



INDIAN POLITY (PART-1)

CONTENTS

INTRODUCTION	5
MAIN PROVISIONS OF IMPORTANT ACTS PASSED IN BRITISH INDIA	5
SOURCES OF INDIAN CONSTITUTION	8
FRAMING OF INDIAN CONSTITUTION	10
PHILOSOPHY OF INDIAN CONSTITUTION	11
NATURE AND FEATURES OF INDIAN CONSTITUTION	12
INDIAN CONSTITUTION: AT A GLANCE	17
SCHEDULES	26
PREAMBLE	27
EXPLANATION OF PREAMBLE	28
THE UNION AND ITS TERRITORY	30
CITIZENSHIP	34
FUNDAMENTAL RIGHTS	36
DIRECTIVE PRINCIPLES OF STATE POLICY	45
FUNDAMENTAL DUTIES	50
PRESIDENT OF INDIA	50
VICE PRESIDENT OF INDIA	59
COUNCIL OF MINISTERS	61
CABINET VS COUCIL OF MINISTERS	61
PRIME MINISTERS	62
ATTORNEY GENERAL OF INDIA	63
COMPTROLLER & AUDITOR GENERAL OF INDIA	64
THE PARLIAMENT	65
PARLIAMENTARY COMMITTEES	68

THE SPEAKER	71
THE DEPUTY SPEAKER	73
CHAIRMAN AND DEPUTY CHAIRMAN OF THE COUNCIL OF STATES	73
GOVERNOR	73
DISCRETIONARY POWERS OF GOVERNOR	74
COUNCIL OF MINISTERS	76
ADVOCATE GENERAL	76
THE STATE LEGISLATURE	77
RELATIONS BETWEEN UNION & STATES	83
CENTRE-STATE RELATIONS TENSION AREAS	87
SARKARIA COMMISSION	90
PUNCHHI COMMISSION	92
FINANCE COMMISSION VS PLANNING COMMISSION	94

INDIAN POLITY

The Constitution of India was drawn up by a Constituent Assembly. The Assembly met for the first time on December 9, 1946. It was not a truly representative body as its members were indirectly elected by those who were themselves elected on a narrow franchise. The Assembly constituted a Drafting Committee, under the chairmanship of Dr. B. R. Ambedkar, to frame a constitution for India. Indian Constitution was adopted on November 26, 1949 and it came into effect on January 26, 1950. It is the longest written Constitution in the world containing 395 Articles, 22 Parts and 12 Schedules. During 60 years of its existence, Indian Constitution has undergone several amendments and demand to review it completely has also been raised. But, in spite of all these changes, the 'basic structure' of the Indian Constitution remains intact.

Development of the Indian Constitution

British rule in India ended on 15th August 1947 and India emerged as an independent and sovereign republic. Certain features of Indian Polity or Constitution can be understood better

Acts that facilitated constitutional development during British rule

- Regulating Act, 1773
- Amending Act, 1781
- Pitt's India Act, 1784
- Act of 1786
- Charter Act, 1793
- Charter Act, 1813
- Charter Act, 1833
- Charter Act, 1853
- Government of India Act, 1858
- Indian Councils Act, 1861
- Indian Councils Act, 1892
- Indian Councils Act, 1909
- Government of India Act, 1919
- Government of India Act, 1935
- Indian Independence Act, 1947

with a brief review of the constitutional set up in the preceding periods. As modern political institutions originated and developed in India mainly during the British rule, the origin and growth of the Indian Constitution has its roots in the British period of Indian history. The British came to India in the 17th century as traders. From 1773 onwards, various Acts were passed by the British Government for the governance of India.

MAIN PROVISIONS OF IMPORTANT ACTS PASSED IN BRITISH INDIA

Regulating Act, 1773

- (i) First attempt by the British Parliament to regulate the affairs of the East India Company;
- (ii) Centralised the administration of Company's territories in India;
- (iii) Governor of Bengal was designated as the Governor General of Bengal and Council of 4 members was appointed for Bengal;
- (iv) Bombay and Madras Presidencies were subordinated to Bengal Presidency;
- (v) Supreme Court was set up at Calcutta; and
- (viii) Company's servants were forbidden from accepting bribes or doing private trade.

Amending Act, 1781:

It settled the question of jurisdiction of the Supreme Court

Pitt's India Act, 1784

- (i) It was the first effective substitution of Parliamentary Control over East India Company as it transferred the Indian affairs of the Company into the hands of the British Government;

- (ii) Abolished dual system of governance.
- (iii) Board of Control consisting of 6 Parliamentary Commissioners was constituted to control civil, military and revenue affairs of India;
- (iv) Court of Directors had to comply with the orders and directions of the Board;
- (v) Strength of Governor-General's Council reduced to 3;
- (vi) Control of Governor-General-in-Council on Bombay and Madras Presidency was enlarged and made more effective.

Act of 1786:

Governor-General became the Commander-in-Chief of Indian Forces.

Charter Act, 1793

- (i) East India Company's monopoly over trade was extended for 20 more years
- (ii) Expenses and salaries of the Board of Control to be charged on Indian Revenue; and
- (iii) Governor-General could over-ride his Council.

Charter Act, 1813

- (i) East India Company was deprived of its trade monopoly in India except in tea and opium trade with China;
- (ii) All Englishmen could trade with India subject to certain restrictions;
- (iii) Rules and procedures were made for use of Indian revenue; and
- (iv) A sum of Rs. 1 lakh was earmarked annually for education.

Charter Act, 1833

- (i) Governor-General of Bengal became the Governor-General of India;
- (ii) Company was asked to close its business at the earliest;
- (iii) It put an end on Company's trade monopoly even in tea and opium with China;
- (iv) Government of Madras and Bombay was deprived of legislative powers;
- (v) A fourth member (Law Member) was added to the Council of Governor-General;
- (vi) Government Service was thrown open to the people of India;
- (viii) All laws made by Governor General-in-Council, henceforth came to be known as Acts and not regulations;

- (viii) Provision was made for appointment of Law Commission for codification of laws; and
- (ix) Slavery was abolished.

Charter Act, 1853

- (i) For the first time a separate legislative machinery consisting of 12-member Legislative Council was created;
- (ii) Law Member was made a full member of the Executive Council of the Governor-General. Six additional members were added for legislative purposes; and
- (iii) Recruitment of Civil Services was based on open annual competitive examination.

Government of India Act, 1858

- (i) Rule of company in India ended and that of the Crown began;
- (ii) System of double government ended as both the Court of Directors as well as the Board of Control was abolished;
- (iii) Secretary of State for India was appointed. He was assisted by a 15-member Council (India Council). He was to exercise the powers of the Crown;
- (iv) Secretary of State was to be a member of the British Cabinet;
- (v) Secretary of State governed India through the Governor General;
- (vi) Governor-General was to be called the Viceroy and was the direct representative of the Crown in India; and
- (vii) A unitary and highly-centralised administrative structure was created.

WHAT DO YOU UNDERSTAND BY THE TERMS 'DIARCHY' AND 'DEVOLUTION RULES'?

In Indian administration, these terms were used for the first time in the Government of India Act, 1919 (Montague-Chelmsford Reforms)

Diarchy: It meant Dual Government. The Provincial subjects of administration were to be divided into two categories -- "Transferred" and "Reserved". The transferred subjects were to be administered by the Governor with the aid of Ministers responsible to the Legislative Council. The reserved subjects were to be administered by the Governor and his Executive Council without any responsibility towards the Legislature.

Devolution Rules: Through these Rules, subjects of administration were divided into two categories -- "Central" and "Provincial". Subjects of all-India importance (like Railways, Finance) were brought under the category of Central, while matters relating to the administration of the provinces were classified as provincial.

Indian Councils Act, 1861

- (i) Policy of Association of Indians in legislation started;
- (ii) Portfolio system was introduced;
- (iii) For legislation; Executive Council of Viceroy was enlarged by 6 to 12 members composed of half non-official members. Thus foundation of Indian Legislature was laid down;
- (iv) Legislative powers of the Presidency Governments, abolished in 1833, were restored; and
- (v) Viceroy could issue ordinances in case of emergency.

Indian Councils Act, 1892:

It was the beginning of representative system in India.

- (i) Though the majority of official members was retained, the non-official members of the Indian Legislative Council were henceforth to be nominated by the Bengal Chamber of Commerce and the Provincial Legislative Councils.
- (ii) Non-official members of the Provincial Council were to be nominated by certain local bodies such as universities, district boards, municipalities, etc.; and
- (iii) Councils were given the power to discuss budget and to question the Executive.

Indian Councils Act, 1909:

Also known as the Morley-Minto Reforms

- (i) Introduced, for the first time, an element of elections to the Legislative Councils;
- (ii) In Provincial Legislative Councils, non-official members were to be in majority; and
- (iii) This Act introduced the system of separate electorates (for Muslims).

Government of India Act, 1919:

Popularly known as Montague-Chelmsford Reforms

- (i) The idea of "Responsible Government" was stressed;
- (ii) Office of the High Commissioner of India was created in London;
- (iii) Indian Legislature became "bicameral" for the first time;

- (iv) Communal representation was extended to Sikhs;
- (v) Secretary of State for India was now to be paid from British revenue; and
- (vi) Diarchy was introduced in provinces by dividing subjects of administration between official members and elected members.

Government of India Act, 1935

- (i) It provided for the establishment of an All-India Federation consisting of the British Provinces and the Princely States. The joining of Princely States was voluntary. The Federation never came into being.
- (ii) Diarchy was introduced at the Centre. Diarchy in Provinces was replaced by 'Provincial Autonomy' and they were granted separate legal identity. Responsible governments were set up in States under Prime (Chief) Ministers elected by Legislatures;
- (iii) Governor was given special responsibilities (or discretion) in several matters;

SOURCES OF INDIAN CONSTITUTION

1. Seminal Sources:

- Constituent Assembly Debates
- Reports of Committees of the Constituent Assembly
- Nehru Report
- Lahore Session of the Indian National Congress
- Objectives Resolution
- Government of India Act, 1935
- Impact of various Constitutions

2. Developmental Sources:

- Amendments of the Constitution
- Judicial Decisions
- Parliamentary Statutes
- Commentaries of Constitutional Experts
- Rules, Regulations, Ordinances, etc.
- Constitutional Practices

- (iv) Three-fold division of powers was done—Federal, Provincial and Concurrent Lists. Residuary powers were to be with the Governor-General;
- (v) The India Council of Secretary of State for India was abolished;
- (vi) Principle of separate electorate was extended further to include Anglo-Indians, Indian Christians and Europeans also; and
- (vii) A Federal Court was to be constituted with a Chief Justice and 10 other Judges. This was set up in 1937.

Indian Independence Act, 1947:

This Act did not lay down any provision for the administration of India but merely stated that from the "appointed date (Aug. 15, 1947), in place of India as defined in the Government of India Act, 1935, there would be two independent Dominions to be known as "India" and Pakistan", and the Constituent Assembly of each Dominion would have unlimited powers to frame and adopt any Constitution, and to repeal any Act of the British Parliament."

SOURCES OF INDIAN CONSTITUTION

The sources of Indian Constitution include the imaginative aspirations of the nationalist leaders, the actual working of the Government of India Act, 1935, and the experience gained from the actual working of some of the Constitutions of important countries of the world. Moreover, its sources include not only the sources upon which the founding fathers of our Constitution drew but also the developmental sources such as the judicial decisions, constitutional amendments, constitutional practices and so on. The sources of the Indian Constitution can thus be divided into the following two categories:

1. Seminal Sources

Constituent Assembly Debates: Constituent Assembly was constituted under the Cabinet Mission Plan to frame the Indian Constitution. Its members included distinguished lawyers, intellectuals and patriots who took two years, eleven months and eighteen days to prepare the Constitution. During the course of this period, debates on all the aspects of the Constitution were held in a free and fair manner. These debates produced an intelligent opinion in the light of which every word of the Constitution was screened carefully and intelligently.

Reports of Committees of the Constituent Assembly: The Constituent Assembly appointed various types of committees to make reports on different aspects. Some of the most important committees included Union Powers Committees, Union Constitution Committee, Provincial Constitution Committee, etc. Advisory Committee on the rights of citizens, minorities and tribal

ON WHAT POINTS THE INDIAN CONSTITUTION IS INFLUENCED BY THE ACT OF 1935?

The Indian Constitution has been influenced by the Government of India Act, 1935 on the following points:

- (i) Federal set-up;
- (ii) Distribution of powers in three lists;
- (iii) Provincial autonomy;
- (iv) Office of the Governor;
- (v) Bicameral legislature;
- (vi) President's or Governor's power to issue ordinances; and
- (vii) Structure of the Supreme Court.

and excluded areas ad hoc Committee regarding the Supreme Court Committee on financial relations between the Union and States. The reports of these committees were thoroughly discussed in the Drafting Committee. It was on the basis of the reports made by such committees that the draft of the Constitution was prepared.

Nehru Report: The British Government had announced the formation of the Simon Commission for making a report on the working of the Government of India Act, 1919 and suggest constitutional measures required for the efficient administration of Indian. The Congress decided to boycott this Commission because no Indian was taken on it. Instead it announced the formation of a committee under the leadership of Motilal Nehru to make recommendations about the desired constitutional set up for India. The Committee made certain recommendations which are known as the Nehru Report. The main Clauses of this Report were : (i) grant of Empire; (ii) Creation of a federal structure for India (iii) bicameralism at the Centre; (iv) Parliamentary and responsible Government in Provinces; (v) guarantee of Fundamental Right; and (vi) establishment of Supreme Court as the final court of appeal.

Lahore Session of the Congress: The Congress at its Lahore session held in 1929 resolved to make India a Republic.

Objectives Resolution: Jawharlal Lal Nehru moved in the Constituent Assembly the Objectives Resolution embodying the aspirations of nationalist India. The Objectives Resolution clearly spelled out making India a sovereign republic