

Evolution of Indian Constitution

Sub. code 18BHI13C

1935 Act

Creation of an All India Federation

This federation was to consist of British India and the princely states.

The provinces in British India would have to join the federation but this was not compulsory for the princely states.

This federation never materialised because of the lack of support from the required number of princely states.

How Government of India Act 1935 divided powers?

This Act divided powers between the centre and the provinces.

There were three lists which gave the subjects under each government.

Federal List (Centre)

Provincial List (Provinces)

Concurrent List (Both)

The Viceroy was vested with residual powers.

To know more about the Governor Generals of Bengal and India, visit the linked article.

Certain changes that were brought through the government of India Act, 1935 are mentioned in the table below, followed by details:

Government of India Act, 1935 – Changes Brought by the Act

S.No	Features
1.	Provincial autonomy
2.	Diarchy at the centre
3.	Bicameral legislature

4. Federal court
5. Indian Council
6. Franchise
7. Reorganisation

Provincial autonomy

The Act gave more autonomy to the provinces.

Diarchy was abolished at the provincial levels.

The Governor was the head of the executive.

There was a Council of Ministers to advise him. The ministers were responsible to the provincial legislatures who controlled them. The legislature could also remove the ministers.

However, the governors still retained special reserve powers.

The British authorities could still suspend a provincial government.

Diarchy at the centre

The subjects under the Federal List were divided into two: Reserved and Transferred.

The reserved subjects were controlled by the Governor-General who administered them with the help of three counsellors appointed by him. They were not responsible to the legislature. These subjects included defence, ecclesiastical affairs (church-related), external affairs, press, police, taxation, justice, power resources and tribal affairs.

The transferred subjects were administered by the Governor-General with his Council of Ministers (not more than 10). The Council had to act in confidence with the legislature. The subjects in this list included local government, forests, education, health, etc.

However, the Governor-General had 'special powers' to interfere in the transferred subjects also.

Bicameral legislature

A bicameral federal legislature would be established.

The two houses were the Federal Assembly (lower house) and the Council of States (upper house).

The federal assembly had a term of five years.

Both houses had representatives from the princely states also. The representatives of the princely states were to be nominated by the rulers and not elected. The representatives of British India were to be elected. Some were to be nominated by the Governor-General.

There were to be separate electorates for the minority communities, women and the depressed classes.

Bicameral legislatures were introduced in some provinces also like Bengal, Madras, Bombay, Bihar, Assam and the United Provinces.

Federal court

A federal court was established at Delhi for the resolution of disputes between provinces and also between the centre and the provinces.

It was to have 1 Chief Justice and not more than 6 judges.

Indian Council

The Indian Council was abolished.

The Secretary of State for India would instead have a team of advisors.

Franchise

This Act introduced direct elections in India for the first time.

Reorganisation

Sindh was carved out of Bombay Presidency.

Bihar and Orissa were split.

Burma was severed off from India.

Aden was also separated from India and made into a Crown colony.

The British Parliament retained its supremacy over the Indian legislatures both provincial and federal.

A Federal Railway Authority was set up to control Indian railways.

The act provided for the establishment of Reserve Bank of India.

The Act also provided for the establishment of federal, provincial and joint Public Service Commissions.

The Act was a milestone in the development of a responsible constitutional government in India.

The Government of India Act 1935 was replaced by the Constitution of India after independence.

The Indian leaders were not enthusiastic about the Act since despite granting provincial autonomy the governors and the viceroy had considerable 'special powers'.

Separate communal electorates were a measure through which the British wanted to ensure the Congress Party could never rule on its own. It was also a way to keep the people divide.

1947 Act

The Indian Independence Act of 1947 was the last legislation of the British Parliament with the intent of creating independent India. Here through this article we are providing you a short note on 1947 Independence Act as well as a list of its provisions.

The Government of India Act 1935 failed to satisfy the Indian demands. In 1939 the Congress reiterated its demand to form a Constituent Assembly to frame a Constitution for free India. This demand was raised by the British. With the outbreak of Second World War, the British Government sent Sir Stafford Cripps to India in 1942 when Japan just got involved in the war. The Indian National Congress was opposed to extend any help. The British realized the importance of India in combating Japan. To achieve India's co-operation, he proposed the formation of Constituent Assembly to frame the Constitution and provide dominion status to India at the end of war. The Cripps proposals were rejected by both the Indian National Congress and the Muslim League. It led to Quit India Movement.

This was followed by Wavell Plan which proposed for re-constituting the Executive Council of the Governor General with equal seats to Hindus and Muslims. Jinnah stood for a separate Pakistan and hence declined the plan. So it failed.

Cabinet Mission Plan

In the meantime elections were held in England and Labour Party came to power with absolute majority. Clement Attlee became Prime Minister. He admitted the right of Indians to frame the Constitution for free India and even to remain out of Commonwealth. The Labour Party was earnest to solve the Indian problem. In 1946, it announced that a Cabinet Mission will be sent to India to resolve the issue. The Cabinet Mission recommended for-

Formation of Constituent Assembly with 389 members.

Formation of Interim Government with the support of all political parties.

Formation of Union of India including British India and Indian states.

Ruled out formation of Pakistan as undesirable.

As per the recommendation of the Cabinet Mission Plan, the Constituent Assembly was established presided by Dr. Babu Rajendra Prasad for making the Constitution. In 1947, Drafting Committee was set up by the Constituent Assembly under the Chairmanship of Dr. B. R. Ambedkar

Proposal rejected by Muslim League

The above proposal of Cabinet Mission was accepted by the Congress but the Muslim League rejected it. Communal riots occurred throughout the country. Finally Attlee declared the transfer of power on 20th February, 1947. The British Government sent Lord Mountbatten to transfer power to India. He held consultations with all political leaders and found that a compromise between Congress and Muslim League was impossible on the basis of United India. He achieved agreement between Congress and Muslim League on the basis of partition. The Act of 1947 (Indian Independence Act of 1947) was actually an extension of the Mountbatten plan.

Indian Independence Act of 1947

The Indian Independence Act of 1947 provided that on 15th August, 1947, the appointed date, two independent dominions, India and Pakistan, would be set up and the Act provided for complete transfer of power.

The dominion of India for the territory of Bombay, Madras, U.P., Central Province, Bihar, East Punjab, West Bengal, Assam, Delhi, Ajmer, Coorg etc., and the rest of India except Sindh, Baluchistan, West Punjab, East Bengal, North-West Frontier Province and Sylhet in Assam which became the territories of Pakistan. For demarcating the boundaries, Boundary Commission was formed with Sir Cyril Radcliffe as the Chairman.

The Crown was no longer the source of authority.

The Governor General and Provincial Governors were to act as Constitutional heads. They lost extraordinary powers to legislate.

The office of the Secretary of State was abolished.

From 15th of August, 1947, the British Crown lost all rights of Paramountcy over India and the Indian states were free to join either Indian Union or Pakistan.

The power in each dominion was transferred to the Constituent Assembly which became fully sovereign from 15th August, 1947 and were absolutely free to frame the Constitution. The Constituent Assembly had a dual role i.e. Constituent and Legislative. They functioned as Central Legislature till the new legislatures were formed.

Until the new Constitution was framed, the Act of 1935 would govern the Centre and the Provinces with necessary modifications.

Results of 1947 Act

With the passage of the Indian Independence Act of 1947, India and Pakistan became free nations. Independence of India is one of the greatest events of history. Partition was inevitable. A hard earned, prized freedom was won after long, glorious years of struggle but a tragic partition rent as under the fabric of the newly emerging free nation.

Constituent Assembly

An idea for a Constituent Assembly was proposed in 1934 by M. N. Roy, a pioneer of the Communist movement in India and an advocate of radical democracy. It became an official demand of the Indian National Congress in 1935, C. Rajagopalachari voiced the demand for a Constituent Assembly on 15 November 1939 based on adult franchise, and was accepted by the British in August 1940.

On 8 August 1940, a statement was made by Viceroy Lord Linlithgow about the expansion of the Governor-General's Executive Council and the establishment of a War Advisory Council. This offer, known as the August Offer, included giving full weight to minority opinions and allowing Indians to draft their own constitution. Under the Cabinet Mission Plan of 1946, elections were held for the first time for the Constituent Assembly. The Constitution of India was drafted by the Constituent Assembly, and it was implemented under the Cabinet Mission Plan on 16 May 1946. The members of the Constituent Assembly were elected by the provincial assemblies by a single, transferable-vote system of proportional representation.

1947 and, although it was earlier declared that India would become independent in June 1948, this event led to independence on 15 August 1947. The Constituent Assembly met for the first time on 9 December 1946, reassembling on 14 August 1947 as a sovereign body and successor to the British parliament's authority in India. As a result of the partition, under the Mountbatten plan, a separate Constituent Assembly of Pakistan was established on 3 June 1947. The representatives of the areas incorporated into Pakistan ceased to be members of the Constituent Assembly of India. New elections were held for the West Punjab and East Bengal (which became part of Pakistan, although East Bengal later seceded to become Bangladesh); the membership of the Constituent Assembly was 299 after the reorganization, and it met on 31 December 1947. The constitution was drafted by 299 delegates from different caste, region religion, gender etc.

These delegates sat over 114 days spread over 3 years (2 years 11 months and 17days to be precise) and discussed what the constitution should contain and what laws should be included. The Drafting Committee of the Constitution was chaired by Dr. B.R Ambedkar.

B. R. Ambedkar was a wise constitutional expert, he had studied the constitutions of about 60 countries. Ambedkar is recognised as the "Father of the Constitution of India".

The elections for the 296 seats assigned to the British Indian provinces were completed by August 1946. Congress won 208 seats, and the Muslim League 73. After this election, the Muslim League refused to cooperate with the Congress, [citation needed] and the political situation deteriorated.

Hindu Muslim riots began, and the Muslim League demanded a separate constituent assembly for Muslims in India. On 3 June 1947 Lord Mountbatten, the last British Governor-General of India, announced his intention to scrap the Cabinet Mission Plan; this culminated in the Indian Independence Act 1947 and the separate nations of India and Pakistan. The Indian Independence Act was passed on 18 July 1947 and, although it was earlier declared that India would become independent in June 1948, this event led to independence on 15 August 1947. The Constituent Assembly met for the first time on 9 December 1946, reassembling on 14 August 1947 as a sovereign body and successor to the British parliament's authority in India. As a result of the

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