

Evolution of the Indian Constitution

The historical underpinnings and evolution of the India Constitution can be traced to many regulations and acts passed before Indian Independence.

Regulating Act of 1773

- The first step was taken by the British Parliament to control and regulate the affairs of the East India Company in India.
- It designated the **Governor** of Bengal (Fort William) as the **Governor-General (of Bengal)**.
- Warren Hastings became the first Governor-General of Bengal.
- Executive Council of the Governor-General was established (Four members). There was no separate legislative council.
- It subordinated the Governors of Bombay and Madras to the Governor-General of Bengal.
- The Supreme Court was established at Fort William (Calcutta) as the Apex Court in 1774.
- It prohibited servants of the company from engaging in any private trade or accepting bribes from the natives.
- Court of Directors (the governing body of the company) should report its revenue.

Pitt's India Act of 1784

- Distinguished between commercial and political functions of the company.
- Court of Directors for Commercial functions and Board of Control for political affairs.
- Reduced the strength of the Governor General's council to three members.
- Placed the Indian affairs under the direct control of the British Government.
- The companies territories in India were called "the British possession in India".

- Governor's councils were established in Madras and Bombay.

Charter Act of 1813

- The Company's monopoly over Indian trade terminated; Trade with India open to all British subjects.

Charter Act of 1833

- **Governor-General (of Bengal)** became the Governor-General of India.
- First Governor-General of India was Lord William Bentick.
- This was the final step towards centralization in British India.
- Beginning of a Central legislature for India as the act also took away legislative powers of Bombay and Madras provinces.
- The Act ended the activities of the East India Company as a commercial body and it became a purely administrative body.

Charter Act of 1853

- **The legislative and executive functions of the Governor-General's Council were separated.**
- 6 members in Central legislative council. Four out of six members were appointed by the provisional governments of Madras, Bombay, Bengal and Agra.
- It introduced a system of open competition as the basis for the recruitment of civil servants of the Company (Indian Civil Service opened for all).

Government of India Act of 1858

- The rule of Company was replaced by the rule of the Crown in India.

- The powers of the British Crown were to be exercised by the Secretary of State for India
- He was assisted by the **Council of India**, having 15 members
- He was vested with complete authority and control over the Indian administration through the Viceroy as his agent
- The Governor-General was made the Viceroy of India.
- Lord Canning was the first Viceroy of India.
- Abolished Board of Control and Court of Directors.

Indian Councils Act of 1861

- It introduced for the first time Indian representation in the institutions like Viceroy's executive+legislative council (non-official). **3 Indians entered the Legislative council.**
- Legislative councils were established in Center and provinces.
- It provided that the Viceroy's Executive Council should have some Indians as the non-official members while transacting the legislative businesses.
- It accorded statutory recognition to the portfolio system.
- Initiated the process of decentralisation by restoring the legislative powers to the Bombay and the Madras Provinces.

India Council Act of 1892

- Introduced indirect elections (nomination).
- Enlarged the size of the legislative councils.
- Enlarged the functions of the Legislative Councils and gave them the power of discussing the Budget and addressing questions to the Executive.

Indian Councils Act of 1909

1. This Act is also known as the Morley- Minto Reforms.

2. Direct elections to legislative councils; first attempt at introducing a representative and popular element.
3. It changed the name of the Central Legislative Council to the Imperial Legislative Council.
4. The member of the Central Legislative Council was increased to 60 from 16.
5. Introduced a system of communal representation for Muslims by accepting the concept of 'separate electorate'.
6. **Indians for the first time in Viceroy's executive council.** (Satyendra Prasanna Sinha, as the law member)

Government of India Act of 1919

- This Act is also known as the Montague-Chelmsford Reforms.
- The Central subjects were demarcated and separated from those of the Provincial subjects.
- The scheme of dual governance, 'Dyarchy', was introduced in the Provincial subjects.
- Under the dyarchy system, the provincial subjects were divided into two parts – transferred and reserved. On reserved subjects, Governor was not responsible to the Legislative council.
- The Act introduced, for the first time, **bicameralism at the center.**
- **Legislative Assembly** with 140 members and **Legislative council** with 60 members.
- Direct elections.
- The Act also required that the three of the six members of the Viceroy's Executive Council (other than Commander-in-Chief) were to be Indians.
- Provided for the establishment of the Public Service Commission.

Government of India Act of 1935

- The Act provided for the establishment of an All-India Federation consisting of the Provinces and the Princely States as units, though the envisaged federation never came into being.
- Three Lists: The Act divided the powers between the Centre and the units into items of three lists, namely the Federal List, the Provincial List and the Concurrent List.
- The Federal List for the Centre consisted of 59 items, the Provincial List for the provinces consisted of 54 items and the Concurrent List for both consisted of 36 items
- The residuary powers were vested with the Governor-General.
- The Act abolished the Dyarchy in the Provinces and introduced 'Provincial Autonomy'.
- It provided for the adoption of Dyarchy at the Centre.
- Introduced bicameralism in 6 out of 11 Provinces.
- These six Provinces were Assam, Bengal, Bombay, Bihar, Madras and the United Province.
- Provided for the establishment of Federal Court.
- Abolished the Council of India.

Indian Independence Act of 1947

- It declared India as an Independent and Sovereign State.
- Established responsible Governments at both the Centre and the Provinces.
- Designated the Viceroy India and the provincial Governors as the Constitutional (normal heads).
- It assigned dual functions (Constituent and Legislative) to the Constituent Assembly and declared this dominion legislature as a sovereign body.

Making of the Indian Constitution

The constitution was drafted by the Constituent Assembly, which was elected by elected members of the provincial assemblies. The 389-member assembly (reduced to 299 after the partition of India) took 2 years 11 months and 18 days to draft the constitution.

Dr. B R Ambedkar is recognised as the "Father of the Constitution of India". **6 December 1946:** Formation of the Constitution Assembly (in accordance with French practice).

- **9 December 1946:** The first meeting was held in the constitution hall.
- **11 December 1946:** The Assembly appointed Rajendra Prasad as its president, H. C. Mukherjee as its vice-chairman and B. N. Rau as constitutional legal adviser. (There were initially 389 members in total, which declined to 299 after partition. Out of the 389 members, 292 were from government provinces, 4 from chief commissioner provinces and 93 from princely states.)
- **13 December 1946:** An 'Objective Resolution' was presented by Jawaharlal Nehru, laying down the underlying principles of the constitution. This later became the Preamble of the Constitution.
- **22 January 1947:** Objective resolution unanimously adopted.
- **22 July 1947:** National flag adopted.
- **15 August 1947:** Achieved independence. India split into the Dominion of India and the Dominion of Pakistan.
- **29 August 1947:** Drafting Committee appointed with B. R. Ambedkar as its Chairman. The other 6 members of committee were Munshi, Muhammed Sadulla, Alladi Krishnaswamy Iyer, N. Gopaldaswami Ayyangar, Khaitan and Mitter.
- **26 November 1949:** The Constitution of India was passed and adopted by the assembly. It had a Preamble, (with 395 Articles, 8 Schedules, 22 Parts). { Presently it has around 448 articles, 25 parts and 12 schedules }
- **26 January 1950:** The Constitution came into force. (The process took 2 years, 11 months and 18 days)