

Government of India Act 1935: Main Features



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Introduction

The Government of India Act of 1935 marked the second milestone towards a completely responsible government in India after the Act of 1919. This Act was passed by the British Government in the year 1935. It was one of the lengthiest Acts at that time as it contained 321 sections and 10 schedules. It was also the last constitution of British India, before the country was divided, in 1947, into two parts-India and Pakistan. Once the act was passed the government saw that it was too lengthy to be regulated with efficiency and thus, the government decided to divide it into two parts for the act to function in a proper manner:

1. The Government of India Act, 1935
2. The Government of Burma Act,1935

Background

The Government Act of 1919 was not satisfactory at all and was too short in its provisions for the self-government form to be imposed in the country. There was a growing demand for constitutional reforms in India by Indian leaders. Indian politicians were frustrated at that time because they thought that the area they had officially control over was still in the hands of the British officials with full control over it. So the task to review this matter and to make changes in it had been given to the Simon Commission. When the Simon Commission Report came out it was seen that the report was not satisfactory which would lead to the consultation with the then Indian Community Representatives at the Round Table conference, held in London.

The matter was important and was discussed in the round tables of 1930, 1931, and 1932 respectively. The discussion at the Third Round Table Conference resulted in a White Paper in 1934 containing proposals incorporated in a Bill and presented to the Parliament for passage. This came to be known as the Government of India Act of 1935 and was passed by the British Parliament.

Thus the Act was based on:

- Simon Commission Report
- The recommendations of the Round Table Conferences
- The White Paper published by the British government in 1933 (based on the Third Round Table Conference)
- Report of the Joint Select Committees.

Salient Features of the Act-

This Act gives many salient features out of which some has been considered as the major ones and some as the minor ones. These salient features are given below:

1. **All India Federation-** The Act provided for an All-India Federation comprising the British Indian Provinces and the Indian States. The terms on which a state could join the federation were mentioned in the Instrument of Accession. It was at the discretion of the state whether it wanted to join the federation that was given by the Government of India Act, 1935. 6 Chief Commissioner's provinces, 11 Governor's provinces and some states who agreed to merge in the stated federation were constituent units of that federation. Every unit enjoyed full autonomy in its internal affairs. According to this act, India would become a federation if 50% of Indian

states decided to join it. However, the provisions with regards to the federation were not implemented as the required number of princely states did not join it.

2. **Provincial Autonomy-** One redeeming feature of the new Act was that it marked the beginning of the Provincial Autonomy. It was definitely an advance on the Act of 1919. The provinces were allowed to act as autonomous units of administration in their defined spheres. Moreover, the Act introduced responsible governments in provinces, that is, the governor was required to act with the advice of ministers responsible to the provincial legislature. This came into effect in 1937 and was discontinued in 1939. This, however, does not mean that the Act of 1935 established a full-fledged responsible Government in the Provinces. The Ministers were not absolutely free in matter of running their departments. The Governors continued to possess a set of overriding powers although such powers were not exercised very often.

3. **Division of Subjects-** The approach to form the federation and implement provincial autonomy paved the way for the division of subjects between the Centre and the Provinces. The division of subjects that were given by the Government of India Act, 1919 was revised and added some more subjects in it by this Act of 1935 and included three lists.

These were:

- Federal list- 59 items
- Provincial list- 54 items
- Concurrent list- 36 items

The subjects which were of all-India interest and demanded uniform treatment were put in the Federal list. Only the Federal Legislature could make laws on the Federal subjects. Subjects of mainly of local interest were placed the Provincial list and were wholly within the jurisdiction of the Provincial Legislatures for the purpose of legislation. The third list known as the Concurrent list, and which contained 36 items, included subjects which were primarily Provincial interest but at the same time required uniformity of treatment all over the country. Hence, the Act authorised both the Federal and Provincial Legislatures to pass laws on those subjects. In the event of a conflict, the Federal law was to prevail. In order to resolve this point of conflict, the Constitution authorised the Governor General to allocate in his discretion the right to legislate on any subject, not included in the lists, either the Centre or the province.

4. **Dyarchy at the Centre-** The Act of 1935 abolished dyarchy at the Provincial level and introduced it at the Centre. There were two categories of federal subjects:

- Reserved subjects
- Transferred subjects.

Reserved Subjects– The subjects that are mentioned in this category of federal subjects were to be administered by the Governor-General on the advice of the Executive Councillors and the Executive Council could not exceed its limit of three members. Religious affairs, defense, administration of tribal areas and external affairs were included in the reserved subjects.

Transferred Subjects– This subject was to be administered on the advice of ministers and the number of ministers could not exceed 10. Subjects other than reserved were dealt with under the Transferred Subjects.

The Governor-General remained over all in charge of both the Reserved and Transferred subjects. He was also responsible for the co-ordination of work between the two wings and for encouraging joint deliberations between the councillors and the Ministers. The idea of dyarchy was imposed so that better administration could be done and the governor general was appointed to look after and coordinate among the two parts of the government.

5. **Bicameral legislature**- Under the Government of India Act, 1935, the Central Legislature was bicameral, consisting of Federal Assembly and Council of States. The Council of States was to be upper house and a permanent body with one third of its membership retiring every 3rd year. It was to be composed of 260 members of which 156 were to be representatives of British India while, 104 of the Indian states. The Federal Assembly was the lower house with the tenure of five years. It was to be made of 375 members, out of which 250 were to be representatives of British India and not more than 125 members from the princely states. While the seats reserved for princely states were to be filled by nominated members, the provinces were given different numbers of seats. Election to the Federal assembly was to be indirect. The term of the assembly was five years but it could be dissolved earlier also.

It also introduced bicameralism in six out of eleven provinces. Thus, the legislatures of Bengal, Bombay, Madras, Bihar, Assam and the United

Provinces were made bicameral consisting of a legislative council (upper house) and a legislative assembly (lower house). However, many restrictions were placed on them.

6. **Retention of Communal Electorate-** It further extended the principle of communal representation by providing separate electorates for depressed classes (scheduled castes), women and labour (workers). The Muslims got 33 1/3 percent of the seats in the Federal Legislature although their number was much less than one-third of the total population of British India. Even the workers and women got separate representation although they had not asked for it.
7. **Abolition of India Council-** The new Act abolished India Council and provided for the appointment by the Secretary of State and his team of Advisers whose number was not to be less than 3 and not more than 65. With the introduction of Provincial autonomy the control of Secretary of State over the Transferred subjects was greatly diminished. His control however, remained intact over the discretionary powers of the Governor-General and the Governors.
8. **Increase in the Size of Legislatures and Extension of Franchise**
Another highlight of the Act was the extension of franchise. Nearly 10 percent of the total population got the right to vote. This Act introduced direct elections in India for the first time.
9. **Federal Court-** The Government of India Act, 1935 provided for the establishment of a Federal Court which would interpret the Act and adjudicate disputes relating to the federal matters. The Act provided for a Federal Court which would consist of one Chief Justice and not more than

six judges. The Federal Court was given exclusive original jurisdiction to decide disputes between the Centre and constituent Units. The provision was made for filing of appeals from High Courts to the Federal Court and from Federal Court to the Privy Council. The Federal Court also had jurisdiction to grant Special Leave to Appeal and for such appeals a certificate of the High Court was essential.

10.Reorganization of provinces- This Act also did some kind of restructuring or reorganization of the provinces. A province was separated from Bombay and named as Sindh. Another thing that has done was split of Bihar and Orissa to become separate individual provinces of Bihar and Orissa. So this Act formed the two new provinces and these are Sindh and Orissa.

11.Separation of Burma- Simon Commission proposed to the Government of India to separate Burma from India and this proposal was accepted by this Act. In 1935, the Burma Act was passed and its separation from India was done after two years of this Act i.e., in 1937. The Burma Act proposed for a new Burma office which had the power to establish Burma as a separate colony.

12.Supremacy of the Parliament- The Act of 1935 was a rigid one. No Indian legislature whether Federal or provisional was authorised to modify or amend it. The British Government alone was given the authority to make changes in it. The Indian legislature could at the most pray for a constitutional change by submitting a resolution to constitution. It was an imposition on India by the British parliament.

13. Federal railway authority- This Act had given the command of the railway in the hands of a new authority called Federal Railway authority. The member in this authority was seven in numbers and these members were free from the control of councilors and ministers. The authority directly reported to the Governor-General. The main idea behind the establishment of this authority was to confirm the British stakeholder that the investment they have done in the railway was safe.

14. Other Provisions- It provided for the establishment of a Reserve Bank of India to control the currency and credit of the country. It also provided for the establishment of not only a Federal Public Service Commission but also a Provincial Public Service Commission and Joint Public Service Commission for two or more provinces.

Importance of the Act

The act holds great importance in the Indian history because it leads to the Relationship of a Dominion Status which urged the need for Independence again in the minds of the people. Government of India Act 1935 curtailed the power concentrated in the hands of the Central Government and distributed it among the decentralized form of government. Separate electorates for women, although they had not asked for it, was quite good for the advancement of women in the decision making process. Even the workers had their separate representation which helped in the advancement of the workers class. This Act was the first attempt to give the provinces an autonomous status by freeing them from external interference. Another reason was that this Act provides voting rights to more people than were given under the Government of India Act, 1919. This Act also

proposed to form the federal government that allowed princes to participate in political affairs of India.

Besides, some features of the Government of India Act that suited well for free India was taken into consideration by the drafters of the Indian Constitution. Features of Federal Legislature and Provincial autonomy were taken from the Government of India Act, 1935. A Federal Court that was established in 1937 through the Government of India Act, 1935 was considered as the Supreme Court by independent India. The Constitution of India also borrowed the feature that every state should have a Governor who would be elected by the Central Government. Public Service Commission that we see in Article 315 of the Indian Constitution had also been taken from the Government of India Act, 1935.

Criticism of the Government of India Act 1935

The Act was a milestone in the development of a responsible constitutional government in India. The act had so much to promise to the people for their welfare but was not able to deliver anything that could turn out in its implementation. Even the impartial British statesmen like Mr. Atlee admitted that the new keynote of the Act was mistrust. Viceroy Lord Linlithgow himself said: “After all we framed the constitution...of 1935 because we thought it the best way... to hold India to the Empire.”

The Act of 1935 was condemned by nearly all sections of Indian opinion and was unanimously rejected by the Congress as it did not even made mention of Dominion status. The Indian National Congress demanded instead, the convening of a constituent assembly elected on the basis of adult franchise to frame a constitution for an independent India. The Indian National Congress called it a

'slave constitution that attempted to strengthen and perpetuate the economic bondage of India'. However, the Congress encouraged its members to fight in the elections under the *Act*, obtain positions in the provincial legislatures, and then work towards undermining the *Act*. Even Honorable Jawaharlal Nehru said that the act for Indians seems like-” *Driving a car with all breaks but with no engine*”.

The other major Indian political party, the Muslim League, also attacked the *Act* but was ready to work with provincial sections for *'what it was worth'*. Mr. Jinnah, the leader of Muslim League, described it as thoroughly rotten, fundamentally bad and totally unacceptable.

It was criticized on the following grounds-

1. The new Act armed the Governors and Governor-General with tremendous discretionary powers and thus reduced Provincial Autonomy to a farce. In a way the Act made the Governors so powerful that they could play the dictator if they liked.
2. The proposed formation of the Federation was also fundamentally defective. Entry into the Federation was compulsory for the Provinces but voluntary for the Princely States. Besides it the States were to be represented in the Federal Legislature not by the elected representatives of the States but by the nominees of the native rulers. The act failed to provide a proper federal structure, majority of the power was with the governor general who was not at all responsible for the central legislature which meant that the legislature was not governed properly.
3. It not only retained the system of Communal Electorate but also extended its application in the case of Harijans, labour and women. The sinister

motive behind it was to separate the Harijans from the Hindu community and poison the political atmosphere with the evil of casteism and sectionalism. Providing separate electorate to Hindus, Muslims, Sikhs, etc, later on, turned out to be the tools for disintegrating India.

4. The Act of 1935 armed the Governor-General and the Governor with far-reaching powers in the name of defending the minorities against the tyranny of the Hindus. The minorities naturally began to feel grateful to the rulers for the protection of their interests. They became their allies in arresting the growth of nationalism. The British diplomacy always used the Indian States, the minorities and the services as tools against the Congress.
5. The British Parliament and the Secretary of State for India continued to be the virtual rulers of the country till the year 1947. There was, as such, nothing surprising if the Act of 1935 was received with disgust and resentment.
6. The act failed to provide flexibility to the people at the constitutional level in regard to their amendments of rights as the power to change or alter any right was present with the British government while the Indians could not do anything according to their needs. The Indians were simply given the toy of Provincial Autonomy to play with. They received nothing substantial to feel contented.

Conclusion-

The Government of India Act, 1935 was a major step towards the Independence of India and helped in the reorganization of the states. Britishers have introduced this Act because through this Act they can win the support of modern nationalist and they could rule over the dominion of India. Due to the lack

of provision of a central government, it was not good for the Indians and there were many flaws in the act that was in a way hampering the rights and morals of the people. The Act was largely disappointing because it did not hold out assurance about granting Dominion Status, not did it consider sympathetically the feelings and urges of politically conscious Indian. The New Constitution also said nothing regarding the fundamental rights of the people. It only showed the dominion of the British Government over the Indians. Only for their benefit, they had introduced this Act. In spite of the above-mentioned drawbacks, the new Act had its own significance.

Although this Act was not liked by many Indians, its importance was that it paved the way for the independence of India. With regard to the provinces, the act of 1935 was an improvement on the existing position. This Act provided the basis for negotiation between Britishers and Indians for getting independence. The Government of India Act 1935, however, had introduced several features which later formed the nucleus of our Constitution. Hence, the act of 1935 served some useful purposes by the experiment of provincial autonomy, thus we can say that the Government of India Act 1935 marks a point of no return in the history of constitutional development in India. The Government of India Act 1935 was replaced by the Constitution of India after independence.

Suggested Readings-

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| Das Hari Hara | : India Democratic Government and Politics |
| Agarwal, R.C | : Indian Political System |
| Vishnu Bhagwan | : Constitutional History of India and National Movement |
| Banerjee, A.C. | : Indian Constitutional Documents (1961 edition), vol. iv. |