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Balancing Majority Power And Natural Justice In Co-Operative Societies: Redevelopment, Elections, And Registrar's Role

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ABSTRACT

This research paper focuses on balancing **majority power** a core principle of democracy in co-operatives with **natural justice**, which ensures fairness and protection of minority rights.

Co-operative housing societies in India are designed to function on the principles of democracy, mutual benefit, and collective decision-making. However, the exercise of majority power often abused, the principles of natural justice are ignored, leading to suppression of minority voices, abuse of authority, and regulatory inefficiency.

The argument is unchecked majority rule, weak statutory enforcement and administrative inefficiency, has created a governance crisis in co-operative societies. This paper critically examines three core areas of concern Redevelopment of Co-operative housing societies, Elections and Tenure of Managing Committees, and the Registrar's role in dispute resolution and accountability.

Backlog of cases due to insufficient judges and infrastructure and widespread corruption, less use of digitalisation that hinder the efficiency of the judicial system. These issues erode public trust and prevent the timely delivery of justice, which is essential for a functioning society

It highlights key loopholes in the current framework, identifies challenges in implementation, and suggests reforms to strike a balance between majority rule and natural justice. The study concludes that only through legal reforms, transparent procedures, and digital governance mechanisms can co-operative societies achieve fairness, accountability, and trust among members.

INTRODUCTION

Co-operative society in India formed by a group of people who have a common need. These societies are functioning according to the ideas of co-operation, mutual welfare, and democratic governance and these societies are very important in Indian development. It comes under the subject governance and Social Justice, focusing on government policies, development processes, and institutions.

The Co-operative movement in India was founded on the principle of “**each for all and all for each**”. The **Maharashtra Co-operative Societies Act, 1960 (MCS Act)** and the **Multi-State Co-operative Societies Act, 2002** are the backbone of this legal framework.

However, in practice, several governance issues undermine these ideals.

- ❖ **Majority v/s Minority** - In practice majority dominance and administrative inefficiency destroy co-operative governance.
- ❖ **Redevelopment Projects** - Development projects of old housing societies, though necessary, often become breeding grounds for corruption, builder–committee nexus overrides minority voices.
- ❖ **Elections and tenure of the Managing Committee**- Manipulation of voter lists, and prolonged control of a few individuals.
 - ❖ **The Registrar of Co-operative Societies**- Procedure and systems found inefficient and delays, leading to prolong waiting.
 - ❖ **Lack of Co-operation** - The Co-operative societies are formed with the idea of mutual co-operation. But it is often seen that there is a lot of friction between the members and committee members because of personality differences, ego, clash, revenge etc.
 - ❖ **Problem in Management** - Generally it is seen that co-operative societies' do not function efficiently due to lack of managerial talent. The members or their elected representatives are not experienced enough to manage the society.
 - ❖ **Delay in justice** - Prolong court proceedings and backlog of cases lead to significant delays, which can be devastating for litigants and undermine faith in the system.
 - ❖ **Corruption** - Bribery and other forms of corruption are significant impediments within the judicial system, undermining its integrity and public trust
 - ❖ **Out-dated legislation** - Out-dated legislation and ineffective procedural obstacles make it difficult for the judiciary to function efficiently.

LITERATURE REVIEW

- ❖ **Oppenheim** describes co-operatives as “voluntary associations based on equality and democracy,” but also notes that unchecked majority can degenerate into exploitation.¹
- ❖ **Damodaran (2010)** emphasizes that co-operative housing societies in Mumbai face recurring corruption in redevelopment due to lack of monitoring.
- ❖ **Judicial Precedents** In the case **Zoroastrian Co-operative Housing Society Ltd. v. District Registrar (2005) 5 SCC 632**, the Supreme Court reiterated that co-operatives, though voluntary associations, must function in accordance with statute and public policy.

Case: In State of U.P. V/s Chheoki Employees' Co-operative Society (1997) 3 SCC 681, the Court stressed that co-operatives must embody democratic values.

Case: In Vipulbhai M. Chaudhary v/s Gujarat Co-operative Milk Marketing Federation (2015) 8 SCC 1, the Court warned against entrenched leadership and stressed accountability in co-operative democracy. Court also observed that co-operative democracy must reflect transparency and fairness, not entrenched control.

LEGAL FRAMEWORK

Co-operative Laws in India

- ❖ **Maharashtra Co-operative Societies Act, 1960** – covers registration, governance, elections, redevelopment, expulsion, and Registrar's powers.
- ❖ **Multi-State Co-operative Societies Act, 2002** – governs societies spanning more than one state.

Key Provisions

- ❖ **Democracy** – “one member, one vote” principle
- ❖ **Elections** – conducted under the supervision of the **State Co-operative Election Authority**
- ❖ **Redevelopment** – governed by Government Resolutions
- ❖ **Expulsion** – requires a three fourth majority and Registrar's approval, along with natural justice
- ❖ **Registrar's powers** – inquiry, inspection, supersession, dispute resolution

Key Issues in Co-operative Governance

Redevelopment of Housing Societies

Redevelopment is one of the most contentious issues facing urban co-operatives. With aging buildings and rising real estate values, redevelopment becomes both a necessity and a lucrative opportunity.

Loopholes

- ❖ **Builder–committee collusion** – Committees often negotiate secretly with developers, ignoring competitive bidding.
- ❖ Builder-committee nexus results in favouritism and opaque deals.
- ❖ **Suppression of minority members** – Dissenters are labelled “troublemakers” and threatened with expulsion.
- ❖ **Lack of transparency** – Agreements, valuation reports, and tenders are not disclosed to all members and all decisions are taken by the managing committee.
- ❖ Lack of independent valuation, competitive tendering, or mandatory disclosures.
- ❖ **Consent issues** – While law requires 70% to 75% consent, decisions are often forced without genuine participation.
- ❖ Consent norms (often 70% or 75%) allow majority to override minority, without proper hearing.
- ❖ **Legal battles** – Minority members approach the Registrar or courts, leading to years of delay.
- ❖ **Unheard-** In certain Major matters minority members are always kept ignored by Committee Members, Registrar of Society and even in the court of justice.
- ❖ Minority members have limited remedies, and disputes drag on for years.
- ❖ **Non Digitalisation-** Due to non digitalisation transparency is not maintained between members, which allows the committee to take advantage of it, manipulate information and get resolution passed in their favour.
- ❖ Absence of independent monitoring, weak minority protections, opaque bidding process.
- ❖ **Absence of uniform laws** across states leads to confusion

ELECTIONS AND TENURE OF MANAGING COMMITTEE

The managing committee is the executive authority of the society. Elections are supposed to ensure democratic rotation of leadership. However, in reality:

Loopholes

- ❖ **Elections are delayed** deliberately by committees to hold on to power.
- ❖ Elections delayed deliberately to extend committee tenure
- ❖ **Bogus memberships** are added before elections to manipulate outcomes, bogus members added. Manipulated voter lists,
- ❖ **Nominations are rejected** on flimsy grounds, preventing genuine competition.
- ❖ Suppression of nominations through technical objections.
- ❖ **Counting lacks transparency**, with complaints of manipulation.
- ❖ Lack of transparency in counting and declaration of results.
- ❖ **Extended tenure by administrators** – where elections are not held, administrators are appointed, but often continue indefinitely.
- ❖ **Returning officers not independent.**
- ❖ **Re-appointing-** After completing their five-year tenure, the managing committee keeps extending its term for another five years and so on, which makes them permanent controllers of the society.”
- ❖ **Absence of strong independent election authority** in many states.

REGISTRAR'S DELAYS AND ACCOUNTABILITY

The Registrar of Cooperative Societies is a **government-appointed authority** who regulates, supervises, and administers cooperative societies under the **Cooperative Societies Act 1960**.

The Registrar of Co-operative Societies is the statutory regulator. Yet, the office is notorious for **delays and inefficiency**.

- ❖ **By-law amendments** take months or years to be approved. As a result, many rules, penalties, and charges are outdated, but society committees exploit this delay by using their majority to change fees and rules as they wish, without proper updated approval.”
- ❖ Files pending for years by-law amendments, dispute resolutions, approvals.
- ❖ **Registrar's office understaffed**, overburdened, and sometimes corruption happening
- ❖ Inquiries and inspections often remain pending, weakening accountability.
- ❖ **No fixed timelines** for decisions, leading to misuse by committees.
- ❖ There is often a **long delay** in getting remedies for complaints filed with the Registrar, which weakens accountability and allows mismanagement to continue
- ❖ Single member or minority members lack effective remedies against Registrar's inaction.
- ❖ **Disputes disposed-** referred under S.91 MCS Act are disposed of after long delays.
- ❖ Elections oversight by Registrar or Election Authority is often inconsistent.
- ❖ **Administrator appointments** are extended beyond legal limits, denying democratic elections.
- ❖ No statutory deadlines; discretion often abused
- ❖ **Corruption** allegations rampant in Registrar's office.
- ❖ **Poor Digital Transparency** – Poor adoption of e-portals for accounts, minutes, and disputes and record-keeping
- ❖ **Natural Justice-** Not consistently embedded in co-operative law, allowing arbitrary expulsions and penalties

This systemic delay erodes member confidence and fuels corruption. Writ petitions under Article 226 frequently challenge Registrar inaction, but judicial intervention is limited.

Problems Faced by Members

1. **Suppression of Minority Opinion**
Members opposing committee face harassment or exclusion.
2. **Denial of Natural Justice**
Members not given hearing before penalties, expulsion, or restrictions.
3. **Financial Mismanagement**
Misuse of society funds and lack of audit compliance.
4. **Lack of Participation**
General Body meetings dominated by a few; quorum often manipulated.
5. **Abuse of Expulsion Powers**
Committees misuse disciplinary powers against dissenters.
6. **Election Malpractices**
Manipulated elections, bogus members, and restricted nominations.
7. **Access to Records Denied**
Members struggle to inspect account books or meeting resolutions.

FUTURE SCOPE & SUGGESTED REFORMS

Need for Amendment

Current Co-operative Societies Acts (state-specific, e.g., Maharashtra Co-operative Societies Act, 1960) should be amended by including:-

Strengthening Natural Justice

- ❖ Natural Justice in Decision-making
- ❖ Introduce Natural Justice Clause for all disciplinary and financial decisions.
- ❖ Strengthening Minority Rights
- ❖ Mandatory show-cause notices, hearings, and reasoned orders before expulsion or penalties.
- ❖ Right to appeal for minority members against majority decisions.

Redevelopment Reforms

- ❖ Introduce **statutory model bye-laws** for redevelopment with mandatory competitive bidding.
- ❖ Ensure **minority appeal rights** before Registrar/Tribunal.
- ❖ Mandatory **disclosure of all agreements, tenders, and valuations** on society notice boards and online portals to all members
- ❖ Compulsory public hearing before any redevelopment approval.
- ❖ Appointment of independent **government approved project management consultants**.
- ❖ Minority right to appeal redevelopment decision to Registrar or Tribunal.
- ❖ Mandatory Transparency
- ❖ Provide Whistleblower Protection for members raising corruption issues.
- ❖ Digitalization
- ❖ Require special majority + Registrar's approval for critical decisions (property sale, redevelopment, large contracts).
- ❖ Awareness & Training
- ❖ Use of secret ballot, videography, and external observers.

Election and Tenure Reforms of Managing Committee

- ❖ Reforms Election Method
- ❖ Creation of a State Co-operative Election Authority with independent observers.
- ❖ Digitization of voter rolls and online publication of nominations.
- ❖ Use of secret ballot or electronic voting to prevent manipulation.
- ❖ Non-extendable tenure of managing committee with no arbitrary extensions.
- ❖ Mandatory Transparency
- ❖ Digitalization
- ❖ Use of society management software for transparency in billing, notices, and meetings.
- ❖ Compulsory training for committee members on co-operative law and ethics.
- ❖ Specific criminal liability for deliberate harassment or financial fraud by committee members
- ❖ Penalties for Misuse of Power like withholding essential services (water, parking, repairs) as punishment. Misappropriation of funds.
- ❖ Use of secret ballot, videography, and external observers.

Registrar's Role and Accountability

- ❖ Fix Statutory timelines for approvals, inquiries, and dispute disposal within 30 to 90 days.
- ❖ Introduce "Deemed approval" mechanism if Registrar fails to act within deadlines.
- ❖ Digitization of Registrar's office: online filing, action, tracking, and disclosure of pending cases.
- ❖ Accountability through annual performance audits of Registrar's office.
- ❖ Stronger grievance redressal system and right to appeal against Registrar's delay.
- ❖ Time-bound intervention in disputes, penalties for non-compliance.
- ❖ Legal safeguard to protect dissenting members from harassment.

- ❖ Provide Whistleblower Protection for members raising corruption issues.
- ❖ Awareness & Training
- ❖ Digitalization

Loopholes in Law and Functioning

1. **Excessive Power of Managing Committee**
Limited checks on decisions relating to finance, contracts, or property.
2. **Misuse of Majority Rule**
Majority decisions may override minority rights without adequate safeguards.
3. **Weak Regulatory Oversight**
Registrar's powers are often delayed, ineffective, or influenced.
4. **Lack of Transparency**
Financial accounts, tenders, and contracts are not disclosed to members regularly.
5. **Inadequate Representation**
Minority members, women, and weaker sections lack equal say.
6. **Conflict of Interest**
Committee members may benefit personally from society contracts or decisions.
7. **Delay in Redressal Mechanism**
Disputes take years before Co-operative Courts/Registrars.

CONCLUSION

This research examines loopholes in law and practice, the problems faced by members, and suggests reforms to ensure justice, transparency, and accountability

Co-operative housing societies are example of democracy, yet they often fail to uphold democratic ideals. Redevelopment, elections, and Registrar's accountability remain three critical areas where the balance between majority power and natural justice is most fragile. Majority rule, while essential for collective governance, often degenerates into majoritarian tyranny when unchecked. Similarly, the Registrar's delays deny timely justice and perpetuate corruption.

Reforms must therefore focus on embedding natural justice into society-level governance and ensuring timely accountability at the Registrar level. Legal amendments, digital transparency, independent election machinery, and minority safeguards are essential steps toward this goal.

If implemented, these reforms will ensure that co-operative societies truly reflect their founding principles of democracy, equality, and mutual benefit, restoring member trust and strengthening urban governance.

- ❖ Majority Vote is essential for democratic governance but must not lead to "tyranny of majority."
- ❖ Principles of Natural Justice (*audi alteram partem* – hear the other side, and *nemo judex in causa sua* – no one should be judge in his own cause) must apply in:
 - ❖ Expulsion of members
 - ❖ Penalty or fine imposition
 - ❖ Allotment of flats or benefits
 - ❖ Termination of membership
- ❖ Without natural justice, majority power becomes abuse of authority.
- ❖ Co-operative societies must remain true to their spirit of democratic participation and mutual benefit.
- ❖ While majority vote ensures decision-making, it must be balanced with protection of minority rights and natural justice.
- ❖ With better laws, transparency, and accountability, abuse of power can be minimized, ensuring societies function fairly and efficiently.

FOOTNOTES / REFERENCES

- Zoroastrian Co-operative Housing Society Ltd. v. District Registrar, (2005) 5 SCC 632.
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- Girnar Co-operative Housing Society v. State of Maharashtra (Bombay HC, 2010).
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