

## 1

# HISTORICAL EVOLUTION OF THE INDIAN CONSTITUTION

India's constitutional evolution stems from its colonial history. What began as British trade eventually turned into political domination, shaping the foundation of modern Indian governance and its constitutional framework.

## 1.1 Arrival of the British in India (1600 A.D.)

- The **East India Company** was established in 1600 by a **charter from Queen Elizabeth I**, granting it exclusive trading rights in India.
- Initially focused solely on trade, the company gradually extended its influence over Indian territories.

### Reasons for Company Rule in India: Dyarchy

- The **Dual System of Government** was implemented in Bengal by **Robert Clive in 1765** and lasted for seven years, from 1765 to 1772.
- In Bengal, the East Indian Company held **Diwani rights** (the ability to collect taxes), and the Nawab had **Nizamat rights** (the ability to exercise legal and political authority).
- In other words, the Company had all the authority and none of the accountability, while its Indian representatives did both.

#### Acquisition of Diwani Rights (1765)

- ❖ In **1765**, the East India Company secured '**Diwani**' rights from the Mughal Emperor Shah Alam II.
- ❖ This granted the company authority over **revenue collection and civil administration** in **Bengal, Bihar, and Orissa**.

- As a **result of this dual system of governance**,
- ✓ Widespread corruption among the Company's employees.

- ✓ Subjugation of the peasantry and excessive revenue collection.
- ✓ Poor leadership in the presidency of Bengal.
- ✓ While the servants prospered, the Company went bankrupt.
- ✓ This event marked the transition of the Company from a commercial entity to a **territorial and administrative power** in India.

### Demand for Self-Governance and Constitutional Reforms

- Several **constitutional and legislative acts** passed during British rule laid down the administrative and legal framework:
  - ✓ **Regulating Act, 1773**
  - ✓ **Pitt's India Act, 1784**
  - ✓ **Charter Acts (1793, 1813, 1833, 1853)**
  - ✓ **Indian Councils Acts (1861, 1892, 1909)**
  - ✓ **Government of India Acts (1858, 1919 and 1935)**
- These reforms gradually introduced **Indian representation**, albeit limited, in governance.
- They also **influenced federal structure, parliamentary democracy, and bureaucratic administration** seen in today's Constitution.

The Indian Constitution did not emerge in a vacuum; it evolved through a series of historical stages, influenced by various legislations enacted by the British during colonial rule. These acts provided the legal and administrative foundation for governance in India and played a key role in shaping the country's political framework.

The historical evolution can be understood in two broad phases:

1. **The Company Rule (1773 – 1858)**
2. **The Crown Rule (1858 – 1947)**

## 1.2 The Company Rule (1773–1858)

### ➤ 1. Regulating Act of 1773

#### **Purpose:**

- First step by the British Government to regulate the affairs of the East India Company.
- Marked the beginning of parliamentary control over the Company.

#### **Key Features:**

1. Designated the Governor of Bengal as the Governor-General of Bengal.

#### **Lord Warren Hastings (1773-1785)**

- ❖ He served as the first governor general of this kind.
- ❖ He abolished Dual system of government and Dastaks (trade permit given to the East India company by Farruksiyar's Farman of 1717).
- ❖ He created the post of the Collector to collect revenue

2. Created an Executive Council of four members to assist the Governor-General.
3. Subordinated the Governors of Bombay and Madras to the Governor-General of Bengal.
4. Established a Supreme Court at Calcutta (1774) with one Chief Justice and three judges.

#### **Sir Elija Emphey – 1<sup>st</sup> Chief Justice**

5. Prohibited Company servants from engaging in private trade or accepting bribes.
6. Strengthened the control of the British Government by requiring regular reporting from the Company.

#### **Significance:**

- Laid the foundation of centralized administration.
- Introduced judicial authority via the Supreme Court.

#### **Drawbacks:**

- Ambiguity in the jurisdiction between the Governor-General's Council and the Supreme Court led to conflicts.

#### **Measures Taken:**

- Led to the Amending Act of 1781 (Act of Settlement).

### ➤ 2. Amending Act of 1781 (Act of Settlement)

#### **Purpose:**

- Rectify the flaws of the Regulating Act of 1773.

#### **Key Features:**

1. Exempted Governor-General and Council from the jurisdiction of the Supreme Court for official acts.
2. Excluded revenue matters from the purview of the Supreme Court.
3. Directed the court to administer personal law of the defendants.
4. Appeals from provincial courts to lie with the Governor-General-in-Council.
5. Empowered the Governor-General to frame regulations for provincial courts.

#### **Significance:**

- Reduced judicial-executive conflict.
- Defined judicial boundaries more clearly.

### ➤ 3. Pitt's India Act, 1784 (East India Company Act 1784)

The Act was named after **William Pitt the Younger**, who was the **British Prime Minister** at the time, in his honour.

#### **Purpose:**

- Strengthen government control and introduce dual governance.

#### **Key Features:**

1. Distinguished commercial and political functions of the Company.
2. Established a Board of Control to manage political affairs.
3. Court of Directors retained commercial control.
4. Board had authority to direct all civil and military operations.

#### **Significance:**

- Established dual system of governance: Court of Directors (commercial) + Board of Control (political).
- Term "British possessions in India" used for the first time.

#### **Drawbacks:**

- Dual control often led to delays and confusion.

**Measures Taken:**

- Led to further administrative streamlining in subsequent Acts.

➤ 4. Act of 1786**Purpose:**

- Empower the Governor-General (Lord Cornwallis).

**Key Features:**

1. Governor-General empowered to override Council decisions in special cases.
2. Combined role of Governor-General and Commander-in-Chief in one person.

**Significance:**

- Gave stronger executive authority to the Governor-General.

**Lord Cornwallis (1786–1793)**

- ❖ Father of Civil Services in India
- ❖ Introduced the Cornwallis Code (first codification of laws)
- ❖ Implemented Permanent Settlement in Bengal (1793)
- ❖ Formed India's first permanent police force

## 1.3 Charter Acts

The "Charter Acts" refer to a series of British Parliament legislations that governed British India during colonial rule. These acts, named after the charters granted to the British East India Company, shaped India's political, administrative, and economic structure, with the Company's role evolving from trade to governance.

➤ 5. Charter Act of 1793**Purpose:**

- Renew Company's charter and solidify executive control.

**Key Features:**

1. Extended overriding powers to all future Governors-General.
2. Reinforced Governor-General's control over Bombay and Madras.
3. Renewed Company's trade monopoly for 20 years.

4. Commander-in-Chief not a default Council member.
5. Members of Board of Control to be paid from Indian revenues.
6. The company was granted the "privilege" or "country trade" to issue commercial licenses to Indian residents and staff of overseas companies.

**Significance:**

- Consolidated centralized authority.

➤ 6. Charter Act of 1813**Purpose:**

- End trade monopoly in India (except China and tea with India).

**Key Features:**

1. Ended trade monopoly of the Company in India, given additional 20 years reign.
2. Asserted British Crown's sovereignty over Indian territories.
3. Allowed Christian missionaries into India.
4. A financial grant of Rs. 1 lakh was provided to promote education and support the revival of Indian literature.
5. Promoted western education and scientific learning.
6. Local governments empowered to impose and collect taxes.

**Significance:**

- Opened Indian market to all British traders.
- Marked beginning of state-supported education.

➤ 7. Charter Act of 1833**Purpose:**

- Final step toward administrative centralization.

**Key Features:**

1. Ended Company's commercial activities – made it purely administrative.
2. Governor-General of Bengal became the Governor-General of India, with control over civil and military matters.
3. Governor-General given exclusive legislative powers for British India.

4. Removed legislative powers from Bombay and Madras governors.
5. Civil, military, and revenue matters controlled by the Governor-General in consultation with councils.
6. Proposal for open competition for civil services recruitment was rejected.
7. Macaulay Law Commission formed to codify laws under the Charter Act of 1833.
8. Legislative enactments were now called "Acts" (not "Regulations").

**Significance:**

- Created a unitary government system.
- Recognized Indians' eligibility for public office (though not implemented).

**Drawbacks:**

- Open competition clause was rejected by the Court of Directors.

**Lord William Bentinck (1828-1835)**

- ❖ India's first Governor-General was Lord William Bentinck.
- ❖ Father of modern Western education in India.
- ❖ English became the official language in 1835, alongside educational reforms (Macaulay's Minutes).
- ❖ Abolished Sati and other social evils.
- ❖ Abolished Provincial Courts of Appeal, removed Persian, and introduced vernacular languages in courts.

nominated by provinces (Bombay, Madras, Bengal, Agra).

6. The Law member (fourth member) became a full time member with the right to vote.

**Significance:**

- Foundation of modern Indian legislative system.
- Merit-based recruitment introduced via Macaulay Committee (1854).

**Drawbacks:**

- Did not go far enough in Indian representation.

**Measures Taken:**

- Set the stage for complete British Crown rule via Government of India Act, 1858.

**Lord Dalhousie (1848–1856)**

- ❖ Introduced Charles Wood's Educational Despatch (1854)
- ❖ Established Macaulay Committee on Indian Civil Services (1854)
- ❖ Launched India's first railway line (1853), Mumbai to Thane
- ❖ Created separate public works departments in each province
- ❖ Enacted Widow Remarriage Act (1856)
- ❖ Implemented Doctrine of Lapse (1848)

## 1.4 The Crown Rule (1858-1947)

### ➤ 8. Charter Act of 1853

**Purpose:**

- Further administrative and legislative reforms.

**Key Features:**

1. Separated legislative and executive functions of Governor-General's Council.
2. Added 6 new members as Legislative Councillors (mini-parliament).
3. Introduced open competition for civil service recruitment.
4. No fixed term for Company's rule in India – could be terminated anytime.
5. First local representation in Legislative Council – 4 out of 6 legislative members

After the 1857 Revolt (Sepoy Mutiny), the British Parliament passed the Government of India Act, 1858, which ended the rule of the East India Company and transferred control of India directly to the British Crown. The Act appointed a Secretary of State for India and made the Viceroy the direct representative of the Crown, marking the beginning of a new phase of British colonial governance that continued until India's independence in 1947.

The Government of India Act, 1858, along with Queen Victoria's Proclamation on 1st November 1858, marked the formal transfer of Indian administration from the East India Company to the British Crown.

### 1.4.1 Government of India Acts and Council Acts

#### Government of India Acts, 1858

##### ➤ Purpose:

- To transfer governance of India from the East India Company to the British Crown after the Revolt of 1857.

##### ➤ Key Features:

- East India Company abolished; governance shifted to the Crown.
- Governor-General became **Viceroy of India**.

Lord Canning became the first Viceroy of India

- Created the post of **Secretary of State for India** with full authority over Indian affairs.
- Formed a **15-member Council of India** to advise the Secretary.

Lord Stanley was appointed as the first Secretary of State for India, assuming full political authority over Indian administration.

- Indian Civil Services initiated to administer the country efficiently.
- The dual system of governance was ended by abolishing the Board of Control and the Court of Directors.

##### ➤ Significance:

- Marked the beginning of **direct British rule** in India.
- Centralized administration under the Crown for better control.
- Ensured greater parliamentary oversight of Indian affairs.
- Symbolic shift with Queen Victoria's Proclamation ensuring non-interference in religious matters.

##### ➤ Drawbacks:

- No representation for Indians in governance.
- Autocratic structure—no legislative rights or political freedom for Indians.
- Continued racial discrimination and bureaucratic dominance by the British.

##### ➤ Measures Taken:

- Introduction of Indian Civil Services (with theoretical provision for Indian entry).

- Promised equal treatment under the law (though not implemented in practice).
- Appointment of Viceroy and Secretary of State to ensure tighter control and uniform governance.

#### Indian Councils Act, 1861

##### ➤ Purpose:

To initiate Indian participation in governance and decentralize legislative authority following the Revolt of 1857.

##### ➤ Key Features:

1. Introduced Indian representation in legislative councils as **non-official members**  
Sir Dinkar Rao, Maharaja of Patiala, Raja of Benaras
2. Restored legislative powers to **Bombay and Madras Presidencies**.
3. Enabled creation of **legislative councils** in Bengal (1862), NW Provinces (1886), and Punjab (1897).
4. Empowered Viceroy to **issue ordinances** during emergencies (valid for 6 months).
5. Officially recognized the **Portfolio System**, allowing council members to independently manage departments.

##### ➤ Significance:

- Laid the foundation for **representative institutions** in India.
- Marked the **beginning of decentralization** in colonial governance.
- Symbolically acknowledged **Indian involvement** in administration.

##### ➤ Drawbacks:

- Indian members were **nominated**, not elected—limited actual power.
- Legislative councils had **no real authority**; decisions rested with the Viceroy.
- **Central dominance** over provincial matters persisted.

##### ➤ Measures Taken:

- Appointed **eminent Indians** to councils to show inclusion.
- **Reorganized councils** regionally to accommodate local issues.



- Implemented **departmental governance** for administrative efficiency.

### Indian Councils Act, 1892

#### ➤ Purpose:

To expand Indian participation in legislative processes and respond to growing political demands from Indian leaders and organizations.

#### ➤ Key Features:

- **Increased the size** of central and provincial legislative councils.
- Maintained **official (British) majority**, but added more **non-official Indian members**.
- Allowed **discussion of the budget and questions** to the executive (no supplementary questions).
- Introduced **indirect election** via nomination by local bodies (e.g., municipalities, universities, chambers of commerce).
- Viceroy and Governors nominated members **based on recommendations** from such bodies.

#### ➤ Significance:

- Marked the **beginning of electoral representation**, though limited.
- Allowed **greater Indian involvement** in legislation and public debates.
- Strengthened the **role of local self-government bodies** in national affairs.

#### ➤ Drawbacks:

- **Indirect elections only**; no direct voting rights for Indians.
- Limited powers—members could **discuss but not vote on budgets**.
- **Executive dominance** continued through the official majority.

#### ➤ Measures Taken:

- Increased **non-official Indian members** to include emerging voices.
- Enabled **budget discussion** to make councils more interactive.
- **Institutionalized nominations** from recognized Indian public bodies.

### Indian Councils Act, 1909 (Morley-Minto Reforms)

#### ➤ Purpose:

To increase Indian participation in governance and placate growing political demands from Indian leaders and the Indian National Congress.

#### ➤ Key Features:

##### 1. **Legislative Council Expansion:**

- Central Council increased from 16 to 60 members.
- Provincial councils expanded proportionally.

##### 2. **Deliberative Powers Enhanced:**

- Members allowed to move resolutions, discuss budgets, and ask supplementary questions.

##### 3. **Indian Executive Participation:**

- Indians appointed to executive councils.
- *Satyendra Prasad Sinha* became the first Indian Law Member in the Viceroy's Executive Council.

##### 4. **Separate Electorates Introduced:**

- Muslims granted separate electorates—only Muslims could vote for Muslim candidates.

##### 5. **Representation of Interests:**

- Reserved seats for landlords, commercial bodies, and universities.
- Encouraged representation by economic and communal groups.

##### 6. **Council of Secretary of State Expanded:**

- Two Indians added to the Secretary of State's Indian Affairs Council in London.

#### ➤ Significance:

- First formal **Indian entry into executive governance**.
- Introduced the **concept of communal representation**, shaping future electoral politics.
- Strengthened **Indian voices in legislative processes**.

#### ➤ Drawbacks:

- **Communal electorates deepened divisions** among communities.
- Despite reforms, **British officials still held majority power** at the Centre.

- No control over **executive decisions or laws**—limited to advisory roles.

➤ **Measures Taken:**

- Included Indians in **law-making and executive councils**.
- **Institutionalized communal representation** (Muslim electorates).
- Enlarged councils to **broaden Indian involvement** in governance.

**Government of India Act, 1919 (Montagu-Chelmsford Reforms)**

➤ **Purpose:**

- Implement constitutional reforms as promised in Montagu's 1917 declaration.
- Involve Indians more in provincial administration and governance.

➤ **Key Features:**

1. **Introduction of Dyarchy (Dual Government)**

- ✓ Provincial subjects were split into:
  - **Transferred:** Education, health, agriculture – handled by Indian ministers.
  - **Reserved:** Police, finance, law – under British governors.

2. **Division of Subjects**

- ✓ Separate Central and Provincial subject lists created.
- ✓ Centre retained control over critical areas like defense and foreign affairs.

3. **Bicameral Central Legislature Introduced**

- ✓ Formation of:
  - **Council of State** (Upper House)
  - **Legislative Assembly** (Lower House)
- ✓ Some members elected directly.

4. **Inclusion of Indians in Viceroy's Executive Council**

- ✓ 3 out of 6 members had to be Indian.
- ✓ Symbolic entry into executive roles.

5. **Extension of Communal Representation**

- ✓ Separate electorates granted to **Sikhs, Indian Christians, Anglo-Indians, and Europeans**.

6. **Limited Franchise**

- ✓ Voting rights restricted to property, education, or income qualifications.
- ✓ Only ~10% of adults eligible to vote.

7. **Creation of Public Service Commission**

- ✓ **Central Public Service Commission (1926)** established for merit-based recruitment.

8. **Separation of Provincial Budgets**

- ✓ Provinces could draft and manage their own budgets, independently from the Centre.

9. **High Commissioner for India Appointed in London**

- ✓ Took over certain diplomatic and administrative roles from the Secretary of State.

10. **Provision for a Future Review**

- A statutory commission to review the Act's implementation after 10 years.

➤ **Significance:**

- **First step toward responsible government** in British India.
- Introduced **dyarchy**, allowing Indian ministers limited control over provincial subjects.
- **Bicameral legislature** at the Centre paved the way for parliamentary reforms.
- **Inclusion of Indians** in executive councils (symbolic but important precedent).
- Set up **Public Service Commission** (1926), formalizing merit-based recruitment.
- Separated **provincial and central budgets**, enabling fiscal decentralization.

➤ **Drawbacks:**

- **Dyarchy was flawed:** Real power remained with British officials (reserved subjects).
- **Limited franchise:** Only ~10% of population could vote, based on property/education.
- **Communal electorates** were expanded, worsening **communal divisions**.
- Provincial autonomy was **more symbolic than functional**.
- Viceroy and Governors retained **overriding powers**.

➤ **Measures Taken:**

- **Statutory Commission (Simon Commission)** formed in 1927 to review the Act.
- Widespread opposition to its structure and implementation led to:
  - **Simon Commission recommendations**
  - **Round Table Conferences**
  - Eventually, the **Government of India Act, 1935**, which replaced dyarchy with provincial autonomy and expanded representation.

#### Simon Commission (1927)

##### Purpose:

- Review the 1919 Act and propose constitutional reforms.

##### Controversy:

- All-British membership (7), no Indian representation.
- Led by Sir John Simon.
- Widespread protests: "Simon Go Back".

##### Key Recommendations:

- Abolish dyarchy in provinces.
- Establish a federation of British India & princely states.
- Retain separate electorates for minorities.

#### Government of India Act, 1935

##### ➤ Purpose:

- To introduce **responsible government** and a framework for **All-India Federation**.

##### ➤ Key Features:

##### 1. All-India Federation Proposed

- ✓ Federation of British India + Princely States (never implemented).
- ✓ Division of powers: **Federal, Provincial, Concurrent lists**.

##### 2. Provincial Autonomy

- ✓ **Dyarchy abolished** at provincial level.
- ✓ Provinces gained full control over **transferred subjects**.
- ✓ Governors to act on ministerial advice (in principle).

##### 3. Dyarchy at Centre (Not Implemented)

- ✓ Reserved & Transferred subjects created at the central level.
- ✓ Reserved: Defence, External Affairs, etc.
- ✓ Transferred: Administered by ministers.

##### 4. Bicameralism in Provinces

- ✓ Two-house legislatures in 6 provinces (e.g., Bombay, Madras, Bengal).
- ✓ Strengthened provincial governance.

Bicameralism was introduced in six out of eleven provinces—Bengal, Bombay, Madras, Bihar, Assam, and the United Provinces—creating an upper and lower house in their legislatures. However, this system faced significant limitations in its functioning.

##### 5. Separate Electorates Extended

- ✓ Included **SCs, women, labour, minorities**.
- ✓ Deepened **communal divisions**.

##### 6. Council of India Abolished

- ✓ Ended the advisory council to the Secretary of State.
- ✓ Replaced with individual advisors.

##### 7. Franchise Extended

- ✓ 10–15% adult Indians got voting rights.
- ✓ Based on **property, education, taxation**.

##### 8. Reserve Bank of India

- ✓ Established in 1935; operational from 1935–36.
- ✓ Handled currency & credit regulation.

##### 9. Public Service Commissions

- ✓ Set up **Federal and Provincial PSCs**.
- ✓ Independent recruitment of civil servants.

##### 10. Federal Court Established

- Created in 1937 (Delhi).
- Resolved Centre-State disputes; judicial independence step.

#### Viceroy Lord Willingdon (1931-1936)

- ❖ The Burma Act of 1935 was passed, leading to Burma's separation from India in 1937.
- ❖ Sir Maurice Gwyer became the first Chief Justice of the Federal Court.
- ❖ The instrument of instructions from the Government of India Act, 1935, was incorporated into the Indian Constitution in 1950 as the Directive Principles of State Policy, aimed at fostering a welfare state.



➤ Significance:

- Established **federal structure** (Central, Provincial, Concurrent lists).
- **Provincial autonomy** granted; end of dyarchy at the provincial level.
- Introduced **bicameralism** in six provinces.
- **Expanded electorate** and established **Reserve Bank of India**.
- Set up **Public Service Commissions** and a **Federal Court**.

➤ Drawbacks:

- **Federation not implemented** due to princely states' refusal.
- **Dyarchy at Centre** never implemented.
- **Limited franchise** (only 10-15% of Indians voted).
- **Communal divisions** deepened through separate electorates.

➤ Measures Taken:

- **Congress ministries** formed in provinces (1937).
- **Simon Commission** and **Round Table Conferences** laid the groundwork for further reforms.

Indian Independence Act, 1947➤ Purpose:

- To grant independence to India and Pakistan, ending British rule and establishing two sovereign dominions.

➤ Key Features:

1. **End of British Control:** India became an independent nation on August 15, 1947.
2. **Partition of India:** India was divided into two dominions—India and Pakistan—based on religious lines.
3. **Abolition of Viceroy's Office:** Replaced by the Governor-General in both dominions.
4. **Transfer of Legislative Power:** Legislative powers of the British Parliament were transferred to India and Pakistan's respective assemblies.
5. **Secretary of State for India Abolished:** His responsibilities were transferred to the Commonwealth Secretary.

6. **Paramountcy Lapsed:** British control over princely states ended, allowing them to join India, Pakistan, or remain independent.

7. **Constituent Assemblies Empowered:** Both dominions' assemblies had the power to draft their own constitutions.

8. **Governor-General's Powers:** Governors could assent to bills and perform ceremonial duties on the advice of the respective dominion governments.

9. **Princely States' Options:** Over 560 princely states were given the option to join India or Pakistan.

10. **Civil Services Status Quo:** Officers in the Indian Civil Services (ICS) retained their rights.

➤ Significance:

- Marked the end of British colonial rule in India.
- Led to the creation of two independent nations, India and Pakistan.
- The transfer of power to elected dominion governments marked the beginning of self-governance in both countries.
- Set the stage for the establishment of the Indian Constitution in 1950.

➤ Drawbacks:

- The partition led to large-scale violence, displacement, and loss of life.
- The division of the subcontinent created lasting political, social, and economic challenges.
- The communal divide deepened, leading to future conflicts between India and Pakistan.

➤ Measures Taken:

- The Indian Civil Services and military were kept intact for a smooth transition.
- The Constituent Assemblies of India and Pakistan were given the power to draft their own constitutions.
- Both countries took steps to integrate the princely states, though challenges persisted.

## 1.5 Making of the Indian Constitution

### Demand for a Constituent Assembly

- The idea of a Constituent Assembly was first proposed in **1934** by **M.N. Roy**, a prominent leader in the Indian communist movement.
- The **Indian National Congress (INC)** formally demanded the formation of a Constituent Assembly to draft the Constitution in **1935**.
- In the **1937–38 Faizpur session** of the INC, **Jawaharlal Nehru** declared that: *"The Constitution of free India must be framed, without outside interference, by a Constituent Assembly elected on the basis of adult franchise."*
- **C. Rajagopalachari** reiterated this demand in **November 1939**.

- The British government, for the first time, acknowledged this demand in the '**August Offer**' of **1940**.
- Eventually, a **Constituent Assembly** was formed in **1946**, as per the provisions of the **Cabinet Mission Plan**.

### Cabinet Mission Plan – 1946

#### ➤ Context & Purpose

- Sent by the British Government in **March 1946** to **discuss the transfer of power** from British rule to Indian leadership.
- Aimed to:
  - Ensure **peaceful transfer of power**.
  - Avoid partition of India.
  - Solve Hindu-Muslim differences.

**Members of the Mission:** Lord Pethick-Lawrence, Sir Stafford Cripps, A.V. Alexander

### Significance of Cabinet Mission - 1946

Aspect	Relevance
<b>Federal Structure</b>	Introduced a framework for division of powers – a basis for Indian federalism.
<b>Constituent Assembly</b>	Laid the foundation for drafting the <b>Constitution of India</b> .
<b>Unity with Diversity</b>	Tried to reconcile religious and regional differences within one nation.
<b>No Pakistan Initially</b>	Attempted a united India before eventual partition.
<b>Provincial Autonomy</b>	Recognized autonomy and diversity – a principle carried forward in the Constitution.

#### ➤ It Failed:

- **Congress & Muslim League** had **conflicting interpretations**.
- League wanted a **loose federation**, Congress wanted a **strong centre**.
- Eventually, **Muslim League rejected the plan**, leading to **Direct Action Day (August 16, 1946)** and communal violence.

#### 1.5.1 Constituent Assembly

- In 1946, the British government under **Clement Attlee** sent the **Cabinet Mission** to India to propose a framework for Indian independence and government formation.

#### ➤ Composition of the Constituent Assembly:

- Total Members: **389**
  - **292** from British Indian Provinces
  - **93** from Princely States
  - **4** from Chief Commissioner Provinces
- **Community-wise Representation:**
  - Seats were allocated among **Hindus, Muslims, and Sikhs** based on population ratios.
  - Members were elected by **Proportional Representation** using the **Single Transferable Vote** system

from Provincial Legislative Assemblies.

- The Assembly was **socially diverse**, including:
  - **Hindus, Muslims, Sikhs, Parsis, Anglo-Indians, Indian Christians, SCs, STs, and 15 women members.**
- **Elections (July–August 1946):**
  - **INC:** 208 seats
  - **Muslim League:** 73 seats
  - **Others:** 15 seats
- The **Constituent Assembly was officially formed on December 6, 1946.**

#### 1.5.2 Interim Government of 1946

Formed on **2nd September 1946**, this government marked the **transition from British rule to self-governance**. It functioned under the **Viceroy's Executive Council** and was a **precursor to the full independence of India**.

#### Key Features:

1. **Semi-Autonomous Structure**
  - Operated under the British Viceroy, who retained final authority.
  - Indians held executive powers in preparation for independence.
2. **Jawaharlal Nehru as Vice-President**
  - Effectively the head of the Indian section of the Council.
  - Handled **External Affairs & Commonwealth Relations**.
3. **Inclusion of Muslim League**
  - After initial hesitation, the Muslim League joined in October 1946.
  - Liaquat Ali Khan, Abdur Rab Nishtar, and others were appointed to key ministries.
4. **Symbol of National Unity**
  - Included leaders from the Indian National Congress and Muslim League.
  - Was a significant step toward forming a unified Indian government

#### Interim Government of India (1946)

Sl. No.	Members	Portfolios Held
1	Jawaharlal Nehru	Vice-President of the Council; External Affairs & Commonwealth Relations
2	Sardar Vallabhbhai Patel	Home; Information & Broadcasting
3	Dr. Rajendra Prasad	Food & Agriculture
4	Dr. John Mathai	Industries & Supplies
5	Jagjivan Ram	Labour
6	Sardar Baldev Singh	Defence
7	C.H. Bhabha	Works, Mines & Power
8	Liaquat Ali Khan	Finance
9	Abdur Rab Nishtar	Posts & Air
10	Asaf Ali	Railways & Transport
11	C. Rajagopalachari	Education & Arts
12	I.I. Chundrigar	Commerce

13	Ghaznafar Ali Khan	Health
14	Joginder Nath Mandal	Law

### Working of the Constituent Assembly (1946–1950)

#### ➤ Formation & First Meetings

- **1st Meeting:** 9 Dec 1946, Constitution Hall, New Delhi.
- ✓ **Dr. Sachchidananda Sinha** elected as **Temporary Chairman**.
- ✓ **211 members attended;**
- ✓ Muslim League, princely states, and Chief Commissioner Provinces did not participate.
- ❖ J.B. Kripalani, first person to address the Constituent Assembly
- ❖ Dr. Sachchidananda Sinha is the first Indian man who is credited with being the Governor of a province and a member of the House Lords.
- **2nd Meeting:** 11 Dec 1946
- ✓ **Dr. Rajendra Prasad** elected as **Permanent President**.
- ✓ **Vice-Presidents:** H.C. Mukherjee & V.T. Krishnamachari.
- ✓ **B.N. Rau** appointed as **Legal Advisor**.
- ✓ **H.V.R. Iyengar** as **Secretary**.
- ✓ **Elephant** adopted as Assembly's symbol.

#### 1.5.3 Objective Resolution

- On December 13, 1946, Jawaharlal Nehru moved the historic 'Objectives Resolution' in the Assembly.
- It laid down the fundamentals and philosophy of the constitutional structure.
- Objective Resolution declares:
  1. Resolve to proclaim India as an Independent Sovereign Republic and to draw up for her future governance a Constitution
  2. India shall be known as the Union of the states
  3. Powers and Authority derived from the people

4. To guarantee and secure all the people of India
  - ✓ justice, social, economic and political;
  - ✓ equality of status of opportunity, and before the law;
  - ✓ freedom of thought, expression, belief, faith, worship, vocation, association and action, subject to law and public morality;
  - ✓ The Republic's territorial integrity and its sovereign rights over land, sea, and air must be upheld in accordance with international justice and law;
  - ✓ Making a contribution to the cause of world peace and human welfare.

#### ➤ Impact of Indian Independence Act, 1947

- Acceptance of the Mountbatten Plan of June 3, 1947
- Assembly became a **fully sovereign body** post-partition.
- Total strength reduced to **299** (from 389).
- **1st Meeting of Sovereign Assembly: 17 Nov 1947.**

#### ➤ Key Contributions

1. **Drafted the Constitution** of India.
2. **Ratified Commonwealth membership** (May 1949).
3. Adopted:
  - ✓ **National Flag** (22 July 1947)
  - ✓ **National Anthem & Song** (24 Jan 1950)
4. Elected **Dr. Rajendra Prasad** as India's **1st President** (24 Jan 1950).

#### ➤ Constitution-Making Timeline

- Duration: **2 years, 11 months, 18 days**
- Sessions: **11 sessions**
- Drafting Days: **114**
- Reviewed constitutions of **60 countries**
- Total Cost: **₹64 lakh**

#### ➤ Final Meeting



- **Date:** 24 Jan 1950 – Title: “*Signing of the Constitution*”
- Debates compiled in **12 volumes** (from Dec 1946 to Jan 1950).

### Constituent Assembly Committees

- Formed to manage specific constitutional functions.
- **8 major** and several **minor committees** (Names & chairpersons can be listed separately if needed).

S.No	Committee Name	Chairman
1.	Union Powers Committee	Jawaharlal Nehru
2.	Union Constitution Committee	
3.	States Committee (Committee for Negotiating with States)	
4.	Special Committee to Examine the Draft Constitution	
5.	Provincial Constitution Committee	Sardar Vallabhai Patel
6.	Advisory Committee on Fundamental Rights, Minorities and Tribal and Excluded Areas – 5 sub-committees under it Fundamental Rights Sub-Committee Minorities Sub-Committee North-East Frontier Tribal Areas and Assam Excluded & Partially Excluded Areas Sub-Committee Excluded and Partially Excluded Areas (other than those in Assam) Sub-Committee North-West Frontier Tribal Areas Sub-Committee	J.B. Kripalani H.C. Mukherjee Gopinath Bardoloi A.V. Thakkar Gopinath Bardoloi
7.	Drafting Committee	Dr. B.R. Ambedkar
8.	Rules of Procedure Committee	Dr. Rajendra Prasad
9.	Steering Committee	
10.	Finance and Staff Committee	
11.	Ad-hoc Committee on the National Flag	
12.	Credentials Committee	Alladi Krishnaswami Ayyar
13.	House Committee	B.Pattabhi
14.	Committee on Chief Commissioners' Provinces	Sitaramayya
15.	Order of Business Committee	Dr. K.M. Munshi
16.	Committee on the Functions of the Constituent Assembly	G.V. Mavalankar
17.	Press Gallery Committee	Usha Nath Sen
<b>Not an assembly member</b>		
18.	Ad-hoc Committee on the Supreme Court	S. Varadachari
19.	Expert Committee on the Financial Provisions of the Union Constitution	Nalini Ranjan Sarkar

20.	Linguistic Provinces Commission	S.K. Dhar
21.	Ad-hoc Committee on Citizenship	S. Varadachari

#### 1.5.4 Drafting Committee and Framing of the Indian Constitution

- Before **15th August 1947**, India was under British rule. The need for a sovereign constitution was recognized post-independence.
- The **Constituent Assembly**, comprising prominent leaders like Nehru, Rajendra Prasad, Sardar Patel, T.T. Krishnamachari, and others, undertook the task of drafting the Constitution.
- The **Drafting Committee**, chaired by **Dr. B.R. Ambedkar**, was established on **29th August 1947**.

##### ➤ Members of the Drafting Committee

- Dr. B.R. Ambedkar – Chairman
- N. Gopalaswamy Ayyangar
- Alladi Krishnaswamy Ayyar
- Dr. K.M. Munshi
- Syed Mohammad Saadullah
- N. Madhava Rau (*replaced B.L. Mitter*)
- T.T. Krishnamachari (*replaced D.P. Khaitan*)
- B.N. Rau – Constitutional Advisor

##### ➤ Drafting and Adoption Process

- The **first draft** of the Constitution was published in **February 1948**, and the **second draft** in **October 1948**.
- The **Constituent Assembly met for 11 sessions over 166 days**, considering **2473 amendments**.
- After widespread public and legislative discussion, the Constitution was **adopted on 26th November 1949**, containing:
  - **Preamble**
  - **22 Parts**
  - **395 Articles**
  - **8 Schedules**

##### ➤ Enforcement of the Constitution

- Provisions related to citizenship, elections, provisional parliament, etc., came into effect on 26th November 1949.
- The **full Constitution came into force on 26th January 1950**, marking India's transition to a **sovereign democratic republic**.

**Dr. B.R. Ambedkar** is honored as the **Father of the Indian Constitution** and referred to as the **Modern Manu** or **Chief Architect** of the Constitution.

## **1.6 Criticism on the Constituent Assembly**

### Criticism before Independence

#### **1. Not Directly Elected**

- ✓ The Constituent Assembly was formed through **indirect elections** by **Provincial Legislative Assemblies** (under the Cabinet Mission Plan 1946), not by **universal adult franchise**.

#### **2. Congress Dominance**

- ✓ Out of 296 seats (after partition), the **Indian National Congress held 208 seats**. This raised concerns about a **lack of multiparty representation**.

#### **3. Lack of Sovereignty**

- ✓ It was a **British initiative**, not an entirely Indian decision, established under the **Cabinet Mission Plan** and not by a fully independent Indian mandate.

#### **4. Muslim League Boycott**

- ✓ The **Muslim League (73 seats initially)** boycotted the Assembly in 1946, arguing it **didn't represent Muslim interests**, demanding a separate state (Pakistan).

#### **5. Princely States' Non-Participation**

- ✓ Initially, **many princely states** (e.g., Hyderabad, Kashmir) **refused to nominate members**, reducing the Assembly's **pan-Indian representativeness**.

#### **6. No Representation of Common Masses**

- ✓ The Assembly mostly included **elites – lawyers, academics, professionals**, with **low direct representation** of peasants, laborers, or tribal populations.

#### 7. Hindu Majority:

- ✓ Critics like Viscount Simon and Churchill claimed it was Hindu-dominated, lacking proper representation of all religious groups.

#### Criticism after Independence

##### 1. Elitist Composition

- ✓ Over **80% of the Assembly members** were **graduates**, and many were from **elite backgrounds**, creating a perception of disconnect with common citizens.

##### 2. Time-Consuming Process

- ✓ The Constitution took **2 years, 11 months, and 18 days** (from Dec 9, 1946 – Jan 24, 1950) to be framed, seen as **slow** during a time of **urgent nation-building**.

##### 3. High Cost of Drafting

- ✓ The process cost approximately **₹64 lakhs**, a significant amount in a newly independent country **facing poverty and partition-related challenges**.

##### 4. Language Barrier

- ✓ Most debates were held in **English and Hindi**, limiting the **accessibility for people speaking regional languages**.

##### 5. Borrowed Features

- ✓ Critics noted that the Constitution borrowed **extensively**:

- Parliamentary system – UK
- Fundamental Rights – USA
- DPSPs – Ireland
- Federal structure – Canada

##### 6. Centralised Power Structure

- ✓ The Constitution created a **strong Centre**, e.g.,
  - Article 356 (President's Rule)
  - Residuary powers with the Centre

- Seen as **eroding state autonomy** in a federal framework.

#### 7. Influence of Luminaries and Political Parties' Views

- ✓ The **dominance of INC leaders** like Nehru, Ambedkar, and Patel in shaping the Constitution led to a framework reflective of their ideologies, while the **ML's absence** and **limited input from other regional parties** marginalized diverse viewpoints.

### 1.7 Indian Independence and the Birth of the Constitution

- India achieved **independence on August 15, 1947** through the **Indian Independence Act, 1947**.
- A **Constituent Assembly**, formed in **1946**, was tasked with drafting the Constitution of free India.

After nearly **3 years of deliberation**, the **Constitution was adopted on November 26, 1949** and came into force on **January 26, 1950**.

**Lord Mountbatten** became India's first **Governor-General** and swore in **Jawaharlal Nehru** as the first **Prime Minister**. The **1946 Constituent Assembly** assumed the role of the **Dominion Parliament**.

#### ➤ British Legacy in the Indian Constitution

- Though independent, the **Indian Constitution drew heavily from British legal and administrative systems**.
- Key features borrowed include:
  - ✓ Parliamentary system of government
  - ✓ Rule of Law
  - ✓ Single citizenship
  - ✓ Bicameral legislature
  - ✓ Civil services and judiciary structures

**First Cabinet of Free India (1947)**

Sl. No.	Members	Portfolios Held
1	Jawaharlal Nehru	Prime Minister; External Affairs & Commonwealth Relations; Scientific Research
2	Sardar Vallabhbhai Patel	Home; Information & Broadcasting; States
3	Dr. Rajendra Prasad	Food & Agriculture
4	Maulana Abul Kalam Azad	Education
5	Dr. John Mathai	Railways & Transport
6	R.K. Shanmugham Chetty	Finance
7	Dr. B.R. Ambedkar	Law
8	Jagjivan Ram	Labour
9	Sardar Baldev Singh	Defence
10	Raj Kumari Amrit Kaur	Health
11	C.H. Bhabha	Commerce
12	Rafi Ahmed Kidwai	Communication
13	Dr. Shayama Prasad Mukherji	Industries & Supplies
14	V.N. Gadgil	Works, Mines & Power

