STATE CAPACITY AND CONSTITUTIONAL GOVERNANCE:

A Legal Analysis of Institutional Effectiveness in India

Declaration: The author has used an AI-assisted writing tool solely for language editing and grammar refinement purposes. All legal research, analysis, and conclusions presented in this manuscript are the author's own work.

Abstract

Seven decades after its adoption, the Constitution of India faces a challenge its framers only partially foresaw. Its central argument is simple but underexplored: constitutional governance is not primarily a question of what the Constitution says. It is, prior to that, a question of whether the institutions charged with implementing it have the practical capacity to do so.

The analysis draws on state capacity theory: Weber, Migdal, Fukuyama, Pritchett, Mehta, and Aiyar and translates it into a legal framework. Four dimensions of capacity (administrative, regulatory, coordinative, enforcement) are mapped onto constitutional provisions and applied across three institutional domains: the civil services under Part XIV, the judiciary under Parts V and VI, and Panchayati Raj institutions under Part IX.

Three case studies, RTI (Right to Information) implementation, the Aspirational Districts Program, and the Aadhaar-DBT litigation, reveal that the same legal text produces radically different outcomes depending on the institutional environment. The paper ends with reform proposals rooted in existing constitutional provisions and an argument for a doctrine of institutional capacity obligations approached by Anjali Bhardwaj and Prakash Singh but not yet systematized. The normative position: when the state persistently fails to maintain institutions capable of delivering what the Constitution requires, that is a constitutional breach.

Keywords: *State Capacity, Constitutional Governance, Institutional Effectiveness, Fundamental Rights, Institutional Reform*

I. Introduction

1.1 Contextualising the Problem

India's Constitution, which came into force on 26 January 1950, is by any measure an extraordinary document, exceptionally long, technically elaborate, and unusually forthright about the kind of society it seeks to build. Ambedkar[1], above all others, understood the distance between text and reality. His final speech to the Constituent Assembly warned that constitutional morality is not a natural sentiment and must be cultivated, a warning that proved prophetic. Seven decades later, the Indian constitutional project confronts precisely the challenge he anticipated: a robust legal framework operating within institutions that frequently lack the capacity to translate its commands into lived experience.

Most Indian constitutional scholarship has concentrated on what the Constitution means and whether courts have read it correctly, producing a rich jurisprudence from the basic structure doctrine of Kesavananda Bharati[2] to the expanding Article 21 of Maneka Gandhi[3], from the DPSP (Directive Principles of State Policy)-rights synthesis of Olga Tellis[4] to the privacy architecture of Puttaswamy[5]. But a third question, equally important and far less examined, has been left largely to political scientists and public administrators: does the institutional apparatus of the Indian state actually have the capacity to discharge what the courts have so expansively defined as its obligations?

[1] B.R. Ambedkar, Constituent Assembly Debates, Vol. XI, 25 November 1949 (Constituent Assembly of India, 1949).

[2] *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225 (India).

[3] *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

[4] *Olga Tellis v. Bombay Municipal Corporation*, (1985) 3 SCC 545.

[5] *Justice K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1 (Privacy – Nine Judge Bench); *Justice K.S. Puttaswamy v. Union of India*, (2019) 1 SCC 1 (Aadhaar – Five Judge Bench).

This paper addresses that question. A vacancy in a district court that extends an Article 21 claim by five years is not just an administrative inconvenience; it is a constitutional failure. A Panchayat stripped of funds despite Article 243-G is not merely poorly governed; it is governed unconstitutionally. An RTI application that vanishes into administrative silence is not just bad practice; it is a rights violation. The argument developed here is that each of these familiar phenomena carries a constitutional character that legal scholarship has been slow to acknowledge.

The concept deployed is state capacity: the ability of state institutions to implement official goals. Rarely subjected to systematic legal analysis in India, this paper attempts that translation, arguing that each dimension of state capacity finds a constitutional correlate and that failure in each dimension carries identifiable constitutional consequences.

1.2 Research Questions

This paper is organised around four central research questions:

- What is the theoretical and legal relationship between state capacity and constitutional governance, and how can capacity dimensions be mapped onto constitutional obligations?
- How do specific institutional deficiencies in the civil services, the judiciary, and local governance affect the implementation of constitutional mandates in India?
- What do the case studies of RTI implementation, the Aspirational Districts Programme, and the Aadhaar framework reveal about the relationship between institutional capacity and constitutional outcomes?
- What legal and constitutional frameworks existing, underutilised, or yet to be developed can provide enforceable standards for institutional capacity as a constitutional obligation?

II. Theoretical Framework: State Capacity and the Law

2.1 The Concept of State Capacity

State capacity, the ability of state institutions to turn stated aims into real-world outcomes, has a long intellectual backstory, and you can trace it pretty far. Max Weber’s early work on

rational-legal authority ties state legitimacy to a competent, rule-driven bureaucracy with trained officials applying impersonal rules; it’s a structural idea that basically shows up again in modern capacity theory. Joel Migdal's Strong Societies and Weak States (1988) drew an indispensable distinction: the gap between formal authority and practical reach. Sovereignty and capacity are separable; a state may hold territory and formal legitimacy while failing to deliver services across large portions of it. Post-independence India fits this pattern: zones of institutional weakness coexist with zones of constitutional entitlement.

Francis Fukuyama's contributions, especially State Building (2004) and Political Order and Political Decay (2014), separated capacity from scope, a crucial distinction since India has steadily expanded its scope without a commensurate build-up of capacity. Fukuyama's 'governance gap' is precisely what this paper examines through a legal lens. Lant Pritchett's characterization of India as a 'flailing state' where the head (national institutions and policy) is disconnected from the limbs (delivery mechanisms) is equally resonant.

In the Indian context, Pratap Bhanu Mehta's writing on the 'crisis of the Indian state' consistently identifies the gap between constitutional ambition and institutional delivery as the central challenge of governance. Yamini Aiyar's welfare delivery research is a contrasting 'technocratic optimism' with 'bureaucratic realism', which offers a direct analytical lens for cases like Aadhaar and the RTI, where the ambitions of technology-driven reform have repeatedly outrun ground-level institutional conditions.

2.2 Dimensions of State Capacity

In practice, state capacity gets split into four dimensions. That split isn’t just academic, because constitutional provisions tend to impose different pressures, and the legal fallout from failure changes depending on what exactly has gone off track.

Administrative capacity is the bureaucratic machine’s ability to formulate and then execute decisions, so it is kind of the baseline. It includes things like the quality of officials, headcount, training, and how personnel are placed and used. Nearly any constitutional duty ends up moving through this layer first.

Regulatory capacity is about whether the state can observe private behaviour and enforce the rules that govern it. This usually depends on semi-autonomous or independent bodies, ones with real

expertise and actual enforcement instruments. This dimension comes up most often in environmental, labour, and financial regulation.

Coordinative capacity refers to how well different levels of government can operate in alignment, and this is especially important in India's federal setup, where functions are split and overlaps are almost unavoidable. If coordination falls apart, you can get a constitutional sort of vacuum, where no institution takes clear responsibility, or at least not in a way that is legally legible.

Enforcement capacity is arguably the most legally weighty of the four, and it concerns the state's ability to make sure its legal obligations are truly satisfied, not just written down. If the judiciary itself is under resourced, enforcement capacity can start feeding back into the problem: the very institution meant to discipline constitutional violations becomes unable to do it.

2.3 State Capacity and Constitutional Theory: Constructing the Bridge

The central analytical contribution of this paper is basically the construction of some sort of systematic match between the four capacity dimensions and then identifiable constitutional obligations. Yea, this correspondence is laid out just below:

Capacity Dimension	**Primary Constitutional Basis**	**Key Institutions**	**Legal Consequence of Failure**
Administrative Capacity	Articles 53, 73, 77, 308–323 (Part XIV); Article 246 read with Lists I, II, III.	Civil Services (IAS, IPS, IFS); District Administration; Central Secretariat.	Non-implementation of directive Principles; Denial of Art. 21 rights through administrative default; Breach of Art. 300 duty of care.
Regulatory Capacity	Articles 12, 19(6), 21, 300A; Art. 246 read with relevant	CBI, CCI, SEBI, CPCB, State PCBs, TRAI, labour inspectorates.	Failure to protect fundamental rights from private infringement;

Capacity Dimension	Primary Constitutional Basis	Key Institutions	Legal Consequence of Failure
	legislative entries; Art. 253.		Regulatory arbitrage; Dilution of Art. 14 equality through unequal enforcement.
Coordinative Capacity	Articles 256–263 (Centre-State relations); Art. 280 (Finance Commission); Art. 243 (73rd Amendment).	Inter-State Council; GST Council; NITI Aayog; State Finance Commissions; District Planning Committees.	Fiscal federalism breakdown; Overlapping mandates; Constitutional mandate of Art. 243-G left unimplemented.
Enforcement Capacity	Articles 32, 131–141, 214–226; Art. 39-A; Arts. 263, 280.	Supreme Court; High Courts; District Judiciary; NALSA; Vigilance Commissions.	Violation of Art. 21 right to speedy trial; Denial of Art. 39-A equal justice; Non-enforcement of public law obligations.

With that said, this framework gives you a rather powerful analytical tool. For basically any situation of constitutional non-delivery, one can ask, “Which capacity dimension has failed?” Which provision actually mandates delivery? And what remedy is available in the end? Taken together, this matrix of questions turns what would usually be policy diagnosis into something legally actionable.

The framework also has a normative role. If administrative capacity is a prerequisite for Article 21 rights, and the Court has said these rights cover broad social and economic guarantees, then the

state's failure to maintain adequate capacity isn't only inefficient; it is unconstitutional. This isn't really brand new in spirit; rather, it's novel in its systematic articulation, which the later chapters will show.

III. Constitutional Foundations of Governance in India

3.1 The Constitution as an Aspirational Instrument

Granville Austin talks about the Indian Constitution as a kind of "social document," but it is not only meant to stop the state from getting too far, more like to reshape the social order in that slightly all-in way. That wish shows up again and again, in the Preamble's pledge to social and economic justice, in Part III's rights, in the Directive Principles found in Part IV, and also in the institutional design across Parts V to IX.

This aspirational figure generates positive constitutional duties, like obligations to do stuff and actively build the conditions so that rights can actually be used. The organizing insight of this paper is that a positive duty is only as meaningful as the institutional capacity at hand, in other words, whether there is enough room, capability, or administration to discharge it.

The Constituent Assembly wasn't blind to that tension. The majority's response was kind of an act of faith, like the mandate comes first and afterwards the institutions would just grow into it. That belief was paid back unevenly; in electoral administration and direct benefit transfers, the structures did grow. But on the other hand, in judicial pendency, the three-F devolution failure, and even public health staffing, the distance has widened, almost like a quiet mismatch that nobody really notices until later.

3.2 The Preamble and Positive Obligations

The Preamble resolves to 'secure' Justice, which can be social, economic, and political – an active commitment to conditions in which justice is positively realised, not merely the absence of injustice. The Supreme Court confirmed this interpretive weight in Kesavananda Bharati v. State of

Kerala (1973)[6], holding that the Preamble is part of the Constitution and provides the key to the understanding of the constitutional scheme.

That tripartite pledge for social, economic, and political justice sort of maps across to the capacity demands. Social justice, well, it needs administrative capacity at the district and Panchayat levels, more or less. Economic justice is about regulatory and coordinative capacity spanning fiscal systems, labour arrangements, and welfare delivery all together. Political justice then turns on enforcement capacity in electoral administration for sure, plus judicial oversight and anti-corruption mechanisms too.

Reading the Preamble seriously, it's kind of a full-scope capacity requirement. If a state doesn't really have the institutional wherewithal to actually deliver these kinds of justice, then it has plainly breached the first commitment of its foundational charter, like right at the start.

3.3 Fundamental Rights and the Delivery Problem

Part III, kind of, guarantees fundamental rights that are enforceable under Articles 32 and 226, but still the whole "justiciability" thing doesn't automatically become something like real delivery. A person may have a fully justiciable right, and still it can remain completely undelivered, and the long history tied to Article 21 litigation shows that pretty clearly.

The Supreme Court's landmark decision in Maneka Gandhi v. Union of India (1978) [7] transformed Article 21 from a procedural guarantee to a substantive one, holding that the right to life cannot be abridged except by a fair, just, and reasonable procedure. This expanded Article 21 became the vehicle for the right to livelihood (Olga Tellis v. Bombay Municipal Corporation, 1985)[8], the right to health (Paschim Banga Khet Mazdoor Samity v. State of West Bengal, 1996)[9], the right to food (People's Union for Civil Liberties v. Union of India, 2001)[10], the right to education (Unni

[6] *Kesavananda Bharati*, (1973) 4 SCC 225, 365 (Y.V. Chandrachud J.).

[7] *Maneka Gandhi*, (1978) 1 SCC 248.

[8] *Olga Tellis*, (1985) 3 SCC 545.

[9] *Paschim Banga Khet Mazdoor Samity v. State of West Bengal*, (1996) 4 SCC 37 (India).

[10] *People's Union for Civil Liberties v. Union of India*, W.P. (C) No. 196 of 2001 (Right to Food – continuing mandamus)

Krishnan v. State of Andhra Pradesh, 1993)[11], and the right to a healthy environment (M.C. Mehta v. Union of India, 1987[12] and subsequent decisions).

Each expansion of Article 21, expands the state's institutional obligations. In Paschim Banga Khet Mazdoor Samity, the court held that failure to provide emergency medical care violated Article 21 presupposing a state with staffed hospitals and accessible medical personnel. Where that capacity does not exist, the right is practically meaningless for those most in need.

Article 14's guarantee of formal equality is undermined by differential institutional capacity across states and districts. Indira Sawhney v. Union of India (1992)[13] acknowledged that formal equality must be evaluated against substantive inequality, but jurisprudence has not yet systematically addressed the capacity failures that sustain it.

Article 32 presents an institutional capacity paradox: the right to seek enforcement from the Supreme Court is guaranteed, yet with over 90,000 pending cases as of 2026, enforcement may be delayed by decades. The right to seek enforcement is not the same as the right to obtain it within a reasonable time. The Court's capacity failure undermines the enforcement mechanism of every other fundamental right.

3.4 Directive Principles as Capacity Mandates

Part IV of the Constitution contains the Directive Principles of State Policy. Article 37 provides that while the DPSPs are not enforceable by any court, they are fundamental to the governance of the country, and it shall be the duty of the state to apply these principles in making laws. The judicial history of DPSPs has been of progressive elevation from Champakam Dorairajan (1951) [14] to the synthesis of Minerva Mills Ltd. v. Union of India (1980)[15], which held that the DPSPs and Fundamental Rights are complementary and supplementary to each other, and that neither can be sacrificed at the altar of the other.

[11] *Unni Krishnan v. State of Andhra Pradesh*, (1993) 1 SCC 645.

[12] *M.C. Mehta v. Union of India*, (1987) 1 SCC 395.

[13] *Indira Sawhney v. Union of India*, 1992 Supp (3) SCC 217.

[14] *State of Madras v. Champakam Dorairajan*, AIR 1951 SC 226.

[15] *Minerva Mills Ltd. v. Union of India*, (1980) 3 SCC 625.

From a state capacity perspective, the DPSPs are the most direct constitutional expression of the delivery problem. Articles 38, 39, 41–43, 45–47 collectively mandate adequate livelihoods, equal pay, the right to work, maternity relief, humane conditions of work, education, the welfare of scheduled castes and tribes, and public health, each presupposing substantial administrative and regulatory capacity.

The Court's reading of DPSPs into Article 21 is most systematic in Bandhua Mukti Morcha (1984)[16] which created enforceable positive obligations out of non-justiciable principles. But judicial orders do not themselves create institutional capacity; they impose obligations on the same under-resourced institutions. The result is 'judicial mandates without institutional capacity' orders that remain on paper because the institutions ordered to comply lack the capacity to comply.

The Supreme Court's continuing mandamus in PUCL v. Union of India (2001 onwards)[17] in which dozens of orders have been issued over two decades, itself testifies to the administrative capacity failure that DPSPs (Directive Principles of State Policies) read into Article 21 cannot by themselves cure.

3.5 Federalism and Institutional Accountability

The Constitution of India establishes a federal system that is, in the words of the Supreme Court in S.R. Bommai v. Union of India (1994)[18], a 'basic feature' of the Constitution. Yet Indian federalism has a distinctive architecture that creates particular capacity challenges. The Constitution assigns the most significant revenue sources to the Union while assigning many of the most demanding delivery obligations to the States. This fiscal-functional asymmetry sometimes called 'vertical imbalance,' is a structural source of state-level capacity constraints.

The 73rd Constitutional Amendment of 1992, which inserted Part IX into the Constitution, sought to address the federal delivery gap by devolving governance to the level of Panchayati Raj institutions. Articles 243-G and 243-H mandate the devolution of powers, authority, and financial

[16] *Bandhua Mukti Morcha v. Union of India, (1984) 3 SCC 161.*

[17] *People's Union for Civil Liberties v. Union of India*, (2003) 4 SCC 399 (Phone-tapping); *People's Union for Civil Liberties v. Union of India*, W.P. (C) No. 196 of 2001 (Right to Food – continuing mandamus).

[18] *S.R. Bommai v. Union of India*, (1994) 3 SCC 1.

resources to Panchayats for the preparation and implementation of plans for economic development and social justice. However, the amendment, as analzsed in Chapter IV, created a constitutional obligation without creating a constitutional enforcement mechanism. The result has been, in most states, nominal devolution without substantive capacity transfer, a pattern that the courts have struggled to address given the absence of a justiciable mandate for the quantum of devolution.

Articles 256–257 and 263 create a legal framework for coordinative capacity obligations of compliance, coordination, and interstate cooperation whose potential, read alongside the cooperative federalism commitments of S.R. Bommai and the GST[19] decisions, remains substantially underutilized.

IV. Institutional Effectiveness in India

4.1 The Civil Services: Administrative Capacity at the Core

4.1.1 Constitutional Framework

Part XIV (Articles 308–323) is basically the constitutional backdrop for Union plus States services, you know, that whole framework. Article 312 gives Parliament the power to set up All India Services, which is the base for IAS, IPS, and IFS. Then Articles 310–311, talk about how civil servants shouldn’t just be thrown out in an arbitrary way, and they also build in procedural cushions during disciplinary proceedings.

The civil services design reflects a deliberate choice for a generalist, merit-recruited cadre and the Macaulay tradition retained by the Constituent Assembly as a guarantor of continuity across political transitions. Sardar Patel[20] described the IAS as India's 'steel frame,' a metaphor capturing both the ambition and limitation of the design.

4.1.2 The Capacity Crisis in the Civil Services

[19] *Union of India v. M/S Mohit Minerals Pvt. Ltd.*, Civil Appeal No. 1390 of 2022 (India).

[20] Sardar Vallabhbhai Patel, Speech in the Constituent Assembly, 10 October 1949 (describing the civil services as the “steel frame” of India).

Now the thing is, today the Indian civil services are dealing with a sort of multidimensional capacity crisis, with pretty direct constitutional fallout, spanning four broad dimensions.

First, vacancies. As of 2023, more than 21% of the central government's 9.64 lakh sanctioned posts were sitting empty. The IAS alone is short by over 1,500 officers, against a cadre strength of around 6,700. In Uttar Pradesh, Bihar, and Jharkhand, the vacancy levels at the district level cross the 30% mark, and when constitutional delivery is basically dependent on people who are not there, the violation becomes immediate and also very straightforward.

Second, the generalist-specialist tension. The generalist IAS officer structure, while providing flexibility, creates a capacity deficit in domains requiring technical expertise. The 2nd Administrative Reforms Commission (2nd ARC), in its Tenth Report on Refurbishing of Personnel Administration (2008), recommended a substantial increase in lateral entry of domain specialists into senior civil service positions, a recommendation that was only partially acted upon through limited lateral entry appointments announced in 2018 and 2021. The Supreme Court's decision in T.S.R. Subramanian v. Union of India (2013)[21] addressed the related question of civil service insulation from political interference, holding that civil servants must be provided a minimum tenure to function effectively and a recognition that administrative capacity requires structural protection.

Third, the training deficit. The 2021 Capacity Building Commission report noted that India's spending on training per government employee is among the lowest when you compare it across major democracies. At the state and local echelons, they often run with minimal systematic training infrastructure, so skill development becomes piecemeal, not really a planned cycle.

Fourth, the accountability deficit. The protections in Articles 310–311, which were meant to stop arbitrary dismissal, seem to have shifted into something else. Meaningful accountability for performance failures shows up as exceptionally rare. As the 2nd ARC put it, there's a "culture of impunity," where capacity shortcomings don't bring professional consequences.

4.1.3 Judicial Response

[21] *T.S.R. Subramanian v. Union of India*, (2013) 15 SCC 732.

The Supreme Court has addressed the civil services capacity crisis in several decisions. In Vineet Narain v. Union of India (1998) [22], the Court asserted the primacy of the rule of law in CBI independence proceedings, a principle logically extending to the obligation to maintain capable institutions. In Prakash Singh v. Union of India (2006) [23], the Court issued seven binding directives for police reform, fixed tenure, separation of investigation from law and order, and oversight mechanisms, demonstrating that capacity deficits can constitute constitutional violations requiring structural remedy.

4.2 The Judiciary: Enforcement Capacity and the Justice Deficit

4.2.1 Constitutional Framework

The judicial system is made up of the Supreme Court (Articles 124–147), the High Courts (Articles 214–231) and the subordinate judiciary (Articles 233–237). Article 39-A, inserted by the 42nd Amendment, asks the state to make sure the legal system works towards justice based on equal opportunity and that free legal aid is provided.

The Constitution sort of expects a strong, independent court to be the main enforcement tool, but that only works if the court can truly discharge its role, and that's also supposed to mean it has the wherewithal. However, if the court itself doesn't have enough people, infrastructure, and procedural capacity, then the whole thing sort of wobbles.

4.2.2 The Pendency Crisis

As of December 2024, the National Judicial Data Grid[24] recorded 5.02 crore pending cases, roughly 84,000 in the Supreme Court, 61 lakhs before High Courts, and the rest in subordinate courts, with some matters stuck for more than twenty years.

The India Justice Report 2022[25], the most comprehensive comparative assessment of state-wise judicial capacity, finds India has 21 judges per 10 lakh population against the Law Commission's recommended 50 per 10 lakh and the global average of 60. As of 2022, district court vacancies

[22] *Vineet Narain v. Union of India, (1998) 1 SCC 226.*

[23] *Prakash Singh*, (2006) 8 SCC 1.

[24] National Judicial Data Grid, Summary of Pending Cases, NJDG Dashboard, https://njdg.ecourts.gov.in (last accessed June 19, 2026).

[25] Tata Trusts, India Justice Report 2022 (Tata Trusts, 2022).

numbered approximately 6,000 (25% of sanctioned strength), with High Court vacancies consistently above 30%.

In Hussainara Khatoon v. State of Bihar (1980) [26], the Supreme Court held that the right to a speedy trial is a fundamental right under Article 21 and that undertrial prisoners who had served more time than the maximum sentence must be released. Yet over four decades later, undertrials constitute 75% of the total prison population (Prison Statistics India Report 2022)[27] testifying to the structural persistence of the very violation the Court identified.

A.R. Antulay (1992)[28] and P. Ramachandra Rao (2002)[29] reaffirmed the speedy trial right and held that unreasonable delay may result in the quashing of proceedings, yet the structural conditions creating systemic delay (vacancies, inadequate infrastructure, dysfunctional case management) remain largely unaddressed.

4.2.3 Access to Justice and Article 39-A

So the capacity shortfall shows up not only as delay but also as uneven access. NALSA (National Legal Services Authority), created under the Legal Services Authorities Act 1987 to carry out Article 39-A, runs free legal aid, but NALSA's own records suggest the quality is badly inadequate in many states.

In Sukh Das v. Union Territory of Arunachal Pradesh (1986)[30], the Court struck down a conviction where the accused had not been provided legal assistance, a classic instance of the fundamental rights framework imposing a capacity obligation: the state must maintain a functioning legal aid system.

4.3 Panchayati Raj Institutions: Federal Delivery Capacity

4.3.1 Constitutional Framework

[26] *Hussainara Khatoon v. State of Bihar*, (1980) 1 SCC 81.

[27] National Crime Records Bureau, Prison Statistics India 2022 (Ministry of Home Affairs, 2023).

[28] *A.R. Antulay*, (1992) 1 SCC 225.

[29] *P. Ramachandra Rao v. State of Karnataka*, (2002) 4 SCC 578.

[30] *Sukh Das v. Union Territory of Arunachal Pradesh*, (1986) 2 SCC 401.

The 73rd Constitutional Amendment Act of 1992, by inserting Part IX (Articles 243 to 243-O), is probably India's most serious attempt to decentralise delivery capacity, although it kinda… doesn't play out that cleanly in practice. Article 243-G gives state legislatures the space to endow Panchayats with powers for economic development and social justice, and this includes actually implementing schemes across the Eleventh Schedule subjects.

The Eleventh Schedule itself has twenty-nine subjects, like agriculture, minor irrigation, rural housing, drinking water, roads, education, health and sanitation, poverty alleviation, women and child development, social welfare, and public distribution systems. Pretty wide reach, in other words.

Taken together, this list maps out the main delivery domains for most constitutional promises made to rural citizens. In theory the constitutional architecture, if it were followed in full, would build a three-tier form of federalism with real local delivery capacity. The gap between the stated design and the lived reality is, honestly, one of the sharpest demonstrations of the state capacity problem inside India's constitutional setup.

4.3.2 The Three Fs: Functions, Functionaries, and Funds

The constitutional claim for decentralisation is then often analysed through the "Three Fs". Functions, Functionaries, and Funds. And in that framing, the repeated, methodical non-delivery becomes a kind of constant constitutional failure.

For Functionaries, devolution of trained staff is even more incomplete. In fact, over 40% of Gram Panchayats operate with fewer than two full-time employees (National Panchayat Finance Commission, 2022). So, Article 243-G cannot be practically discharged by institutions that are missing human resources to plan, organise, and implement development schemes.

On Funds: The RBI's State Finances 2022-23 report found that average untied grants devolved to Panchayats came out at less than 1.5% of state expenditure, which is way under what even basic service delivery needs. State finance commissions, have often been delayed, or their recommendations were taken only in part, you know, not fully adopted.

Also, the constitutional push of Articles 243-G and 243-H has, in most states, become "formally" operative but kind of substantively hollow. The Court still hasn't built a sturdy jurisprudential approach for ensuring the 'Three-F' devolution mandate actually gets enforced in practice.

V. Structural Challenges to State Capacity

5.1 Constitutional Design Tensions

Even with all that aspirational tone, the Constitution does not just "inspire"; it also bakes in certain design bits that end up creating structural frictions, and those frictions are bad for state capacity, you know, the kind that you can't fix with only a policy tweak. Instead, they call for constitutional interpretation or maybe even an amendment rather than mere reform. First, there's the Concurrent List thing: fifty-two delivery areas, which includes education, forests, labour, criminal procedure, administration of justice, and more. In these areas, both Parliament and state legislatures can legislate, and the union law wins when Article 254 kicks in. So you get jurisdictions that overlap, regulatory confusion, and accountability that feels spread thin, like nobody is truly clearly on the hook. And the coordinative capacity needed to handle such complexity is often… just not there.

The second tension concerns legislative delegation: while Hamdard Dawakhana (1960)[31] upheld broad delegations subject to the doctrine of excessive delegation, the practical effect has been a vast corpus of delegated legislation, rules, notifications, and circulars suffering from inconsistency, obsolescence, and poor drafting, operating with minimal parliamentary oversight and undermining rather than building capacity.

The third tension concerns the emergency provisions of Part XVIII. Article 356, which provides for President's Rule in states, was designed as a residual safety valve. Its extensive misuse, documented by the Supreme Court in S.R. Bommai v. Union of India (1994)[32] and addressed through the Court's requirement of a floor test before proclamation, created decades of institutional instability at the state level. Institutional capacity cannot be built in states where the executive government is subject to regular disruption and substantially constrained after S.R. Bommai (1994) created decades of institutional instability. The legacy of historical Article 356 misuse continues to affect state institutional capacity in several regions.

[31] *Hamdard Dawakhana v. Union of India*, AIR 1960 SC 554.

[32] *S.R. Bommai*, (1994) 3 SCC 1.

5.2 Statutory and Regulatory Failures

Then, beyond the constitutional blueprint, the statutory setup has its own angles that structurally erode state capacity.

The proliferation of adjudicatory tribunals has created a fragmented landscape of inconsistent quality. L. Chandra Kumar (1997)[33] upheld tribunals while preserving High Court review. The Madras Bar Association litigation (2021) struck down the Tribunal Reforms Act 2021, recognising that tribunal capacity requires structural protection through adequate tenure security.

The regulatory framework governing environmental regulation (Environmental Protection Act 1986, National Green Tribunal Act 2010), competition (Competition Act 2002), and financial services contains overlapping jurisdictions and capacity requirements that exceed available resources. The Central Pollution Control Board has consistently operated with significant vacancies in scientific and technical divisions, undermining its Environmental Protection Act 1986 mandate, a statutory failure with constitutional consequences given M.C. Mehta (1987)'s[34] holding that the right to a healthy environment is part of the right to life under Article 21.

5.3 Human Resource and Structural Deficits

The human resource dimension of state capacity failure extends beyond the civil services vacancy problem discussed in Chapter IV. The healthcare system provides a particularly stark illustration: The Rural Health Statistics Report 2021–22[35] of the Ministry of Health and Family Welfare documented severe specialist shortages at Community Health Centres across India, including shortfalls of 83.2% of surgeons, 74.2% of obstetricians and gynaecologists, 79.1% of physicians, and 81.6% of paediatricians. Article 47's directive on public health has been elevated to a justiciable Article 21 obligation through Paschim Banga Khet Mazdoor Samity. The human resource deficit is a direct constitutional breach.

[33] *L. Chandra Kumar v. Union of India*, (1997) 3 SCC 261.

[34] *M.C. Mehta*, (1987) 1 SCC 395.

[35] Ministry of Health & Family Welfare, Government of India, Rural Health Statistics 2021–22, (2023).

In education, DISE data for 2022-23[36] shows approximately 1.1 lakh single-teacher schools operating across India, with 18% of government schools lacking a girls' toilet and 12% lacking an adequate building. The constitutional right to education, guaranteed since 2002 under Article 21-A and operationalised through the RTE Act 2009, cannot be meaningfully enjoyed in these conditions.

What links all these domains is basically one shared dynamic: since around 1950, the constitutional text has expanded its positive obligations quite a lot, but the institutional capacity base has not grown in the same way. That mismatch between what is required and what can actually be delivered is not some random shortfall by specific administrations. It’s a structural feature of the Indian constitutional order.

VI. Case Studies – Capacity in Action

6.1 The Right to Information Act 2005: Transparency versus Administrative Capacity

6.1.1 Constitutional and Legal Basis

The Right to Information Act 2005 (RTI Act) is grounded in the constitutional right to freedom of speech and expression under Article 19(1)(a) of the Constitution. The Supreme Court first recognised the right to know as an implicit component of Article 19(1)(a) in Bennett Coleman & Co. v. Union of India (1972)[37], and this recognition was further elaborated in Indian Express Newspapers v. Union of India (1985)[38] and Dinesh Trivedi v. Union of India (1997)[39]. The People's

[36] District Information System for Education (DISE) Flash Statistics 2022-23 (Ministry of Education, 2023).

[37] *Bennett Coleman & Co. v. Union of India*, (1972) 2 SCC 788.

[38] *Indian Express Newspapers v. Union of India*, (1985) 1 SCC 641.

[39] *Dinesh Trivedi v. Union of India*, (1997) 4 SCC 306.

Union for Civil Liberties v. Union of India (2004)[40], a challenge to phone tapping, reaffirmed the right to information as flowing from the right to free speech, privacy, and dignity.

The RTI Act creates this kind of detailed implementation mechanism, with Public Information Officers PIOs in every public authority, plus mandatory proactive disclosure under Section 4 and 30-day response timelines under Section 7. There's also an appellate setup with information commissions, which is really a landmark move for transparency, kind of huge in that way.

6.1.2 The Capacity Gap in RTI Implementation

In this paper's central thesis, the RTI Act kind of offers this natural experiment thing because the same legal framework gets used across different states, but those states have different institutional capacities, so the outcomes end up looking dramatically different. It feels like a controlled setup really, even though it's not exactly controlled.

At the level of the Central Information Commission[41] itself, the capacity deficit is acute. Between 2019 and 2023, the CIC operated with an average vacancy rate of 30-40% among information commissioners. As of June 2024, the CIC had a pendency of over 23,000 cases. The Supreme Court intervened in Anjali Bhardwaj v. Union of India (2019)[42], to direct timely appointment of Information Commissioners, holding that such vacancies directly impair the constitutional right to information, a landmark application of the institutional capacity doctrine, identifying a structural capacity failure as a fundamental rights violation.

At state level, the SICs of Madhya Pradesh, Odisha, and Telangana each had pendencies exceeding 1 lakh cases as of 2023, while Kerala and Himachal Pradesh maintained significantly lower figures. The RAAG 2022[43] report found several commissions had not published annual reports for

[40] *PUCL*, (2003) 4 SCC 399 (Phone-tapping).

[41] Central Information Commission, Annual Report (2019–2023), Government of India, https://cic.gov.in (last accessed June 19, 2026).

[42] *Anjali Bhardwaj v. Union of India*, (2019) 4 SCC 321.

[43] RTI Assessment and Analysis Group (RAAG), 'Looking Back to Look Forward: RTI Assessment Report 2022' (Satark Nagrik Sangathan, 2022).

three or more consecutive years, a Section 25 violation that renders the transparency mechanism itself opaque.

At the PIO (Public Information Officer) level, DoPT's[44] 2021 audit found only 38% of Central Government public authorities substantially compliant with Section 4 proactive disclosure requirements, whose demands of systematic information management and digital accessibility exceed what many public authorities can deliver.

6.1.3 Legal Analysis and Implications

The RTI case study yields three conclusions: first, a constitutionally rooted right can be systematically denied through institutional capacity failure rather than explicit legal restriction; second, Anjali Bhardwaj[45] demonstrates the Court's capacity to identify and remedy such failures as fundamental rights violations; third, state-level variation in SIC performance shows that legal reform alone is insufficient without corresponding institutional development.

6.2 The Aspirational Districts Programme: Targeted Capacity Injection

6.2.1 Programme Overview and Constitutional Basis

The ADP[46], launched in January 2018 under NITI Aayog's oversight, identifies 112 districts with the lowest performance on composite indices of health, nutrition, education, agriculture, financial inclusion, and infrastructure; a targeted capacity injection exercise channelling additional resources and monitoring attention to constitutionally lagging districts.

Drawing on Articles 21, 39, 45, and 47, the ADP represents a governmental acknowledgement that constitutional delivery is spatially unequal and requires specific institutional responses.

6.2.2 Capacity Dimensions and Outcomes

[44] Department of Personnel and Training, Section 4 Disclosure Audit Report, Ministry of Personnel, Public Grievances and Pensions, https://dopt.gov.in (last accessed June 19, 2026).

[45] *Anjali Bhardwaj*, (2019) 4 SCC 321.

[46] NITI Aayog, Aspirational Districts Programme: Delta Rankings, Government of India, https://niti.gov.in (last accessed June 19, 2026).

The ADP's delta ranking method measures incremental improvements on sixty-nine important performance indicators in real time, turning administrative accountability from once-in-a-while, retrospective checks into something more continuous and forward-looking. There is also a dedicated “Champion of Change” who works side by side with the district collector to tackle administrative capacity in a more direct manner, rather than waiting.

Delta Rankings data (2019–2023)[47] shows the 112 aspirational districts improved their composite score by an average of 27.5 points. Institutional delivery rose from 62.5% to 79.3%; primary school enrollment improved by 8.3 percentage points; clean drinking water access improved by 11.7 percentage points, demonstrating that targeted capacity injection can achieve measurable constitutional delivery outcomes.

However, the ADP shows kind of structural boundaries: it was most useful where there was already enough state capacity to soak up extra resources. But in places with major structural shortfalls, plus geographic isolation, institutional conflict, and severe scarcity of resources, the monitoring and ranking mechanisms did not really lead to improvements that match what was invested. Capacity is not just some resource you can toss in; it depends on structural institutional conditions that a straightforward transfer of resources usually can’t manufacture on its own.

6.2.3 Legal Significance

Legally, the ADP shows that the executive can handle the capacity delivery gap without needing courts to step in and without forcing the preferred constitutional order or anything like that. The delta ranking methodology also gives something like a template for capacity development under judicial oversight: basically, courts can monitor progress instead of just imposing absolute standards that under-resourced institutions can’t meet right away, not immediately, and not all at once.

6.3 Aadhaar and Direct Benefit Transfer: Technology, Capacity, and Rights

6.3.1 Constitutional Context

[47] NITI Aayog, Aspirational Districts Programme: Delta Rankings (2019 – 2023), Government of India, https://niti.gov.in (last accessed June 19, 2026).

The Aadhaar-DBT framework, which is basically creating a single biometric identity for more than 1.38 billion residents that gets linked with over 300 Central Government schemes, forms one of the most ambitious technology-mediated expansions in Indian governance history. It is meant to tackle two stubborn issues: inability to properly identify beneficiaries and also the recurring leakage of resources to intermediary corruption, and it kind of keeps happening.

The constitutional validity of Aadhaar was settled with significant qualifications by the Supreme Court's five-judge Constitution Bench in Puttaswamy (2018) [48] held the Aadhaar Act constitutionally valid for welfare delivery while striking down its private-sector extension as an invasion of privacy. Puttaswamy I (2017)[49] had established privacy as a fundamental right under Article 21, the constitutional standard against which Aadhaar's capacity expansion must be evaluated.

6.3.2 Capacity Gains and Constitutional Risks

The DBT Mission Annual Report 2022-23[50] reported cumulative transfers exceeding Rs. 27 lakh crore since 2013, with estimated savings of Rs. 3.48 lakh crore through elimination of duplicate and ghost beneficiaries. Aadhaar seeding reduced ghost ration cards by 2.33 crore real and constitutionally significant capacity gains.

However, Aadhaar-DBT, at the same time, ushers in a new kind of state capacity failure, and it comes with constitutional consequences that are similarly severe or even more so: exclusion errors. These exclusion errors show up when eligible beneficiaries just cannot authenticate biometrically, usually because biometric failure happens among the elderly or manual labourers or due to rural connectivity gaps, and also because there are database mismatches in the system. There were documented starvation deaths connected to PDS (Public System Distribution) authentication failures in Jharkhand during 2017-18, which then led to Supreme Court PIL proceedings, asking for tweaks to the mandatory authentication requirement.

[48] *Justice K.S. Puttaswamy v. Union of India*, (2019) 1 SCC 1 (Aadhaar – Five Judge Bench).

[49] *Justice K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1 (Privacy – Nine Judge Bench).

[50] DBT Mission Annual Report 2022-23 (Ministry of Finance, Government of India, 2023).

In Dr. S.G. Vombatkere v. Union of India (2022)[51], the court engaged with the constitutional dimensions of technology-based exclusion. The cases together establish the principle important for the capacity doctrine developed in this paper that the state's deployment of technology as a capacity tool does not discharge its constitutional obligations if the technology itself becomes a source of exclusion. Where the technology fails to identify eligible beneficiaries, the state's constitutional obligation to deliver the entitlement remains, and the technological failure does not transfer the constitutional responsibility to the individual.

6.3.3 The Capacity Paradox of Technology-Mediated Delivery

The Aadhaar-DBT case kind of shows this capacity paradox for delivery that's "through technology": on one side, technology can massively amplify capacity where connectivity is good and infrastructure is strong, but on the other, it can also generate fresh capacity breakdowns, exclusion patterns, risks around data protection and even surveillance vulnerabilities in low-capacity settings. In other words, technology-based delivery alone doesn't really meet constitutional obligations unless it comes with safeguards enough to stop those new kinds of failures.

An emerging constitutional standard follows: technology-based delivery systems must minimise exclusion errors, provide alternative authentication mechanisms, and be subject to independent audit and judicial oversight. Failure to meet this standard is a breach of Article 21's positive obligations, from Maneka Gandhi[52] to Paschim Banga[53] to PUCL[54].

VII. Reform Proposals – Toward a Constitutionally Grounded Capacity Doctrine

[51] *Dr. S.G. Vombatkere v. Union of India*, W.P. (C) No. 682 of 2021 (India).

[52] *Maneka Gandhi*, (1978) 1 SCC 248.

[53] *Paschim Banga*, (1996) 4 SCC 37.

[54] *PUCL*, (2003) 4 SCC 399 (Phone-tapping); *PUCL*, W.P. (C) No. 196 of 2001 (Right to Food – continuing mandamus).

7.1 Administrative Reforms

The administrative capacity deficit kind of asks for reforms on three levels, constitutional or statutory, then structural, and finally cultural. So, at the statutory level, this paper kind of proposes the following measures that are legally grounded.

First, the All India Services Act 1951 should be amended to include a statutory mandate for performance-based accountability distinguishing dismissal for misconduct (governed by Articles 310–311) from performance management (to be governed by a separate statutory framework). The DoPT's 2018[55] Consultation Paper proposed competency-based Assessment for senior civil servants; a statutory version would give it legal enforceability.

Second, Mission Karmayogi, the National Programme for Civil Services Capacity Building launched in 2020, should be given statutory backing through an amendment to the All India Services Act or a standalone Capacity Building Act, transforming it from a revocable policy initiative into a legally mandated institutional requirement.

Third, following T.S.R. Subramanian (2013)[56] and Law Commission recommendations, Parliament should enact the Civil Services Standards, Performance and Accountability Bill, providing a legal basis for fixed tenure, performance review, and insulation from political interference in posting decisions.

7.2 Judicial Reforms

The enforcement capacity crisis in the Indian judiciary is, in a way, the most constitutionally acute piece of the overall state capacity problem, because the judiciary’s enforcement capacity trouble is also the most constitutionally acute dimension of that same state capacity problem. So reforms really need to be both structural and procedural kind of at the same time.

On judicial appointments, Parliament should enact legislation reformulating the NJAC (National Judicial Appointment Commission) framework to meet the Supreme Court Advocates-On-Record

[55] Department of Personnel and Training, supra note 44.
[56] *T.S.R. Subramanian*, (2013) 15 SCC 732.

(2015)[57] objection preserving judicial majority while introducing transparency and accountability. Any legislation must target reducing High Court and subordinate judiciary vacancy rates below 10% within a defined timeframe, monitored by the Supreme Court.

In case management, the e-Courts Project should be topped up by mandatory ADR screening for certain civil disputes that are contemplated by the Arbitration and Conciliation (Amendment) Act 2021 but which still are not operationalized in practice. And Article 39-A's equal justice direction: it's not only about courts that exist on paper; it's about a dispute resolution system that is actually reachable for people.

On legal aid, the Legal Services Authorities Act 1987 should be amended to prescribe minimum quality standards for legal aid providers, create an independent audit mechanism, and establish adequate funding benchmarks. The constitutional right established in Hussainara Khatoon[58] and Suk Das[59] cannot be discharged by a chronically underfunded system.

7.3 Federal and Local Governance Reforms

The most constitutionally urgent reforms, though, concern the 73rd and 74th Amendment promises; that kind of command has been substantially ignored across most of India for over three decades, with very limited repair.

This paper puts forward a constitutional amendment to Article 243-G, where "may endow" should be swapped with "shall endow", placing it after the existing "shall" logic used in Article 21-A for education rights, to produce an enforceable minimum devolution benchmark. Alternatively, Parliament could pass a central law under Article 252, one that specifies minimum devolution percentages for functions, functionaries and funds.

Also, the SFC (State Finance Commission) setup under Article 243-I needs an overhaul so that the commission is constituted in time, the reports are mandatorily laid before the state legislature within one year, and there is a minimum floor for the Panchayat fiscal share from the state's own tax revenue. Independent monitoring matters too, including reporting obligations to the Election Commission and to the Supreme Court, not just internal review.

[57] *Supreme Court Advocates-On-Record Association v. Union of India*, (2016) 5 SCC 1.

[58] *Hussainara Khatoon*, (1980) 1 SCC 81.
[59] *Sukh Das*, (1986) 2 SCC 401.

The District Planning Committee mechanism under Article 243-ZD, implemented in fewer than half the states, should be given a mandatory constitution and minimum functional standards by law. Properly empowered DPCs could serve as the coordinative bridge between state and local governance.

7.4 Toward an Institutional Capacity Doctrine in Indian Constitutional Law

The reforms above may address symptoms. But this section is trying to argue for something more foundational. Like an institutional capacity doctrine, where it's treated as a constitutional principle. Under that idea, when structural incapacity persistently blocks the enjoyment of fundamental rights, courts would have the power and, in serious cases, the responsibility to issue structural orders aimed at reform.

The building blocks of this doctrine are already scattered through existing jurisprudence. Vineet Narain[60] established that constitutional institutions need insulation from political interference to function at all. Prakash Singh[61] showed that the Court is prepared to issue binding structural directives for institutional reform when rights demand it. Hussainara Khatoon[62] converted judicial delay from an administrative complaint into a constitutional violation; Anjali Bhardwaj[63] held vacancies in information commissions impair a fundamental right. What is missing is the thread tying these into a coherent doctrine.

The proposed framework has three interlocking parts. First there's a constitutional capacity obligation, and the state is under a duty, grounded in Articles 12, 38, and the positive dimension of Articles 14, 19, and 21, to keep institutions with capacity sufficient to actually discharge its constitutional commitments. Second, there's a proportionality-based scrutiny scheme where the intensity rises and falls with the importance of the right, and Article 21 cases, get the most rigorous oversight. Third, there's a structural remedy toolkit, where courts are empowered to issue

[60] *Vineet Narain*, (1998) 1 SCC 226.

[61] *Prakash Singh*, (2006) 8 SCC 1.

[62] *Hussainara Khatoon*, (1980) 1 SCC 81.
[63] *Anjali Bhardwaj*, (2019) 4 SCC 321.

benchmarked, monitored, and time-bound institutional reform orders, especially when capacity failure is reaching the point of constitutional violation.

So this doctrine, grounded in Articles 12, 32, 38, and 256–257 read with the positive obligations dimension of Articles 14, 19, and 21, would be a natural evolution of constitutional remedies. From the classic declaration and injunction, towards something closer to the structural order model in institutional reform jurisprudence.

VIII. Conclusion

Indian constitutional scholarship has concentrated, understandably, on what the Constitution means and what courts have made of it. But the prior and more urgent question is whether the institutional apparatus of the state can actually convert constitutional commitments into lived experience. When it cannot and when that failure is structural and sustained, the appropriate characterisation is not policy failure or administrative underperformance. It is a constitutional violation.

The four-capacity framework: administrative, regulatory, coordinative, and enforcement provides a vocabulary for translating state capacity concepts into legal categories with identifiable constitutional correlates. What this reveals is that the Constitution is not merely a rights instrument; it is an institutional mandate that presupposes a state capable of implementing what it guarantees.

The evidence from civil services, the judiciary, and Panchayati Raj institutions points consistently in one direction: the vacancy crisis, the pendency figures, and the Three-F devolution failure are structural, accumulated over decades, and rooted in constitutional design tensions and chronic under-resourcing. Each has constitutional consequences traceable to specific provisions and confirmed by specific decisions.

The three case studies demonstrate a common pattern: the same legal framework produces divergent outcomes depending on institutional capacity. The RTI Act is a model transparency law which is systematically under-implemented through administrative capacity failure. The ADP shows targeted capacity injection can achieve measurable improvements but cannot substitute for structural conditions. Aadhaar-DBT reveals that technology can expand capacity while simultaneously generating new constitutional risks when underlying capacity is insufficient.

Chapter VII's proposals translate diagnosis into prescription without descending into policy wish lists. Mission Karmayogi's statutory footing, judicial appointments reform, the Article 243-G amendment, and the institutional capacity doctrine is anchored in existing constitutional text and judicial precedent. The intention is not to propose what would be desirable in an ideal world but what the Constitution, properly read, already requires.

Ambedkar's warning about constitutional morality was a warning about this. A constitution is not self-executing. It operates through institutions, and if those institutions lack capacity to discharge what is assigned them, the rights guaranteed are not merely unrealised; they are denied. India has spent seven decades expanding the constitutional programme without a commensurate expansion of institutional capacity to carry it.

Closing this gap is a constitutional imperative. The judicial recognition visible in Hussainara Khatoon, Anjali Bhardwaj, and Prakash Singh needs to be systematised into a doctrine not left as an accumulation of responses to individual crises. Until that happens, the promise of the Constitution will continue to exceed the reach of the state charged with keeping it.

> *"Constitutional governance is not achieved merely through constitutional provisions and judicial review; it depends, ultimately, upon the capacity of state institutions to convert constitutional commitments into lived realities. Without that capacity, the Constitution remains what Ambedkar feared it might become: a beautiful document whose promise is honoured in text and betrayed in practice."*