

7.11. REFERENCES.

1. www.barandbench.com-article-The Right to Information Act-seven years retrospect by Saumyaramkrishnan.
2. माहितीचा अधिकार अधिनियम, 2005, महाराष्ट्र राज्य राजपत्रित अधिकारी महासंघ - मुद्रक - प्रतीक ऑफसेट, मुंबई.
3. माहितीचा अधिकार - य. दि. फडके - अक्षरप्रकाशन - माहीम, मुंबई.
4. Foundation Course - 2 - Prof. M.S. LimanSeth-Publication, Mumbai.
5. www.rti.gateway.org.in.
6. Seventh Annual Report, 2012 (MSIC-Right To Information Act, 2005)



RIGHT OF INFORMATION ACT – 2005-II

Unit Structure

8.1 Introduction

8.2 Objectives

8.3 Right to Information–Relationship with Transparency and Accountability

8.4 Important Provisions of the RTI Act 2005

8.5. Impact of Rti on Rural Administration Machinery

8.6 Issues and Loopholes in RTI

8.7. Annexure A, B, C of RTI

8.8 Keywords

8.9. Summary

8.10. Exercises

8.11. References

8.1 OBJECTIVES

- To understand how to use right to information act to improve the system.
- To know the various Objectives of the Right to Information Act 2005.
- To know different RTI application.
- Impact of RTI on rural administration machinery.



<https://www.slideshare.net>

8.2. INTRODUCTION

The Right To Information Act is in accord with Article 19 of the Constitution of India, which enable Indians to exercise their fundamental rights to speech expression and-as often interpreted by the Supreme Court-“the inalienable right to receive and impart information currently, the Right To Information Act in India is passing through decisive phase, much more need to be done, to facilitate its growth and development.

Good governance has 4 elements that are transparency, accountability, predictability and participation, and RTI helps in achieving this same. Right to information is just like oxygen for democracy. It stands for transparency. Information would lead to openness, accountability and integrity. Besides, apart from ensuring greater transparency it also acts as different against the arbitrary exercise of public powers.

Political consciousness and public spirit is the basis for the success of democracy. In this chapter Student will be able to understand. How to use RTI act for the betterment of the society, as well as Student will gain knowledge regarding How to file RTI application?

8.3 RIGHT TO INFORMATION – RELATIONSHIP WITH TRANSPARENCY AND ACCOUNTABILITY

The objectives of the RTI Act, which are outlined in its preamble, are as under:

- (i) Greater Transparency in functioning of public authorities;
- (ii) In formed Citizenry for promotion of partnership between citizens and the Government in decision making process;
- (iii) Improvement in Accountability and performance of the Government; and
- (iv) Reduction in Corruption in the Government departments.

An Act to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority.

➤ Greater Transparency

With a view to ensuring maximum disclosure of information regarding government rules, regulations and reports including decision making processes, every public authority is required to 'maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to in formation under the Act'.

The public authorities are expected to make pro-active disclosure through publication of relevant documents, including web-based dissemination of information.

Besides, the public authorities are also required to 'provide as much information **SUO- MOTU** to the public at regular intervals through various means of communication, including internet, so that the public have resort to the use of this Act to obtain information.

In addition, a public authority is required to "provide reasons for its administrative or quasi-judicial decisions to the affected persons".

➤ **Records in Public Domain**

In compliance with the provisions of the Act, all the levels of the Government - the Centre, States and Local Bodies, including Village Councils (Panchayats) have put all the records in public domain, through publications as well as internet in the regional languages. And, to facilitate the access to information, a citizen has the right to

- i) Inspection of work, documents, records;
- ii) Taking notes extracts or certified copies of the documents or records;
- iii) Taking certified sample of material; and
- iv) Obtaining information in electronic form, if available.

➤ **Information Commission**

In the cases where the information sought for are not provided within the stipulated period of 30 days or the information furnished are incomplete, misleading or incorrect, a requester is free to file a complaint or appeal before the Information Commission, for necessary directions to the parties as per the provisions of the Act.

The Commission has the mandate, inter-alia, to impose penalty and/or to recommend disciplinary action against the information providers, if held responsible for obstructing the free flow of information. The Commission may also award compensation for any detriment suffered by a requester for seeking information.

The information seekers and the NGOs have put pressure on the public authorities for promoting the culture of openness in functioning of the Government. A large number of PIOs (Public Information Officers) have already been fined for violation of the provisions of the Act, which has, in effect, created conditions for providing information to a requester.

➤ **Transparency and Elected Representatives**

The disclosure of information relating to use of funds allocated to poverty alleviation schemes, MLA/MP-local area funds, details of performance of elected leaders, etc., have contributed to highlight the roles of political leaders in fulfilling their obligations.

The media and civil society have raised development issues, based on facts about the use of funds as well as the best practices in formulation and implementation of pro-poor schemes. Thus, the citizens are better informed

about the performance and contributionsof the elected representatives, which augurs well for a healthydemocracy and democratic governance of projects.

➤ **Greater Accountability**

The RTI provides people with the mechanism to access information, which they can use to hold the government to account or to seek explanation as to why decisions have been taken, by whom and with what consequences or outcomes. In addition, every public authority is required 'to provide reasons For its administrative or quas i-judicial decisions to the affectedpersons'. There is therefore no scope for any arbitrary decision.

8.4 IMPORTANT PROVISIONSOF THE RTI ACT 2005.

➤ **Section 4: Maintenance of Records and Publication of Information:**

(1) Every public authority shall –

- (a) Maintain all its records in a proper format which facilitates the right to information under this Act. Also all records are to be computerized and connected through a network all over the country on different systems so that access to such records is facilitated;
- (b) Publish within 120 days from the enactment of this Act, -
 - The particulars of its organization, functions and duties;
 - The powers and duties of its officers and employees;
 - The procedure followed in the decision making process, including channels of supervision and accountability;
 - A statement of the categories of documents that are held by it or under its control;
 - A directory of its officers and employees;
 - The names, designations and other particulars of the Public Information Officers;
 - Such other information as prescribed under this Act and may be prescribed at a later date.

➤ **Section 5: Central/State Public Officers:**

- Every public authority shall, within one hundred days of the enactment of this Act, designate as many officers as the Central Public Information Officers or State Public Information Officers, as the case may be, in all administrative units or offices under it as may be necessary to provide information to the people requesting for the information under this Act.

Every Central Public Information Officer or State Public Information Officer, as the case may be, shall deal with requests from people seeking information and render reasonable assistance to the people seeking such information.

➤ **Section 6: Request for Information:**

A person, who desires to obtain any information under this Act, shall make a request in writing or through electronic means in English or Hindi or in the official language of the area in which the application is being made, accompanying the fee as prescribed, to –

- (a) The Central Public Information Officer or State Public Information Officer, as the case may be, of the concerned public authority;
- (b) The Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be, specifying the particulars of the information sought by him or her.

➤ **Section 7 - Provision of Information/Rejection of Request:**

- The Central Public Information Officer or State Public Information Officer, as the case may be, on receipt of a request shall as expeditiously as possible, and in any case within thirty days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request.

- Where a request has been rejected, the Central Public Information Officer or State Public Information Officer, as the case may be, shall communicate to the person making the request,

- (i) The reasons for such rejection;
- (ii) The period within which an appeal against such rejection may be preferred; and
- (iii) The particulars of the appellate authority.

➤ **Section 8: Information that cannot be given:**

Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen, Information, disclosure of which would affect the sovereignty and integrity of India.

- Information which is forbidden to be published by any court of law or tribunal.
- Information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;
- Information received in confidence from foreign Government;
- Any other information that cannot be given, as stated under the Act.

➤ **Section 9: Rejection of Request on Grounds of Copyright:**

A Central Public Information Officer or a State Public Information Officer, as the case may be, may reject a request for information where

such a request for providing access would involve an infringement of copyright subsisting in a person other than the State.

Government shall, by notification in the Official Gazette, constitute a body to be known as the Central

Information Commission to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

- The Central Information Commission shall consist of –

- (a) The Chief Information Commissioner; and

- (b) Such number of Central Information Commissioners, not exceeding ten, as may be deemed necessary.

➤ **The State Information Commission (Section 15)**

- Every State Government shall, by notification in the Official Gazette, constitute a body to be known as the (name of the State) Information Commission to exercise the powers conferred on, and to perform the functions assigned to it under this Act.

- The State Information Commission shall consist of (a) the State Chief Information Commissioner, and

- (b) Such number of State Information Commissioners, not exceeding ten, as may be deemed necessary.

➤ **Powers and Functions of the Information Commissions (Sec 18)**

It shall be the duty of the Central Information Commission or State Information Commission, as the case may be, to receive and inquire into a complaint from any person, -

- Who has been refused access to any information requested under this Act

- Who has not been given information within the time limit specified under this Act;

- Who has been required to pay an amount of fee which he or she considers unreasonable;

- Who believes that he or she has been given incomplete, misleading or false information under this Act; and

- In respect of any other matter relating to requesting or obtaining access to records under this Act.

➤ **Penalty for Refusal on Invalid Grounds (Section 20)**

- The Central/State Information Commission shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished by the Central/State Public Information Officer. However, the total amount of such penalty shall not exceed twenty-five thousand rupees.
- The Central/State Information Commission shall also recommend for disciplinary action against the Central Public Information Officer or the State Public Information Officer, as the case may be, under the service rules applicable to him.

➤ **Court Not to Entertain Suit: Section 23**

No court shall entertain any suit, application or other proceeding in respect of any order made under this Act and no such order shall be called in question otherwise than by way of an appeal under this Act. (Note: There are 31 Sections of RTI Act 2005 with a number of subsections. Only a few are listed from the examination point of view. Students may further brief out the answer.)

8.5 IMPACT OF RTI ON RURAL ADMINISTRATION MACHINERY.

Until the implementation of the RTI Act, it was not possible for an ordinary person especially in rural area, to seek the details of a decision making process of public authorities. Thus, quite often the decisions were ineffective in terms of benefits of the public. With the introduction of RTI Act, the public authorities are more responsible in the decision making process.

The importance of Transparency and Accountability of Public Authorities is stated as follows:

1. Better Understanding of Govt. Working:

The RTI Act has created conducive conditions for everyone to have a better understanding of the working of Government bodies or public authorities. It empowers the citizens to make appropriate choice of leadership and the policies that affect them.

Public being fully aware that the records pertaining to the decision making processes are required to be put in public domain, the concerned officials at all levels objectively record the reasons for the observations made by them. And, due care is taken to formulate a sound policy that meets people's expectations. Attempts are also made to effectively implement the programs as the relevant details are proactively disclosed. In effect, thus, the quality of decision making and delivery of services have duly improved.

2. Improvement in Development Programs:

Due to effective implementation of the flagship programs for poverty alleviation, and infrastructure development, the mismatch between the planned targets and actual realization has, of late, been minimized. This has enabled the people to realize their socio-economic objectives.

Before the enactment of the RTI Act, poverty alleviation and empowerment programs were implemented but the achievements were always below the general expectations, mainly because of the absence of the transparency and accountability norms. Lack of legal right to know and to scrutinize the publication or to question the authorities have contributed to inefficiency and corruption resulting in poor outcomes of public activities.

3. Improvement in the Delivery of Services:

With empowered citizens and free flow of information, there is significant quantitative and qualitative improvement in the delivery of services.

For instance, disclosure of information relating to:

- (i) Attendance of staff in schools has helped in checking teachers' absenteeism and students' drop out;
- (ii) Attendance of doctors and nurses at primary health centers has led to improvement in health care facilities in rural areas;
- (iii) The details of supplies and distribution of food grains through ration shops has benefited the poor;
- (iv) The supply and demand for petroleum products, such as, domestic gas has reduced black marketing;
- (v) Muster rolls and beneficiaries of employment guarantee schemes has exposed corruption and ensured effective delivery of services to the poor who are entitled for wage employment on demand for at least 100 days in a year.

4. Better Targeting of Services to the Poor:

The disclosure of the list of beneficiaries for income support like wage employment, subsidized food grains and subsidized services like domestic gas has helped in weeding out the fictitious names, resulting in better targeting of services to the poor. Also, there is reduction in corruption due to checks on black -marketing of subsidized goods and services.

5. Reduction of Migration to Urban Areas:

As a result of increased Government's accountability in delivery of services, rural to urban migration has decelerated, as widely reported in the media. This is also corroborated by the findings of a national level survey conducted by the Transparency International and the Centre for

Media Studies. The survey has revealed that the corruption and malpractices in implementation of poverty alleviation programs have declined due to RTI induced accountability of the Government authorities, especially in rural areas.

6. Resolving of Disputes:

RTI route has generally been followed by a large number of people for resolving disputes between the parties on the issues pertaining to the decisions on administrative, business and commercial matters. Disclosure of information regarding the process of decision making or the grounds for action taken has helped to resolve disputes on such issues as claim of refund of taxes paid by the individuals/companies, settlement of insurance claims, payment of dues of contractors, process of sanction and recovery of loans, etc. Since a reply is to be given within thirty days, disputes have been resolved faster than never before in the India's history. A large number of grievances pertaining to service matters, mainly promotions and pension benefits have also been redressed due to openness and promptness in taking action on requests made under the RTI.

As a result, filing of appeals in the Courts has substantially declined. (As reported, for instance, by the Oil Marketing Companies, which grants dealerships for distribution of petroleum products through retail outlets and domestic gas agencies). The Courts have also advised the petitioners to obtain information under the RTI before filing the cases. It thus shows a strong and positive impact of RTI on transparency and accountability of the Government.

8.6. ISSUES AND LOOPHOLES IN RTI



<https://www.slideshare.net>

Increasing pendency of cases: These Commissions particularly the Central Information Commission have kept a strong vigil over the functioning of administrative machinery relating to the implementation of the Act. However, their performance has often been restricted by increasing number of appeals. This has resulted in increase in pendency as well as increase in waiting time for hearing of appeals.

Definition of information: An important issue is the definition of information. Supreme Court stated that 'information' for the purpose of

this Act would mean information held by the PIO or under his control. However, if the information is not held by the PIO the public authority is not under obligation to provide that information.

Not all institutions under RTI: Another issue is that some institutions are not being covered under the Act. E.g. judiciary is not under the act.

Lack of infrastructure: The Implementation of RTI requires the PIOs to provide information to the applicant through photocopies, soft copies etc. These facilities are not available at Block and Panchayat level. In order to service RTI requests, basic infrastructure such as photocopier machines at each Public Authority and basic level of connectivity is required.

Low awareness level: Awareness about RTI is yet very low. Nodal Departments in many states have not undertaken any substantial steps to promote the RTI Act. Awareness level is low especially among the disadvantaged communities such as women rural population, OBC/SC/ST population.

Constraints faced in filing applications: Under Section 26 of the RTI Act, the appropriate Government is expected to publish and distribute user guides (within 18 months of enactment of the Act) for information seekers. However Nodal Departments have not published these guides in many states.

Corporates not under RTI: Corporate entities are not under the RTI Act. Apart from the fact that the corporate sector utilises money from the common public in the form of share capital a large number of entities in the private sector are performing functions similar to the public sector. e.g banking, insurance, telephony etc. where the private sector is performing functions similar to public sector.

Since the implementation of the RTI Act, it has established itself as an important tool in handling corruption and inefficiency in the Government. Although there have been instances of misuse of the Act, but it has served its purpose well. Issues and loopholes in RTI should be removed through proper amendment to further the objectives of transparency and accountability.

8.7 ANNEXURE A, B, C of RTI

Right of Information Act –
2005-II

ANNEXURE- A

RTI Application Form
Form-A
See Rule 3(1)

I. D. No: _____
(For office use only)
Dated: _____

To,

Public Information Officer (PIO),

(Central Government)

_____,
_____,
Andaman and Nicobar Islands,
_____, IN

Re: Request to furnish information under section 6(1) of the Right to Information Act, 2005 on the following questions/points.

Sir/Madam,

Through this letter, I request you to provide me with the certified copy of the following information:

Please do limit your search of aforementioned items for the duration from _____

Rs. 20/- Court fees stamp

ANNEXURE –B

(See Rule 5 (1)

Appeal under Section 19 (1) of the Right to Information Act, 2005.

Sender,

(Name and address of the applicant)

To,

(Name / Designation / Address of the Appellate Authority)

(1) Full name of the appellant: _____

(2) Full address of the appellant: _____

(3) Details of State Government Information Officer: _____

(4) Date of receipt of the order against which the appeal has been made (if ordered): _____

(5) Last date for filing of appeal: _____

(6) Reasons for appeal: _____

(7) Information details
: _____

(A) The nature and content of the information required: _____

(II) The name of the office or department to which the information relates: _____

Location: Appellant's signature

Date: _____

Rs.20/- Court fess stamp.

ANNEXURE –C

See Rule 5 (2)

(Appeal under Section 19 (3) of the Right to Information Act, 2005.)

Sender,

(Name and address of the appellant)

To,

(Name / Designation / Address of the Commissioner of State Information Commission)

(1) Full name of the appellant:

(2) Full address of the appellant:

(3) Details of State Government Information Officer:

(4) Date of receipt of the order against which the appeal has been made (if ordered):

(5) Last date for filing of appeal:

(6) Reasons for appeal:

(7) Information details:

(A) The nature and content of the information required:

(Ii) The name of the office or department to which the information relates:

Location: Appellant's signature

Date:

Deadline for making information available

Time Limits		
CPIO shall dispose the request of third party from receipt of request	Section-11	45 Days
Appeal	Section-19	30 Days
Second Appeal	Section-19	90 Days
An appeal u/s (1) or Sub-Section (2) shall be disposed of within from receipt of request	Section-19	30 Days
Within such a extended period not exceeding a total of --days from the date of filing thereof.	Section-19	45 Days
Information sought for is in respect of allegations of violation of human rights.	Section-24	45 Days
Every rule made by central government under this Act shall be laid as soon as may be after its made before each house of parliament.	Section-29	30 Days
Repeal	Freedom of information Act-2002 (5 of 2003)	

8.8KEYWORDS

SUO MOTU	<i>"on its own motion" is an Indian legal term.</i>
ADMINISTRATION MACHINERY	<i>The interconnected structures and processes of government.</i>

8.9 SUMMARY

Good governance has 4 elements that are transparency, accountability, predictability and participation, and RTI helps in achieving this same. Right to information is just like oxygen for democracy. It stands for transparency. Information would lead to openness, accountability and integrity. Besides, apart from ensuring greater transparency it also acts as different against the arbitrary exercise of public powers.

Before the enactment of the RTI Act, poverty alleviation and empowerment programs were implemented but the achievements were always below the general expectations, mainly because of the absence of the transparency and accountability norms. Lack of legal right to know and to scrutinize the publication or to question the authorities have contributed to inefficiency and corruption resulting in poor outcomes of public activities.

8.10. EXERCISES.

1. State the relationship of Right to information with transparency and accountability.
2. Explain the Important provisions of the RTI act 2005
3. Write the various Impact of RTI on rural administration machinery.

8.11. REFERENCES.

1. www.barandbench.com-article-The Right to Information Act-seven years retrospect by Saumyaramkrishanan.
2. माहितीचा अधिकार अधिनियम, 2005, महाराष्ट्र राज्य राजपत्रित अधिकारी महासंघ - मुद्रक - प्रतीक ऑफसेट, मुंबई.
3. माहितीचा अधिकार - य. दि. फडके - अक्षरप्रकाशन - माहीम, मुंबई.
4. Foundation Course - 2 - Prof. M.S. LimanSeth-Publication, Mumbai.
5. www.rtigateway.org.in.

